

Federal Tax I.D. 87-3520676

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AN EQUAL OPPORTUNITY EMPLOYER

SUBCONTRACT NO. «SL»

(Please Refer to This Number
in All Correspondence & Invoices)

FLINT DESIGN BUILD, LLC DBA FLINT CONTRACT NO. «Contract»

PROJECT: «ProjectDescription»

This Subcontract, dated «udsubcontractdate» is entered into between **Flint Design Build, LLC dba FLINT** ("FLINT"), a California corporation with offices at **401 Derek Place, Roseville, CA 95678**, and «FirmName» ("Subcontractor") with offices at «FirmAddress», «FirmCity», «FirmState» «FirmZip», Phone «Phone», Email «EMail».

FLINT, on «udownercontractdate» entered into a Contract ("Contract") with «Owner» ("Owner") with offices at «Address», «City», «State» «Zip», where FLINT agreed to fully and faithfully perform all the labor and furnish all the material for the complete construction of «ProjectDescription» ("Project") in accordance with the plans, specifications and addenda referred to in the Contract and the General and Special Conditions thereof.

FLINT desires to subcontract to Subcontractor the furnishing of all labor, material, tools, supplies, facilities, supervision, administration and equipment and performing all work ("Work") necessary in the following portion or subdivision of the design, erection and completion of said Project to be performed in accordance with the General and Special Conditions of the Contract between the Owner and FLINT and the plans and specifications prepared by «ArchEngName» ("Architect") including addenda «udaddenda», and alternates «udalternates», and the Project Schedule as prepared and updated by FLINT (collectively the "Contract Documents"), the latest adopted edition of the Uniform Building Code, Fire Code, and Mechanical Code, the Uniform Standard Specifications for Public Works Construction (if a public works project), and all applicable laws, rules, ordinances, and regulations, including but not limited to the California Labor Code, the California Business and Professions Code, the California Public Contract Code (if a public works project), and the Federal Acquisition Regulations (if applicable), which Work, without limitation, is more specifically described as follows: «SLDescription»

For the sum of «udsubcontractsum» Dollars («udsubcontractsum2») (the "Subcontract Sum"). The Subcontract Sum shall not be adjusted due to supply-chain issues, tariffs, inflationary costs, taxes and insurance costs, labor and/or material escalation costs/events unless allowed by Exhibit "B" or the Contract.

The following Exhibits are attached to and by this reference made part of this Subcontract:

- Exhibit "A" – General Requirements
- Exhibit "B" – Scope of Work
- Exhibit "C" – Insurance Requirements
- Exhibit "D" – List of Drawings and Specifications
- Exhibit "E" – Conditional & Unconditional Waiver and Release Forms
- Exhibit "F" – VDC Process Guidelines
- Exhibit "G" – «udlaborcompliance»
- Exhibit "H" – «uddb»
- Exhibit "J" – «udskilled»
- Exhibit "K" – «udsupp»

To the extent there are any conflicts or discrepancies between the Contract Documents and Exhibits, the conflicts or discrepancies shall be resolved in the following descending order of priority: (i) this Subcontract; (ii) the Exhibits; (iii) Contract and its General and Special Conditions; and, (iv) Drawings and Specifications, where Drawings govern Specifications for quantity and location and Specifications govern Drawings for quality and performance. In the event of ambiguity in quantity or quality, the greater quantity and the better quality shall govern. Work not particularly detailed or specified shall be performed in the same manner as similar portions of the Work that are detailed or specified.

FLINT and Subcontractor agree as follows:

1. Bonds - «udbond»

1.1 A Performance Bond and a separate Payment Bond, each in an amount equal to 100% of the Subcontract Sum and executed by a California admitted surety insurer, are «udbond» to be furnished by Subcontractor on the forms provided by FLINT. Provided said bonds were not included in Subcontractor's bid, FLINT will pay for the initial Subcontractor bonds at actual surety invoiced amount, without Subcontractor markup. Subcontractor to provide Surety's invoice to FLINT. Subcontractor will be required to pay for any increases due to time and contract price revisions.

2. Subcontractor Representations.

2.1 Subcontractor acknowledges receipt of FLINT's "Statement of Substance-Free Workplace Policy" and "Statement of Firearms, Weapons-Free Workplace Policy". Subject to applicable law Subcontractor further agrees to be bound by these policies as part of this Agreement. Subcontractor represents and agrees that it has carefully examined and understands this Subcontract and the other Contract Documents, including but not limited to the Contract, has investigated the nature, locality and site of the Work and the conditions and difficulties under which it is to be performed, and that it enters into this Subcontract on the basis of its own examination, investigation and evaluation of all such matters and not in reliance upon any opinions or representations of FLINT, the Owner or any of their respective officers, agents or employees.

2.2 The commencement of the Work by Subcontractor on the site of the Project shall constitute the legal and binding acceptance by Subcontractor of this Subcontract if received by Subcontractor prior to the commencement of such Work without exception, unless explicitly agreed to in writing, by FLINT, prior to such commencement of work. For purposes of this paragraph the mobilization of equipment, delivery of materials or the performance of actual labor on the Project site, whichever occurs first, shall constitute a "commencement" of Work by Subcontractor. FLINT reserves the right, however, to insist on a signed Agreement prior to making any payment to Subcontractor.

3. Subcontractor Duties.

3.1 With respect to the Work to be performed and furnished by Subcontractor hereunder, Subcontractor agrees to be bound to FLINT by each and all of the provisions of the Contract and the other Contract Documents, (collectively the "General Contract"), and to assume toward FLINT all of the duties, obligations and responsibilities that FLINT by the General Contract assumes toward the Owner. Subcontractor agrees further that FLINT shall have the same rights and remedies against Subcontractor as the Owner has against FLINT under the terms and provisions of the General Contract with the same force and effect as though every such duty, responsibility, right or remedy were set forth herein in full. The terms and provisions of this Subcontract with respect to the Work to be performed and furnished by Subcontractor hereunder are intended to be, and shall be, in addition to and not in substitution for any of the terms and provisions of the General Contract. This Agreement and the provisions of the General Contract are intended to supplement and complement each other and shall, where possible be so interpreted. If, however, any provision of this Agreement irreconcilably conflicts with a provision of the General Contract, the provision imposing the greater duty or obligation on Subcontractor, as determined by FLINT, shall govern. The General Contract shall be available for inspection by Subcontractor upon its request at the office of FLINT during normal business hours.

3.2 Subcontractor shall furnish at its sole cost and expense all materials, equipment, tools and labor and all other things necessary to fully perform and complete all of the above set forth portion or subdivision of the Project in accordance with the General Contract and this Subcontract. Subcontractor further agrees to supply all necessary materials, labor, supervision and administration in sufficient quantities and with sufficient equipment and tools to perform the Work efficiently and expeditiously.

3.3 Subcontractor shall, insofar as permitted by law, employ labor in the performance of Subcontractor's Work as will work harmoniously with other labor employed on the Project and, as such further labor is employed on the Project, will continue to work harmoniously with other Project labor. Subcontractor shall not cause, in whole or in part any work stoppages or strikes on the Project. If Subcontractor causes, in whole or in part, any work stoppages or strikes on the Project, Subcontractor shall promptly take whatever steps that are legally available to terminate the work stoppage or strike and shall be responsible to FLINT and the Owner for all costs and impacts to the Project. Upon demand by FLINT, Subcontractor shall resolve and terminate disputes among the trades involving all or a portion of Subcontractor's Work, including but not limited to the procedures for settling jurisdictional disputes as set forth in any collective bargaining agreements and appropriate proceedings with the National Labor Board. If Subcontractor is permitted to subcontract any of Subcontractor's work, Subcontractor agrees to require its subcontractors, and their subcontractors, if any, to be bound in a like manner.

3.4 Skilled and Trained Workforce. Subcontractor and its subcontractors are **«udskilledrequired»** to comply with **«udskilledcode»** and PCC Section 2600 et seq. with respect to a skilled and trained workforce as described in Exhibit "J" which is attached hereto and incorporated into this Subcontract.

3.5 Carpenters Labor Agreement. Subcontractor acknowledges that FLINT is signatory to the 2022-2027 Carpenters Master Agreement for Northern California and the 2022-2026 Southern California Carpenters Master Agreement. If Subcontractor's Work involves any work within the jurisdiction of these Master Agreements, Subcontractor is or agrees to become signatory to an appropriate Agreement with these entities and will comply with all the terms and provisions of said Agreements including the payments of wages, jurisdictional disputes, Trust Fund contributions and fringe benefit payments.

3.6 Should Subcontractor perform work as a drywall contractor or drywall subcontractor within the jurisdiction of the Northern California Master Agreement, the work shall be done under the terms and conditions of the current Northern California Interior/Exterior-Drywall/Lathing Master Agreement between the Carpenters 46 Northern California Counties Conference Board and/or the NCCRC and the appropriate Drywall Contractors Association for the 46 Northern California Counties.

3.7 Laborers' Labor Agreement. Subcontractor acknowledges that FLINT is signatory to the 2018-2023 Laborers' Master Builders Agreement for Northern California ("Master Builders Agreement"). If Subcontractor's Work involves any work within the jurisdiction of this Master Builders Agreement, Subcontractor is or agrees to become signatory to an appropriate Agreement with the Northern California District Council of Laborers and will comply with all the terms and provisions of said Agreement including the payments of wages, Trust Fund contributions and fringe benefit payments.

3.8 Should Subcontractor's Work include masonry or plastering within the jurisdiction of the Northern California Master Builders Agreement, the work shall be done under the terms and conditions of the current Masonry and/or Plaster Tender Agreement that has been negotiated by the Northern California District Council of Laborers or its affiliates, which is in effect in the territory in which the work is performed.

3.9 Should Subcontractor's Work include landscaping within the jurisdiction of the Northern California Master Builders Agreement, the work shall be done under the terms and conditions of the current Laborers' Landscaping Agreement that has been negotiated by the Northern California District Council of Laborers or its affiliates, which is in effect in the territory in which the work is performed.

4. Schedule. Time is of the essence. FLINT, with input from Subcontractor, shall develop the "Project Schedule". Subcontractor shall commence the Work under this Subcontract when notified by FLINT and shall complete the Work covered by this Subcontract as required in the Project Schedule in a diligent manner so that progress or completion of the Project will not be delayed and in such a manner that FLINT, any other subcontractors, and any separate contractors of the Owner shall not be delayed or impeded in their work. Subcontractor shall participate and cooperate in the development of the Project Schedule and other efforts to achieve timely completion of the Work by providing information on the timing and sequence of operations so as to meet FLINT's overall schedule requirements. FLINT will update the Project Schedule as required by the Contract Documents. Subcontractor shall continuously monitor the Project Schedule, including any revisions thereto, and other work on the Project so as to execute the Work in accordance with the requirements of the Project Schedule. Subcontractor agrees to be responsible for, carry out, and perform all time guarantees upon work or materials referred to in the General Contract relating to any labor performed or material furnished under this Subcontract.

5. Supervision. All of the Work performed under this Subcontract is the sole and absolute responsibility of Subcontractor; shall be initiated, managed, performed and completed by qualified, competent, skilled and reputable supervisors, administrators, mechanics and laborers; shall be in full compliance with the General Contract and this Subcontract; and shall meet the approval and acceptance of FLINT and the Owner or its authorized representative.

6. Safety. Subcontractor agrees that the prevention of accidents to workmen and property engaged upon or in the vicinity of the Work is its responsibility. Subcontractor agrees to comply with all Federal, State, Municipal and local laws, ordinances, rules, regulations, codes, standards, orders, notices and requirements concerning safety as shall be applicable to the Work, including, among others, the Federal Occupational Safety and Health Act of 1970, as amended, and all standards, rules, regulations and orders which have been or shall be adopted or issued thereunder, and with the safety standards established during the progress of the Work by FLINT. Subcontractor acknowledges the receipt of FLINT's "Construction Safety Requirements" and further agrees to be bound by these policies as part of this Agreement.

6.1 When so ordered, Subcontractor shall stop any part of the Work which FLINT deems unsafe until corrective measures satisfactory to FLINT have been taken. Subcontractor agrees that it shall not have nor make any claim for damages arising from such stoppages. Should Subcontractor fail to take appropriate corrective measures in a timely manner, FLINT may do so at the cost and expense of Subcontractor and may deduct the cost and expense thereof from any payments due or to become due to Subcontractor. Failure on the part of FLINT to stop unsafe practices shall in no way relieve Subcontractor of its responsibility therefore.

6.2 Subcontractor will follow the provisions of all applicable statutes and ordinances which require persons or firms doing excavation to do so only after giving notice to utility companies and obtaining information on the location of utilities (such as "one-call" systems).

7. Hazardous Materials. Subcontractor shall at all times comply with all rules and regulations of any municipality, state or federal environmental, environmental protection, and toxic waste and hazardous substances laws, ordinances and regulations, and how they relate to the Work, and shall be equally responsible for actions and inactions of subcontractors, sub-subcontractors, and any other agents or independent contractors of Subcontractor. Subcontractor shall be deemed to, and shall, have included in the Subcontract Sum the containment, removal, disposal or neutralization of all toxic wastes and hazardous substances created, generated or transported to or from the Project site in conjunction with the Work. Subcontractor will be responsible for identifying toxic wastes and hazardous substances generated, released, caused by or resulting from the Work and notifying FLINT of its presence in writing as soon as it is identified. The terms "toxic wastes" and "hazardous substances" shall have the same meaning as defined under federal environmental laws and regulations. At all times Subcontractor shall defend, indemnify and hold harmless FLINT from any and all expenses, costs, damages, suits, fines, assessments, penalties and/or causes of

action, including attorney's fees through all investigations, negotiations, hearings or appeals, relating to or arising out of Subcontractor's failure to strictly comply with the terms of this paragraph.

8. Compliance With Laws.

8.1 Subcontractor acknowledges that Federal Executive Order 11246 as amended; Vietnam Era Veteran Readjustment Assistance Act, as amended (VEVRAA); and Section 503 of the Rehabilitation Act of 1973, as amended are incorporated herein by reference. Subcontractor shall not discriminate against any applicant for employment because of race, color, religion, gender, age, national origin, sexual preference, disability, veteran status or any other protected classification, and shall ensure that employees are treated during employment without regard to their race, color, religion, gender, age, national origin, sexual preference, disability, veteran status or any other protected classification. Subcontractor further agrees to fully comply with any and all laws, statutes, regulations, orders and directives, presently or hereafter imposed by local, state or federal governments, or any agencies thereof, with respect to nondiscrimination in employment, civil rights laws and fair employment practices, and mandated reporting requirements thereof, including, but not limited to, the California Labor Code, the California Fair Employment and Housing Act and the California Family Rights Act. Subcontractor acknowledges its Labor Code compliance requirements set forth in Exhibit "G".

8.2 Subcontractor hereby acknowledges that it is thoroughly familiar with all DBE/MBE/WBE/DVBE requirements pertaining to the Project. If Subcontractor claims status as a DBE/MBE/WBE/DVBE, Subcontractor shall take all steps necessary and shall make all necessary records available to FLINT and Owner to assure that Subcontractor is in compliance with such requirements. In the event that any sub-subcontractor or supplier of the Subcontractor is in compliance with such requirements. In the event that any sub-subcontractor or supplier of the Subcontractor is designated as or is required to be a DBE/MBE/WBE/DVBE, Subcontractor agrees to be responsible for insuring that said sub-subcontractor or supplier meets all applicable requirements. Subcontractor acknowledges that FLINT is relying upon representations regarding the validity of Subcontractor's status, if any, as a DBE/MBE/WBE/DVBE and that misrepresentation of the status of Subcontractor or any of its sub-subcontractors or material suppliers is a material breach and grounds for immediate termination of this Subcontract. In the event of termination as the result of material misrepresentation of the status of the Subcontractor as a DBE/MBE/WBE/DVBE, Subcontractor shall not be entitled to any compensation not already paid.

9. Insurance. Subcontractor agrees to procure, pay for and maintain in full force and effect during the course of the performance of the Subcontract all insurance required by the laws of the state in which the Work covered by this Subcontract is being performed, and in such form and amounts in the General Contract, and as described in Exhibit "C" which is attached hereto and incorporated into this Subcontract. Subcontractor shall not commence the Work nor receive any payment hereunder until Certificate of such insurance is furnished to FLINT. Subcontractor's insurance coverage shall be primary, with FLINT's, the Owner's and any other insurance being non-contributory and excess over Subcontractor's coverage. All insurance policies procured, paid for and maintained by Subcontractor for the Work performed under this Subcontract must contain a Waiver of Subrogation rights against that of the Owner, FLINT, its parent, owners, officers, subsidiaries and affiliate companies, their agents, employees, directors, servants, and insurers. All policies required of Subcontractor according to the provisions of this Paragraph shall provide that the Owner, Architect and FLINT, its parent, owners, subsidiaries and affiliate companies, their agents, employees, directors, servants, and insurers be named as Additional Insured under such Subcontractor's insurance policies.

9.1 FLINT shall have no duty to Subcontractor or to any of its insurers or their insurance agents to review any certificates or copies of insurance furnished to FLINT or to determine whether the terms of each certificate or policy of insurance comply with the insurance-related provisions of the Subcontract. A failure of FLINT to detect that Subcontractor has not submitted certificates, or proper certificates, or is otherwise not in compliance with the insurance-related provisions of the Subcontract shall not be construed as a waiver or other impairment of any of FLINT's rights under such insurance-related provisions.

9.2 If Subcontractor fails to procure and maintain such insurance, in addition to the option of declaring Subcontractor in default for breach of a material provision of this Subcontract, FLINT shall have the right, but not the duty, to procure and maintain the same insurance, or other insurance that provides FLINT with equivalent protection, and Subcontractor shall furnish all necessary information to make effective and maintain such insurance. At the option of FLINT, the cost of said insurance purchased by FLINT shall be charged against and deducted from any monies then due or to become due to Subcontractor or FLINT shall notify Subcontractor of the cost thereof and Subcontractor shall promptly pay such cost.

9.3 Subcontractor shall identify by certificate any Residential, Mold, EIFS, Silica or other major exclusions that impact Subcontractor's ability to insure its risk. If the Project includes any Residential components or the proposed design includes EIFS systems, then Subcontractor shall obtain appropriate endorsements acceptable to FLINT as a condition of this Subcontract.

9.4 Subcontractor shall at its own expense provide insurance coverage for materials stored off the site after written approval of FLINT at the value established in the approval, and also for portions of the Work in transit until such materials are permanently incorporated into the Work. The risk of loss for material and equipment provided by this Subcontract, whether in a deliverable state or otherwise, shall remain with Subcontractor. Any damages to the material and equipment or loss of any kind occasioned

in transit shall be borne by Subcontractor, notwithstanding the manner in which the goods are shipped or who pays the freight or other transportation costs.

10. Indemnity.

10.1 Subcontractor's Indemnification and Defense of FLINT. With the exception that this Section 10.1 shall in no event be construed to require indemnification by Subcontractor to a greater extent than permitted under the statutes or public policy of the State of California, Subcontractor shall defend, indemnify, and save harmless FLINT, including officers, directors, partners, joint ventures, agents, employees, affiliates, parents and subsidiaries, and each of them, of and from any and all claims, demands, causes of action, damages, costs, expenses, actual attorneys' fees, losses or liabilities, in law or in equity, of every kind and nature whatsoever ("Claims") arising out of or in connection with Subcontractor's obligations under this Subcontract. Subcontractor's duties under this Section 10.1 shall apply to Claims for, but not limited to:

- a) Personal injury, including but not limited to, bodily injury, emotional injury, sickness or disease, or death to persons, including, but not limited to, any employees or agents of Subcontractor, Owner, FLINT, or any other Subcontractor and/or damage to property of anyone (including loss of use thereof) caused or alleged to be caused in whole or in part by any act or omission of Subcontractor, its employees, agents, sub-subcontractors and others for whom Subcontractor is responsible.
- b) Damages and penalties imposed on account of the violation of any law, order, citation, rule, regulation, standard, ordinance or statute, caused by the action or inaction of Subcontractor.
- c) Patents. Subcontractor hereby agrees to defend, indemnify and hold harmless FLINT and the Owner from and against any and all liability, loss or damage and to reimburse FLINT and the Owner for any costs, including legal fees and expenses, which FLINT and the Owner may incur because of claims or litigation on account of infringement or alleged infringement of any letters patent or patent rights by reason of the Work, or materials, equipment or other items used by Subcontractor in its performance.
- d) Claims and liens (see Section 15) for labor performed or materials used or furnished to be used in performance of the Work, including all incidental or consequential damages resulting to FLINT from such claims or liens.
- e) Subcontractor's failure to fulfill the covenants set forth in each subpart of Section 8.
- f) Failure of Subcontractor to comply with the provisions of Section 9.
- g) Any violation or infraction by Subcontractor of any law, order, citation, rule, regulation, standard, ordinance or statute in any way relating to the occupational health or safety of employees, including but not limited to, the use of or others' equipment, hoists, elevators or scaffolds.
- h) Any failure or alleged failure to comply with the terms of this Subcontract or the Contract Documents.
- i) Any debt which Subcontractor or its lower-tier subcontractors incurs for performance of labor including: unpaid wages, interest, attorney's fees, expert witness fees, fringe benefit payments, and other benefit payments to employees of Subcontractor or its lower-tier subcontractors.

10.2 The indemnification requirements of this Section 10 shall extend to Claims occurring after this Subcontract is terminated as well as while it is in force. Such indemnity provisions apply to the fullest extent permitted by law, regardless of any passively negligent act or omission of FLINT or its agents or employees. Subcontractor, however, shall not be obligated to indemnify FLINT for Claims arising from the active negligence, sole negligence, or willful misconduct of FLINT, or its agents, employees or independent contractors who are directly responsible to FLINT, or for defects in design furnished by such persons or Claims that do not arise out of the Work.

10.3 Except as otherwise provided by the statutes or public policy of the State of California, Subcontractor's obligations under this Section do not affect, and are not affected by, the insurance required of Subcontractor pursuant to Section 10.

With respect to Claims by an employee of Subcontractor, anyone directly or indirectly employed by Subcontractor or anyone for whose acts it may be liable, the indemnification obligation under this Section shall not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

Subcontractor shall promptly pay and satisfy any judgment or decree that may be rendered against FLINT or its agents or employees, or any of them, arising out of any Claim covered by this Section 10.

10.4 Defense of Claims.

- (a) With respect to any Claims against FLINT as to which Subcontractor owes to FLINT a defense obligation, Subcontractor, having considered its options available at law, hereby elects to proceed under California Civil Code Sections 2782(e)(2) and/or 2782.05(e)(2), and further agrees that upon final resolution of any such Claim, any reimbursement for defense fees and costs previously paid by Subcontractor shall be governed by such provisions of the California Civil Code.
- (b) Subcontractor shall at Subcontractor's own cost, expense and risk, defend (with counsel designated by FLINT) all Claims as defined in Section 10.1 that may be brought or instituted by third persons, including, but not limited to, governmental agencies or employees of Subcontractor, against FLINT, subject to the provisions of Civil Code Sections 2782(e)(2) and/or 2782.05(e)(2).
- (c) Subcontractor shall reimburse FLINT or its agents or employees for any and all legal expense incurred by any of them in connection herewith or in enforcing the indemnity granted in this Section 10.

10.5 Risk of Loss. All Work done at the site or in preparing or delivering materials or equipment, or any or all of them, to the site shall be at the risk of Subcontractor exclusively until the completed Work is accepted by FLINT and Owner. The parties recognize that the waiver of subrogation provision and the builder's risk insurance provision described in Exhibit "C" may reduce the risk of loss and property damage indemnification obligations of Subcontractor.

10.6 Subcontractor's Indemnification and Defense of Owner and Others. With the exception that this Section 10.6 shall in no event be construed to require indemnification by Subcontractor to a greater extent than permitted under the statutes or public policy of the State of California, Subcontractor shall defend, indemnify, and save harmless Owner, including its officers, directors, partners, joint ventures, agents, employees, affiliates, parents and subsidiaries, and each of them, as well as any other persons that FLINT is required to indemnify and defend under the Contract Documents, of and from any and all Claims, to the same extent that FLINT is required to defend and/or indemnify Owner and such other persons but only with respect to Claims arising out of or in connection with Subcontractor's performance under this Subcontract.

10.7 Sub-subcontractor Indemnity. Subcontractor shall ensure that its sub-subcontractors of every tier also fully indemnify and defend FLINT, Owner and any other persons that FLINT is required to indemnify and defend under Contract Documents, to the same extent that FLINT is required to indemnify and defend such persons. Subcontractor shall include a provision in their own lower-tier subcontract agreements which requires lower-tier subcontractors to defend and indemnify FLINT for claims arising from their own employee's work.

10.8 Construction of Section. Notwithstanding any of the provisions of this Section 10.8, if it is finally determined by a court of competent jurisdiction that any of such provisions are void or unenforceable under governing law, then such provisions shall be deemed stricken from this Subcontract and the remaining provisions shall remain in full force and effect and shall be construed to provide for the maximum defense and indemnification obligation by Subcontractor permitted by law.

10.9 No Limitations. In furtherance to, but not in limitation of the indemnity provisions in this Subcontract, Subcontractor hereby expressly and specifically agrees that its obligation to indemnify, defend and hold harmless as provided in this Subcontract shall not in any way be affected or diminished by any statutory or constitutional immunity it enjoys from suits by its own employees or from limitations of liability or recovery under worker's compensation laws.

11. Remedies For Non-Performance.

11.1 Should Subcontractor at any time, whether before or after final payment:

- a) refuse or neglect to supply a sufficiency of skilled workers or materials of the proper quantity or quality;
- b) fail in any respect to prosecute the Work with promptness and diligence;
- c) cause by any act or omission the stoppage, interference or delay of or damage to the work of FLINT or of any other contractors or subcontractors on the Project; or
- d) fail in the performance of any terms and provisions of this Agreement or of the General Contract; or,
- e) Should the Owner and/or Owner's Representative or Architect determine that the Work or any portion thereof is not being performed in accordance with the General Contract, then in any of such events, FLINT shall have the right to declare Subcontractor in default.

11.2 In the event of a default on Subcontractor's part, FLINT shall have the right, in addition to any other rights and remedies provided by this Subcontract, the General Contract or by law, after three (3) days written notice delivered to Subcontractor or mailed to its last known address:

- a) to perform and furnish through itself and/or through others any such labor and materials for the Work; and,
- b) to deduct the cost thereof from any funds due or to become due to Subcontractor under this Subcontract; and,

- c) to terminate this Subcontract, in whole or in part; and,
- d) to enter upon the Premises and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, all of which Subcontractor hereby transfers, assigns and sets over to FLINT for such purpose; and,
- e) to employ any person or persons to complete the Work and provide all the labor, materials, services, equipment and other items required therefore; and,
- f) to charge to Subcontractor an Administrative Fee of 15% of all costs incurred by FLINT in exercising the above remedies, plus actual attorneys' fees incurred as a result of Subcontractor's failure of performance.

If a default is declared by FLINT, any and all Subcontractor's lower-tier subcontracts, purchase orders, rental agreements and other contracts at the sole option and discretion of FLINT shall be deemed to be assigned by operation of this Subcontract to FLINT, without any further action by, or conduct of, Subcontractor.

11.3 In case of such termination of this Subcontract by FLINT, Subcontractor shall not be entitled to receive any further payment under this Subcontract until the Work shall be wholly completed to the satisfaction of FLINT, the Owner and the Architect and accepted by them. Upon such final acceptance, if the unpaid balance of the Subcontract Sum under this Subcontract shall exceed the cost and expense incurred by FLINT in completing the Work, as stated above, such excess shall be paid by FLINT to Subcontractor. However, if such cost and expense to complete the Work shall exceed the unpaid balance, then Subcontractor and its surety, if any, shall pay the difference to FLINT upon demand. Such cost and expense shall include not only the cost of completing the Work, but also all losses, damages, costs, administrative fees, fines, penalties and expenses (including legal fees and expenses incurred in defending claims arising from such default and in seeking recovery of such fees and expenses from Subcontractor and/or its surety), and disbursements sustained, incurred or suffered by reason of or resulting from Subcontractor's default. An itemized statement thereof or the checks or other evidence of payment shall be prima facie evidence of the fact and extent of Subcontractor's liability.

11.4 FLINT shall have the right to set off any amounts Subcontractor owes to FLINT under this Subcontract or by law against the remaining balance under this Subcontract, or against any amounts due Subcontractor under any other agreements with FLINT.

12. Delays. Should the progress of the Work be delayed, obstructed or interfered with through any fault, action or failure to act by Subcontractor or any of its officers, agents, employees, subcontractors or suppliers so as to cause any additional cost, expense, liability or damage to FLINT or the Owner, including legal fees or expenses incurred in defending claims arising from such delay or seeking reimbursement and indemnity from Subcontractor and its surety hereunder, Subcontractor and its surety agree to compensate and indemnify FLINT and the Owner against all such costs, expenses, damages and liabilities.

12.1 In addition, Subcontractor, at FLINT's direction and at Subcontractor's own cost and expense, shall work such overtime as may be necessary to make up for all time lost in the completion of the Work and in the completion of the Project due to such delay. If Subcontractor fails to make up for the time lost by reason of such delay, FLINT has the right to use other subcontractors or suppliers and to take whatever other action FLINT deems necessary to avoid delay in the completion of the Work and the Project, the cost of which shall be borne by Subcontractor. In the event Subcontractor delays timely performance of the Work or to the completion of the Project, either by its acts or omissions, and such delays result in FLINT being charged by the Owner with actual or liquidated damages, then Subcontractor, in addition to being responsible for delay damages to FLINT, other subcontractors and/or suppliers, shall reimburse FLINT the full amount of all such actual or liquidated damages and charges resulting from the delays caused by Subcontractor. FLINT may offset any such damages against any remaining balances due to Subcontractor.

12.1.1 In the event of any delay, to the extent Subcontractor is responsible as provided herein, FLINT may hold Subcontractor responsible including, without limitation, withholding from Subcontractor's Subcontract Amount balance the amount of: a. the per day dollar amount for liquidated damages as set forth in the Contract Documents for each day of delay the Owner may assess FLINT, plus, b. a reasonable amount for damages sustained by FLINT, other subcontractors, vendors and suppliers for delays caused by Subcontractor. Subcontractor's Subcontract Amount balances are not in any manner a limitation of Subcontractors' liability to FLINT for such liquidated damages and/or any other damages. Said liquidated damages sum is agreed upon as a reasonable estimate of the damage the Owner will sustain daily by reason of the failure of Subcontractor to complete the work within the time stipulated for which the Owner will hold FLINT responsible, it being agreed that the exact damage resulting by such failure will be impossible or unreasonably difficult for the Owner to ascertain. To the extent such liquidated damages are not withheld by the Owner against FLINT's final payment, all such withheld monies which are otherwise due Subcontractor shall be paid to Subcontractor. The liquidated damages set forth in this Subparagraph 12.1.1 do not preclude any other claim FLINT may have against Subcontractor for direct delay or other damages.

12.2 In the event delays in the critical path for performance of the Work are caused by FLINT, the Owner, the Architect or some other subcontractor, and not due to any fault, neglect act or omission of Subcontractor, its officers, agents, employees, subcontractors or suppliers, an extension of time for the completion of this Subcontract shall be granted for a period of time

equal to the delay caused to Subcontractor; provided, however, that Subcontractor shall not be entitled to any such extension of time unless Subcontractor (1) notifies FLINT in writing of the cause(s) of such delay within 48 hours of the commencement thereof and (2) demonstrates that it could not have anticipated or avoided such delay, hindrance or interference, and has used all available means to minimize the consequences thereof. Such extension of time shall be in lieu of and in full satisfaction of any and all claims whatsoever of Subcontractor against the Owner, the Architect, FLINT or other subcontractors causing such delay.

13. Changes In The Work. FLINT may, at any time, on written order without notice to the surety and without invalidating this Subcontract, make changes (including without limitation additions, deletions, alterations, revisions, substitutions or derivations) in the Work and Subcontractor agrees to proceed with the Work as directed by FLINT's written order. Any claim for an extension of time for completion or for adjustment of the Subcontract Sum shall be made in writing by Subcontractor within two (2) days after FLINT directs performance of the extra or changed work. To be clear, any order directing a change in the Work must be in writing to be valid. If the changed work is of urgency, FLINT may require negotiation immediately on any cost or time increase. Subcontractor shall perform such extra or changed work, and the Subcontract Sum shall be adjusted by the amount as agreed to by the parties. Notwithstanding the payment provisions of this Subcontract as provided in Paragraph 21 below, it is an express condition precedent, however, that payment or a grant of additional time shall not be due to Subcontractor for such changed or extra work until FLINT has received payment or additional time adjustment from the Owner for said changed or extra work, and that such extra or changed work has been performed to the satisfaction of FLINT and the Owner by Subcontractor.

13.1 Subcontractor shall be responsible for any costs incurred by FLINT for changes of any kind made by Subcontractor that increase the cost of the work for either FLINT or any other subcontractors when Subcontractor proceeds with such changes without a written order therefor.

13.2 For changes in the Work approved by FLINT as provided herein, Subcontractor shall be paid for Overhead, General Conditions (including insurance and bonds) and Fee an amount consistent with the Contract Documents. In the absence of such conditions, Subcontractor shall be paid for Overhead, General Conditions and Fee as follows:

Work Performed by Subcontractor's Own Forces: 15% of the cost

Work Performed by Sub-subcontractor (all tiers): 5% of the cost

13.3 To overcome delays for which Subcontractor is not, in whole or in part responsible for, Subcontractor shall work overtime or extra shifts to overcome any such delays and shall be paid for overtime if and only if directed specifically, in writing, by FLINT. Any such extra compensation shall further be based upon hours shown on daily time sheets, which have been submitted to, and approved by FLINT. Only the premium portion of such approved overtime, exclusive of any markups for overhead and/or fee, shall be considered for any such extra compensation.

14. Taxes. The Subcontract Sum includes all sales, excise, transportation, unemployment compensation, social security, and any other taxes and old age benefits presently existing or subsequently imposed and levied and Subcontractor agrees to pay all of the above and to conform to all applicable municipal, state and federal laws in connection with such taxes. Subcontractor further agrees, on behalf of itself and all sub-tier subcontractors, to withhold taxes from the wages and salaries of all employees of Subcontractor and pay the same in accordance with the federal and state laws and regulations pertaining thereto. The Subcontract Sum includes federal, state and municipal taxes now levied or in force or hereafter imposed on any and all tangible personal property sold or transferred to FLINT under this Subcontract and Subcontractor agrees to pay such tax or taxes on such property, the cost of which is included in the Subcontract Sum.

14.1 Subcontractor has no interest to pursue the allocation of Project based tax credits or deductions that are shared or divided with FLINT.

15. Liens. Subcontractor shall promptly pay when due all its project creditors, together with the project creditors of all those below it in the contractual chain.

15.1 If the General Contract involves private work, Subcontractor shall keep the property and improvements free and clear of all mechanic, materialmen and similar lien claims or statements. In the event any such lien is filed, asserted or claimed, Subcontractor shall immediately secure its release either by paying the lien claimant, by filing a lien release bond, or by any other means permitted by law. If not so released, FLINT may retain an amount equal to 150% of the lien or claim and may pay the claimant and offset that amount, plus any legal fees from the amount so retained. If the General Contract involves public work, Subcontractor shall promptly pay and secure releases from all of its project creditors, including all those below it in the contractual chain, who are entitled to assert claims against FLINT or its surety on the General Contract bonds.

15.2 If any claim or lien is made or filed with or against FLINT, the Owner, the Project, the Premises or the Project funds by any person claiming that Subcontractor or any subcontractor or other person under subcontract to Subcontractor, or any person or entity employed or engaged by Subcontractor at any tier, has failed to make payment for any labor, services, materials,

equipment, taxes or other obligations furnished or incurred in connection with the Work, or if Subcontractor or any subcontractor or other person under subcontract to Subcontractor, or any person or entity employed or engaged by Subcontractor at any tier causes damage to the Work or any other work on the project, or if Subcontractor fails to perform or is otherwise in default of any term or provision of this Subcontract, Subcontractor shall pay and satisfy any such claim or lien within ten (10) days after within demand to do so, and in the event Subcontractor fails to do so, FLINT shall have the right to retain from any payment then due or thereafter due an amount which FLINT deems sufficient to (1) satisfy, discharge and/or defend against any such claim or lien, (2) make good any such nonpayment, failure, damage or default, and (3) defend, indemnify and hold harmless FLINT and the Owner against any and all losses, damages and costs, including legal fees and expenses, incurred by either or both of them. FLINT shall require proof that any such nonpayment, claim or lien is fully satisfied, dismissed and discharged before any remaining retained funds will be released. FLINT shall, in addition, have the right to apply and charge against Subcontractor so much of the amount retained as may be required for the foregoing purposes and Subcontractor shall pay and reimburse FLINT and the Owner all such losses, damages, and costs incurred by them which exceed the retained funds.

16. Assignment. To the fullest extent permitted by law, Subcontractor agrees that it shall not assign, sell, transfer, delegate or encumber any rights, duties or obligations arising under this Subcontract including, but not limited to, any right to receive payments hereunder, without the prior written consent of FLINT in its sole discretion and the giving of any such consent to a particular assignment shall not dispense with the necessity of such consent to any further or other assignments. In the event Subcontractor assigns, sells, encumbers or otherwise transfers its right to any funds due or to become due under this Subcontract as security for any loan, financing or other indebtedness ("Assignment"), notification to FLINT of such Assignment must be sent by certified mail, return receipt requested, to FLINT and the Assignment shall not be effective as against FLINT until FLINT provides its written consent to such Assignment. Subcontractor agrees that any such Assignment shall not relieve Subcontractor of any of its agreements, duties, responsibilities or obligations under this Subcontract and the Contract Documents and shall not create a contractual relationship or a third party beneficiary relationship of any kind between FLINT and such assignee or transferee. This provision does not apply to the assignment upon default provision described in Section 11.2 above. Subcontractor further agrees that FLINT may assign subcontract agreement to another contractor, owner or surety.

17. Non-Conforming Work. Subcontractor shall provide sufficient, safe and proper facilities at all times for inspection by the Architect, the Owner or FLINT of the Work in the field, at shops or at any other place where materials required hereunder are in course of preparation, manufacture, treatment or storage. Subcontractor shall, within twenty-four (24) hours after receiving written notice from FLINT to that effect, proceed to remove from the site any materials condemned by the Architect, the Owner, or FLINT, whether installed, in progress or in storage, and to take down all portions of the Work which the Architect, the Owner or FLINT has condemned in writing, as unsound or improper, or as in any way failing to conform to the drawings, specifications and addenda and shall take full financial responsibility for all damage caused by such removal, including, but not limited to any costs associated with temporary construction, materials, facilities or re-work performed by FLINT and/or other subcontractors deemed necessary by FLINT for the protection of other construction materials, property or workmen in the interim. In the event that all or any portion of the Work as condemned should be of such a nature, or the time available should be so limited, that in the judgment of the Architect, the Owner or FLINT it would not be expedient to order the same replaced or corrected, FLINT, at its option, may deduct from the payments due or to become due to Subcontractor such amount or amounts as in the opinion of the Architect or the Owner shall represent the difference between the fair and reasonable value of the Work so condemned and its value had it been executed in conformity with the General Contract.

18. Guarantee/Warranty. For a period equal to that imposed upon FLINT under the General Contract, but in no event less than one year from the date of the Owner's final acceptance of the Work, Subcontractor guarantees and warrants that the Work complies with the General Contract requirements and is free from defects in material and workmanship. Subcontractor shall remain liable for defects in the Work for the same period FLINT remains liable to the Owner under the General Contract, or as required by law, whichever is greater. This guarantee/warranty shall include, but is not limited to, the cost of all labor, material and related items necessary to correct any such defect, plus the cost of repairing any damage to other items which may have been caused by the defective material or workmanship. If Subcontractor fails to begin warranty work within forty-eight (48) hours of being notified that such work is necessary, FLINT may, at its option, perform the necessary remedial work or secure its performance by others and charge Subcontractor with the cost thereof, plus a 15% Administrative Fee. Nothing in this paragraph shall shorten the statute of limitations on any action by FLINT for breach of contract, negligence or other cause of action against Subcontractor.

19. Clean Up. Subcontractor is responsible for its own "clean-up" and keeping the Work areas "broom clean". If FLINT determines the Work area to be unsatisfactorily cleaned, FLINT will so advise Subcontractor. If Subcontractor fails to commence cleaning procedures within twenty-four (24) hours and continue to clean said area to FLINT's satisfaction, FLINT may without further notice execute and complete such clean-up activities as FLINT deems necessary and charge the cost to Subcontractor or deduct such cost from payments due to Subcontractor.

19.1 Subcontractor is responsible to clean the mud and gravel off its vehicles (including vehicles operated by its subcontractors and suppliers) prior to leaving the site. Any mud or gravel that is tracked onto the surrounding roads shall be

removed immediately. FLINT has the right to clean up surrounding roads immediately upon Subcontractor's failure to do so, the cost of which shall be deducted from the Subcontract Sum.

20. Protection of Work. Subcontractor is responsible for protection of its material, equipment and installation until the final acceptance by the Owner and the Architect. Subcontractor acknowledges that FLINT's Builders' Risk Insurance Policy, if required by the General Contract between FLINT and the Owner, has a deductible amount per occurrence. Should a claim concerning materials intended to be incorporated or incorporated into the Project be filed against FLINT's Builders' Risk Insurance Policy, Subcontractor shall pay the deductible amount. If said claim exceeds the deductible amount, then any sums due thereafter shall be paid for as stated in the General Contract and/or FLINT's Builders' Risk Policy. Should Subcontractor and/or FLINT or other Subcontractors be involved with the occurrence of loss, the deductible amount will be prorated, based on the amount due each claimant as relating to the total cost of loss. All claims shall be resolved in accordance with FLINT's Builders' Risk Policy Provisions. FLINT encourages Subcontractor to obtain and pay for supplemental insurance covering the deductible amount for any stored materials at the job site but not incorporated into the Project. All materials in transit or stored off site by Subcontractor may not be covered by Builders' Risk Insurance, and are stored at the sole risk of Subcontractor, even if Subcontractor has received payment for said materials.

21. Payment. In consideration of faithful and timely performance by Subcontractor of all the covenants and the conditions aforesaid, FLINT agrees to pay Subcontractor, subject to other provisions hereof, including authorized additions and deletions, the Subcontract Sum. Payment shall only be due for the portion of the Work actually completed to the satisfaction of FLINT, the Architect and the Owner. FLINT and Subcontractor expressly agree that all payments due to Subcontractor under this Agreement shall be made by FLINT out of funds received by FLINT from the Owner. Upon receipt of such payment from the Owner, FLINT will then promptly pay Subcontractor those amounts received from the Owner for Subcontractor's Work. Subcontractor agrees that if the Owner fails to make progress payment(s) or final payment to FLINT, FLINT shall have sixty (60) days to make such payment to Subcontractor after FLINT has exhausted all reasonable efforts, through legal proceedings and otherwise, to collect from the Owner, or others responsible on the Owner's behalf, such amounts due Subcontractor, and that FLINT may deduct the pro-rata portion of its costs and attorney fees for such collection efforts from the amount due Subcontractor. Unless otherwise agreed in writing, Subcontractor shall carry on the Work and maintain FLINT's schedule pending FLINT's efforts to collect such amounts due Subcontractor. Subcontractor also agrees that in no event shall FLINT be responsible for payment to Subcontractor if Subcontractor's failure to perform its obligations under this Agreement has been asserted as a reason for the Owner's failure to make such payments to FLINT

21.1 Within fifteen (15) days from the date payment is requested, Subcontractor shall furnish FLINT with a tabulated breakdown of the portion of the Work included in the Payment Request, listing items of the work in sufficient detail as determined by FLINT to easily facilitate payment requests to be checked by FLINT as the work progresses.

21.2 Each payment request or invoice must be received by FLINT by the 20th day of the month to be processed with FLINT's Owner payment application that month. Progress payment applications must be submitted by Subcontractor each month in an amount equal to the estimated value of the labor, materials and equipment incorporated in the construction and materials and equipment suitably stored at the Project site, less «**udretention**» retention and the aggregate of previous payments. Subcontractor shall furnish, on behalf of itself, all lower tier subcontractors, and material and equipment suppliers and vendors, with each progress payment request Unconditional Waiver and Release Upon Progress Payment (Exhibit "E" attached) from prior payments and Conditional Waiver and Release Upon Progress Payment (Exhibit "E" Attached) for the current pay request properly executed by an authorized representative of Subcontractor and/or subs-subcontractors, suppliers and vendors, returned to FLINT prior to issuance of subsequent payments. Invoices and payment requests received that are inaccurate or without substantiation, or after said day of the month will be held until corrected and substantiated, and then processed with the following month's payment application.

21.3 Promptly after receipt by FLINT of payment from the Owner, FLINT shall make payment in the amount and to the extent received from the Owner, less any applicable retainage or other set off.

21.4 Subcontractor shall submit its request for partial payment conforming to the standard FLINT billing form, with schedule of values attached thereto, representing a true and accurate estimate of the Work completed, and materials stored during the immediately preceding month or such other immediately preceding period as directed by FLINT. In addition, if allowed by the General Contract, all invoices and insurance certificates shall be included for all stored materials in an off-site storage area applicable to the payment request.

21.5 Subcontractor shall, additionally with each payment request submit the following: (1) copies of time and certified payroll records to document proper payment to Subcontractor's and Subcontractor's subcontractors hourly employees during the covered billing period, (2) proof of payment of fringe benefits to trust funds, and (3) proof of payment of wages (e.g. cancelled checks) to employees. Upon receipt of Subcontract Agreement, Subcontractor shall provide contract award information, including project name, name and address of Subcontractor and all lower tier subcontractors, anticipated start date, duration, estimated journeymen and apprentice hours. FLINT may withhold as disputed all sums owed if Subcontractor does not timely

provide requested payroll, proof of payment of fringe benefits, proof of payment of wages, and/or contract award information until the information is provided. Subcontractor shall use the eMARS system for the on-line submittal of certified payroll.

21.6 All sums tentatively earned by Subcontractor by partial or complete performance of the Subcontract Work and any balance of the unearned Subcontract Amount shall constitute a fund for the purpose of:

- a. First, full completion of Subcontractor's Work;
- b. Second, payment of any back charges or claims due FLINT from Subcontractor on any project;
- c. Third, payment to the sub-subcontractors. Laborers, material and service suppliers of Subcontractor who have filed valid and enforceable bond claims (if project is bonded by FLINT or Subcontractor).

Such tentative earnings shall not be due or payable to Subcontractor or anyone else claiming in Subcontractor's place or stead, including but not limited to a Trustee in bankruptcy, receiver or assignee of Subcontractor, until and unless Subcontractor's Work is fully and satisfactorily completed and any amounts under (a), (b) or (c) above are fully paid and satisfied. FLINT may demand written evidence of Subcontractor's financial capability to perform and that Subcontractor has made such payments at any time.

21.7 If FLINT, in its sole discretion, deems it necessary, Subcontractor agrees to receive each of its progress payments and final payment in the form of multiple checks issued jointly between Subcontractor's lower tier subcontractors and major material suppliers and Subcontractor. Lower tier subcontractors that are to receive part or all of their progress payments as joint checks shall additionally submit with their Payment Requests all invoices from each lower tier subcontractor and major supplier and the net payments to be issued to each.

21.8 Payments otherwise due to Subcontractor may be withheld by FLINT on account of defective work performed by Subcontractor and not remedied, claims filed by third parties arising out of Subcontractor's work, failure of Subcontractor to comply with certified payroll requirements per Exhibit "G", or upon the presentation of reasonable evidence indicating the probability of the filing of such claims, failure of Subcontractor to make payments to its subcontractors or materialmen for work done or material furnished, or a reasonable doubt that the Subcontract Work can be completed for the balance then owing Subcontractor by FLINT, or Subcontractor delays which hinder the successful, timely progress or completion of the Project. Additionally, it is specifically agreed that FLINT possesses the right of setoff relative to any monies due and owing FLINT by Subcontractor, from whatever source.

21.9 No partial payment, or certificate therefore, shall constitute acceptance or approval by FLINT of the Work or material for which the partial payment is made. No partial payment shall constitute a waiver by FLINT of any right to require fulfillment of all the terms of this Subcontract. Neither the final payment nor any partial payment, nor any certificate for either, shall constitute acceptance by FLINT of defective work or improper materials or of any element of Subcontractor's performance determined to be at variance with this Subcontract.

21.10 Subcontractor shall adopt and provide proof of legally compliant timekeeping, overtime, travel, and meal/rest period policies, and shall allow periodic access to employees for interview/audit purposes.

22. Final Payment. Final payment of retainage will be made to Subcontractor after the completion of the project and the Work hereunder is accepted in writing by the Owner, and a complete release of any and all claims against FLINT has been executed by Subcontractor (and all of its subcontractors and suppliers) has been delivered to and approved by FLINT. It is specifically understood and agreed that all payments to Subcontractor are dependent, as an express condition precedent, upon FLINT receiving contract payments, including retainage from the Owner. Subcontractor, in submitting its request for final payment, shall include therewith, from itself, all lower tier subcontractors and each material and equipment supplier and vendor, a fully and properly executed Conditional Waiver and Release Upon Final Payment (Exhibit "E"). Within fifteen (15) days of receipt of such final payment Subcontractor shall furnish, from itself, all lower tier subcontractors and material and equipment suppliers and vendors, a fully and properly executed Unconditional Waiver and Release Upon Final Payment to FLINT (Exhibit "E"). Should there be any claim, lien or unsatisfied obligation, whether before or after final payment is made, Subcontractor shall deliver payment to FLINT an amount equal to whatever cost FLINT and/or the Owner must pay to discharge or defend against any such claim, obligation, lien or action brought, or any judgment thereon and all costs, including legal fees and expenses and a 15% Administrative Fee, incurred in connection therewith.

23. Claims. Any claim which Subcontractor may have against FLINT, including but not limited to claims for alleged extra work, changed conditions, breach of this Subcontract or claims that FLINT was negligent in connection with or relating to the Project, shall be set forth in detail in writing and delivered to FLINT within five (5) calendar days after the factual basis for each claim first arises. Any claims not so submitted shall be deemed waived by Subcontractor. Claims not timely made, in writing, by Subcontractor shall be deemed to have been abandoned and waived. The acceptance and consideration of any claim out of time by FLINT shall not create any precedent nor "course of dealing" between FLINT and Subcontractor, nor shall it waive FLINT's right to insist on strict adherence by Subcontractor to the contract claims procedures.

23.1 Subcontractor shall not delay or suspend the Work because of the pendency of or the denial by FLINT of any such claim or because of the continuance of the condition out of which the claim arose, but shall proceed diligently in performing the Work while the claim is being resolved by negotiated agreement or being fully adjudicated. In the event Subcontractor asserts that it should receive additional compensation because of an act or omission on the Owner's part, or someone for whom the Owner is responsible, Subcontractor shall promptly submit the claim to FLINT in writing at least three (3) working days before the date FLINT is required to submit such claims under the General Contract. If timely submitted with all documentation required by the General Contract, and subject to the reasonable approval of Subcontractor's claim by FLINT as provided in Sub-Paragraph 23.3 below, FLINT will, on behalf of Subcontractor, submit the same to the Owner for its consideration. Failure of Subcontractor to submit such claims in a timely and proper manner shall result in a waiver of such claim and FLINT is not required to submit it to the Owner, and Subcontractor shall be bound to the same consequence which FLINT would suffer under the General Contract.

23.2 Subcontractor shall fully cooperate with FLINT in the submission of such pass through claims, shall prepare all supporting data and do everything else necessary to properly present the claims, including payment of legal fees incurred by FLINT to prepare, submit and negotiate or otherwise resolve such claim. Should the Owner allow and pay additional compensation to FLINT on account of such pass through claim asserted by Subcontractor, FLINT will pay the same to Subcontractor, less FLINT's overhead, costs, expenses, legal fees and a 15% Administrative Fee.

23.3 It shall be an express condition precedent to any obligation on the part of FLINT to make payment of any cost, reimbursement, compensation or damages to Subcontractor hereunder, including, but not limited to claims arising from changes in the Work or delays, that FLINT shall first be determined to be entitled to such compensation on behalf of Subcontractor and then receive such payment from Owner. Subcontractor expressly acknowledges that FLINT is not obligated or required to pursue Subcontractor's claim against the Owner if FLINT, in its sole discretion, after review of Subcontractor's claim, has deemed the claim to lack merit in whole or in part.

23.4 If at any time a controversy should arise between FLINT and Subcontractor with respect to any matter in this Subcontract which FLINT determines is not a claim, dispute or controversy which should involve or be asserted against the Owner, the decision of FLINT relating to the subject of the controversy shall be followed by Subcontractor.

24. Dispute Resolution.

24.1 Mediation. If a dispute arises that cannot be resolved through direct discussions, the parties shall participate in mediation under the Construction Industry Mediation Rules of the American Arbitration Association before recourse to any other form of binding dispute resolution. The location of the mediation shall be in Sacramento County, California, unless the parties agree on another location. Once one party provides written notice of mediation with the other party and with the American Arbitration Association, the parties agree to commence such mediation within sixty (60) days of the notice of the request. Either party may terminate the mediation at any time after the first session, but the decision to terminate must be delivered in person to the other party and to the mediator. Engaging in mediation is a condition precedent to any other form of binding dispute resolution. Agreements reached in mediation shall be binding and enforceable as any other settlement agreement.

24.2 Arbitration. If the dispute has not been resolved by mediation, unless the Contract Documents require otherwise, the claims, disputes or other matters in question between the parties to this Subcontract which arise out of or relate to this Subcontract, whether in contract or tort, shall be subject to and decided by arbitration, with a single arbitrator. Such arbitration shall be conducted in accordance with the Construction Industry Arbitration Rules (supplemented with the Large Complex Construction Rules and without regard to the Supplementary Procedures for Consumer-Related Disputes) of the American Arbitration Association currently in effect or through JAMS in accordance with the applicable construction rules, at the discretion of FLINT. The location of the arbitration shall be in Sacramento County, California, unless the parties agree on another location. The arbitrator shall be selected from a panel of experienced construction arbitrators on the large complex case panel. The award of the arbitrator shall be final and binding and judgment upon the award may be entered in accordance with applicable law. In any arbitration the Arbitrator shall have no power to render an award which has the effect of altering or amending or changing in any way any provisions of this Subcontract. Notwithstanding other provisions in the Subcontract, choice of law provisions to the contrary, this agreement to arbitrate shall be governed by the Federal Arbitration Act, 9 U. S. C. §1 et seq., which shall not be superseded or supplemented by any other arbitration act, statute or regulation except as specifically set forth in this paragraph.

24.3 In no event may the demand for arbitration be made after the date when institution of legal or equitable proceeding based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations. If the American Arbitration Association or JAMS refuse to conduct the arbitration and the parties cannot agree upon an arbitrator, then the party seeking arbitration may apply to a court for appointment of an arbitrator.

24.4 Subcontractor agrees to joinder or consolidation of any other person in any arbitration involving the Project. The award rendered by the arbitrator shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

24.5 Stay of Proceedings. Resolution of disputes between Subcontractor and FLINT involving in whole or in part disputes between FLINT and the Owner shall be stayed pending conclusion of any dispute resolution proceeding between FLINT and the Owner.

24.6 Third-Party Litigation. In the event the Owner or FLINT are sued in court by a third party who is not required to arbitrate, and the dispute involves Subcontractor or the Work, the parties agree that Subcontractor may be joined into that lawsuit by the Owner or FLINT without any requirement for arbitration or mediation, and Subcontractor consents to the venue and jurisdiction of such court.

24.7 The prevailing party in any arbitration or legal action between the parties relating to this Agreement shall recover from the other party reasonable legal costs, including attorneys and consultants fees, in connection with such action. The prevailing party is a party who recovers at least 75% of its total claims in the action or who is required to pay no more than 25% of the other party's total claims in the action.

25. Termination. It is understood that the basic assumption underlying the mutual obligations and responsibilities entered into by the parties to this Subcontract is the continued performance with respect to the General Contract that exists between FLINT and the Owner. If, for any reason, the General Contract between FLINT and the Owner is breached, rescinded or terminated, FLINT shall have the right to immediately terminate this Subcontract. In no event shall FLINT be obligated to Subcontractor for any anticipatory profits or any damages including, but not limited to, consequential damages incurred by Subcontractor as a result of the termination of this Subcontract, unless approved and paid by the Owner. Subcontractor agrees that FLINT's decision or determination regarding the pro rata share of any monies received from the Owner as damages or compensation for said breach, rescission or termination of the Agreement shall be final and conclusive and that Subcontractor shall have no claim or cause of action against FLINT for any reason or greater amount.

25.1 FLINT shall have the right at any time by written notice to Subcontractor, to terminate this Subcontract without cause and require Subcontractor to cease work. In the event of such a termination for convenience, Subcontractor shall be entitled to payment pursuant to the terms of the Subcontract for the portion of the Work actually completed as of the date of termination, together with reasonable costs of demobilization and such other reasonable costs as may be encountered by Subcontractor and directly attributable to such termination, less the total of all previous payments made to Subcontractor, provided that such amount may be reduced by all amounts for which Subcontractor is liable or responsible. However, Subcontractor shall only be entitled to profit on that portion of the work actually completed and approved for payment to the date of termination together with retainages withheld from prior payments. Subcontractor waives any claim for loss of anticipated profits or other damages including, but not limited to, consequential damages, in the event FLINT exercises this clause.

25.2 Should FLINT suspend the Work under Subcontract, or should the Project Owner suspend or terminate the General Contract, then Subcontractor shall immediately discontinue work upon written order from Contractor. Subcontractor shall proceed with such work when ordered to do so by FLINT. If the suspension is permanent and the work or any part of the work that includes Subcontractor's Work is not to be completed by FLINT under the General Contract or any subcontract, the Subcontract shall be terminated.

26. Miscellaneous.

26.1 No one, other than the parties hereto, their successors, trustees and assigns, shall be entitled to bring action on this Subcontract or the Performance Bond provided by Subcontractor, it being the express intent of the parties that this Subcontract shall not be for the benefit of any third party.

26.2 Any term or provision of this Subcontract which is held to be invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Subcontract or affecting the validity or enforceability of any of the terms or provisions of this Subcontract in any other jurisdiction.

26.3 This Subcontract, together with the documents referred to or incorporated herein by reference, constitute the complete, fully integrated, agreement between the parties. No agent or employee of either party possesses the authority to make, and the parties shall not be bound by nor liable for, any statement, representation, promise or agreement not set forth herein. All negotiations, offers, discussions or agreements made prior to this Agreement not included herein are hereby voided. No change order, amendment or modification of the terms hereof shall be valid unless reduced to writing and signed by authorized representatives of both FLINT and Subcontractor. Any article, section, paragraph or other headings contained in this Subcontract are for reference purposes and shall not affect in any way the meaning or interpretation of this Subcontract.

26.4 The terms and provisions shall extend to and be binding upon the successors, trustees and assigns of the parties hereto, and shall be governed and controlled, except as expressly provided herein or as required by the General Contract, by the laws of the State of California and/or federal law applicable in the State of California.

26.5 Subcontractor agrees to comply with the provisions and any applicable local, state or federal ordinance, regulation, status, or other mandate regarding affirmative action and/or minority/women's business enterprise participation.

26.6 Subcontractor shall confine operations at the Project site to areas permitted by FLINT and shall not unreasonably encumber the Project site with materials or equipment. Subcontractor is responsible for any damage caused to adjacent property or access roads by Subcontractor, its subcontractors or suppliers during the course of the Work including, but not limited to, soil erosion or run off due to failure to maintain all required storm water runoff protection on the site at all times.

26.7 Failure by FLINT in any instance to insist upon observance or performance by Subcontractor of any terms, conditions, or provisions of this Agreement or the General Contract shall not be deemed a waiver by FLINT of any such terms, conditions or provisions, and observance or performance thereof; no waiver shall be binding upon FLINT unless the same is in writing signed by FLINT and shall then be for particular instance referred to in writing only; waiver of any one breach shall not be deemed a waiver of any other breach; payment of any sum by FLINT to Subcontractor with knowledge of any breach shall not be deemed to be a waiver of such breach or any other breach.

26.8 Both parties agree that this Contract may be electronically signed. Both parties agree that the electronic signatures appearing on this Contract are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

26.9 The parties agree to follow the Flint VDC Standards attached as **Exhibit "F"** and develop together a project BIM execution plan.

26.10 This Subcontract Agreement has not been altered in any manner from its original form as sent by FLINT to Subcontractor, except for required signature and dates, and as clearly marked and initialed (as approval) by FLINT. Any changes to this Subcontract Agreement, including all Exhibits hereto, not initialed (as approved) by FLINT will not be binding on the Parties.

26.10 FLINT shall have the right to inspect the Work, or any portion thereof, at any time, in accordance with the Contract Documents. FLINT shall have the right to inspect, audit and copy at any time, upon reasonable notice, during normal business hours, Subcontractor's books, documents and accounting records, including but not limited to bid worksheets, bids, subcontractor bids, and proposals, estimates, cost accounting data, accounting records, payroll records, time sheets, cancelled checks, profit and loss statements, balance sheets, Project correspondence, including but not limited to all correspondence between Subcontractor and Subcontractor's sureties and subcontractors/vendors, Project files, scheduling information, and other records of the Subcontractor and all subcontractors directly or indirectly pertinent to the Work, original as well as change and claimed extra work, to verify and evaluate the accuracy of cost and pricing data submitted with any change order, prospective or completed, or any claim for which additional compensation has been requested or notice of potential claim has been tendered. Subcontractor shall keep complete and accurate records concerning Subcontractor's Work and the Project at its principal office for at least four (4) years after the work is completed and accepted by FLINT. This provision shall be included in all of Subcontractor's subcontracts and purchase orders, and all of Subcontractor's subcontractors and suppliers, of any tier, shall be bound by this provision.

FLINT DESIGN BUILD, LLC DBA FLINT

«FirmName»

(SUBCONTRACTOR)

By: _____

By: _____

Kevin Mosher

Print Name: _____

Title: Sr. Vice President

Title: _____

FEI or SS #: «TaxId» _____

Business Type: «udbusinesstype» _____

License Type: «udlictype» _____

License Number: «udlicnumber» _____

Exhibit "A"
To Subcontract Agreement

**General Requirements for the Construction of
«ProjectDescription»**

I. General Provisions

- 1. Payment Applications.** Subcontractor shall submit a schedule of values for review and approval by FLINT Project Manager via **GCPay**. Subcontractor shall bill based in accordance to the approved Schedule of Values. Payment Applications must be received on or before the close of business on the **twentieth (20th)** day of the month. Subcontractor Payment Applications must be sent via **GCPay**, an online construction payment management product. The cost to subcontractors for **GCPay** is \$15 per approved Application for Payment. These pay applications shall include projections of the Work to be completed before the end of the respective month.
- 2. Permits & Approvals.** Subcontractor is responsible for application, approval and payment for all permits and approvals required for the specific performance of Subcontractor's Work not otherwise covered under the general building permit.
- 3. Existing Conditions/Work of Others.** In all cases of interconnection of its Work with existing or other work, Subcontractor shall verify at the site all dimensions relating to such existing or other work. Subcontractor shall promptly rectify any errors due to Subcontractor's failure to verify all such grades, elevations, locations or dimensions without any increase to the Contract Price.
- 4. Existing Conditions/Building Authorities.** Subcontractor has visited the premises and is fully cognizant of the location of the jobsite and is thoroughly familiar with the existing buildings, adjacent conditions, underground utilities, etc. and has complete knowledge of all applicable state and local building and other agencies' codes applicable to this Subcontractor's scope of work. Subcontractor further warrants that Subcontractor shall change, alter or supplement his work as directed by governmental and building official authorities immediately upon said direction and at no charge to the Contract Price, provided such change, alteration or supplement does not materially change the Scope of Work. Subcontractor acknowledges that its Work may be described in various portions of the Contract Documents other than those specifically identified above, and Subcontractor certifies that it has carefully reviewed all of the Contract Documents to determine the extent of its Work regardless of where found within the Contract Documents, and to determine the manner and place in which Subcontractor's work interfaces with the work of other trades. Execution of this Subcontract is a representation that Subcontractor has carefully examined and understands the Contract Documents, has investigated the nature, locality and site of the work and the conditions and difficulties under which it is to be performed, including surface and/or subsurface materials to be encountered relevant to the Work, the site of the Work and the Project and their surroundings, and that it enters into this Subcontract on the basis of its own examination, investigation, and evaluation of such matters, and not in reliance upon any opinions or representations of any other person or entity, including without limitation FLINT, any other subcontractor, or Owner, or any of their respective officers, agents, servants, or employees. Subcontractor further represents and warrants that it has taken into account all necessary conduct and actions, including those that pertain to providing adequate labor and the procurement of materials, which can be reasonably expected to arise out of social distancing (and any similar requirements), vaccination requirements, disease/virus testing requirements, and any and all other changes or modifications in the nature and scope of the Subcontractor's construction means and methods that relate to or arise out of health and safety directives issued by all applicable governmental agencies (at all jurisdictions (e.g., Federal, State and local) due to the COVID-19 pandemic and any and all other health and safety matters. Subcontractor expressly represents that it, to the best of its ability, Subcontractor has carefully considered and has taken all such factors, directives and requirements into account in its investigation of the Contract Documents and the impacts, if any, upon the Subcontract Sum, and by executing this Subcontract, Subcontractor has satisfied itself that all such costs are included in the Subcontract Sum.
- 5. Work of Others.** If any part of Subcontractor's Work depends upon the work of the Owner or another subcontractor, Subcontractor shall, prior to proceeding with the Work, promptly report to FLINT any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of Subcontractor to report discrepancies or defects shall constitute an acceptance of Owner's or other

subcontractor's work as fit and proper to receive Subcontractor's Work, except as to defects that may subsequently become apparent in work by others.

Should Subcontractor cause damage to the work or property of Owner or another subcontractor, Subcontractor shall, upon due notice, promptly attempt to remedy or otherwise settle with such other subcontractor by agreement, or otherwise to resolve the dispute.

- 6. Inspections.** Subcontractor shall cooperate with FLINT quality control personnel and the on-site inspector to the fullest extent as required by the Contract Documents.

Subcontractor shall provide a minimum of 48-hour notice when site testing/inspection is required. Subcontractor will not contact the inspector directly without going through FLINT's field management representative.

Subcontractor shall submit a fabrication inspection schedule to FLINT and notify FLINT 30 days in advance of the manufacture of material required to be inspected/tested in accordance with the Contract Documents. Material shipped prior to having satisfactorily passed required inspections shall not be incorporated into the work and Subcontractor shall bear all costs arising there from.

- 7. Sequenced Work.** Perform work when and as directed by FLINT. Temporarily omit any section or portion of the Work that may be required by FLINT and later fill in such sections or portions, when directed, at no additional cost. Perform any work-sequence that may be normally required by FLINT at no additional cost. Include any and all site mobilizations as required to complete the Work.

- 8. Shop Drawings.** The Subcontractor shall prepare and submit to FLINT such shop drawings as may be necessary to describe completely the details and construction of the Work. Approval of such shop drawings by FLINT and/or Architect shall not relieve the Subcontractor of its obligations to perform the Work in strict accordance with the Plans, Specifications, the Additional Provisions hereof and the other Contract Documents, nor of its responsibility for the proper matching and fitting of the Work with contiguous work and the coordination of the Work with other work being performed on the site.

- 9. Building Modeling.** Subcontractor agrees to participate and contribute in building information modeling. Building information models to include all geometry, physical characteristics and product data needed to describe the design and construction work. The building and infrastructure systems shall be modeled to a level to allow the Subcontractor and Design Team to verify clearances, analyze conflicts/clashes and properly coordinate the work with all other aspects of the project. Subcontractor shall participate in the clash detection and resolution process of clashes. The building's Mechanical, Plumbing, Fire Sprinkler, Electrical, Structural Steel, Structural Concrete, Metal Stud Framing, Curtainwall & Glazing, and Underslab Utilities shall be modeled and coordinated with the design of other trades. The cost of creating and coordination of these models shall be the responsibility of Subcontractor.

- 10. Occupied Facilities.** Subcontractor understands that Projects located within the boundaries of an operating facility have limitations of access, travel, parking and congestion exist in this area. The Subcontractor agrees to take great care while working at the site and to follow all Owner's and FLINT's rules regarding site usage.

- 11. Coordination with Other Trades.** It shall be the responsibility of the Subcontractor to expedite the submission of all necessary and required submittals, including coordination drawings, in reasonable quantities as required by FLINT, to assure the timely procurement of materials. Subcontractor shall coordinate the on-site placement of material and/or tools & equipment with FLINT so as not to impede operations by others that are working concurrently on the site. The designated storage place, if any, shall be kept neat and clean and all damages thereto, or to its surroundings, shall be repaired by this Subcontractor at no additional cost.

Subcontractor shall coordinate and cooperate in all respects, during every phase of Subcontractor's performance of the work, with Owner, FLINT, Architect, other Subcontractors, utility provider and any public authority or third party who may be employed or engaged in activity on or near the site in relation to the project. Subcontractor recognizes and acknowledges that its coordination and cooperation obligations are essential terms of the Subcontract, and shall include, without limitation, making work areas available to other subcontractors, and occasional disruptions to Subcontractor's performance of the work.

12. As-Built Documents. Subcontractor includes the continuous maintenance and final submission of as-built documentation and delivery to FLINT upon completion of his work, and prior to final payment. This includes retaining the services of a licensed surveyor, if required, to perform an as-built survey upon completion of the work. As-built documents shall be maintained at Subcontractor's site office and shall be current at all times during the progress of the work. FLINT may request periodic submission or review of in-progress as-built documents to ensure continuous compliance throughout the project.

Subcontractor is to provide as-built drawings locating all embed placement, including any required surveying to insure that any deviations from Subcontractor's shop drawings are identified prior to fabrication of work by others.

13. Mock-ups. All costs associated with "mock-up" work (where applicable) required to coordinate Subcontractor's work with that of another subcontractor are included. The intent of such mock-ups includes, without limitation, establishing final design, construction sequencing, dimensions, coordination and quality of the workmanship that are to be continued and expected once such mock-ups have been approved by the Architect, Consultants, Owner and FLINT.

14. Site Access. Subcontractor and its affiliates and sub-subcontractors shall limit equipment and vehicle usage to FLINT designated ingress, egress and service areas. Upon request by FLINT, all equipment and material shall be removed from designated ingress, egress and service areas immediately. All unauthorized vehicles and/or non-compliant vehicles on the project site will be removed or towed at Subcontractor's expense.

Subcontractor shall bear the full responsibility and cost for permits, and all other traffic control associated with his deliveries to the satisfaction of FLINT, Cal Trans and other agencies having jurisdiction.

15. Parking. Subcontractor is responsible for all employee parking and travel time between any parking area and the project site work area. No onsite or offsite parking will be provided for Subcontractor's staff, labor force, suppliers or sub-subcontractors. Note: Construction workers, employees, nor suppliers shall be allowed to use the existing facility's parking lots and spaces. Subcontractor shall be responsible for and hold FLINT harmless from any costs associated with towing, removing, relocating, damages, fines, or other expenses resulting from Subcontractor's failure to abide this notification.

16. SWPPP. Development and initial implementation of the Project's Storm Water Pollution Prevention Plan shall be by others. However, Subcontractor shall comply with all best management practices (BMPs) mandated by the SWPPP and shall restore any of the Plan's measures disturbed or destroyed by Subcontractor at its sole expense.

17. Site Logistics Plan. FLINT will provide a plan that indicates the proposed layout of the fencing, project offices, hoists, cranes and other temporary facilities that are intended for the construction of the project. FLINT reserves the right to amend this plan.

18. Site Deliveries. All deliveries of material shall coordinate with FLINT's field personnel in accordance with the site logistics plan and/or the hoisting program as applicable. Subcontractor shall schedule all deliveries in advance, as required by FLINT's Superintendent. Subcontractor Price includes off-hour deliveries, as deemed necessary by FLINT.

The Subcontractor, in making or ordering shipments, shall not consign or have consigned materials, equipment or any other items in the name of FLINT. FLINT is under no obligation to make payments for charges on shipments made by or to the Subcontractor, but may at its option, pay such charges, in which case the Subcontractor shall reimburse FLINT for the amount of such payments plus a service charge of 25% of the amount so paid.

19. Material/Equipment Loading. Subcontractor shall limit material and equipment loads on the structure to loads only specifically approved or specified by the engineer of record, including location, weight and dynamics. Subcontractor shall provide a temporary loading plan for approval by the Structural Engineer prior to delivering materials to the site for which such loads are imposed on the structure. Subcontractor shall pay for Structural Engineer's review and recommendations, if required. Notwithstanding the above, FLINT still maintains the right and authority to determine where materials can be stocked.

Subcontractor shall have sole responsibility for loads imposed by equipment, on shoring and/or site utilities, including tanks, duct banks and vaults, used by or in the employ of Subcontractor.

To the fullest extent permitted by law, Subcontractor shall indemnify FLINT from and against any and all claims, damages, and expenses, including, without limitation, attorneys' fees arising out of death or injury of any person, or damage to the property of any person, including the property of Subcontractor or its other contractor(s), caused by breach or negligence, including FLINT's, relating to the use by Subcontractor or its other contractor(s) of any vehicle or equipment of FLINT.

20. Containment of Debris. In planning and performing the Work, every effort shall be made to minimize the noise, fumes, dirt, vibration, liquids, dust and any other physical intrusion into the balance of the project and facility. The reduction of dust generated by excavation and other construction activities will be achieved by using construction industry-accepted methods such as watering the site and covering load material in trucks.

21. Protection of the Work. Subcontractor shall be responsible for formulating and implementing a security program for the protection of its Work, materials and equipment. The security program shall be designed to protect work in progress and materials stored at the Site or other locations. Subcontractor will also exercise caution to ensure structure and finishes are not damaged during equipment and/or material delivery and/or installation.

22. Temporary Site Offices. Subcontractor is not entitled to an on-site project office, but may be granted permission by FLINT for limited space at any time during the course of the project. Where granted, Subcontractor shall be responsible for providing and maintaining on-site trailers/job site offices, changing areas for their personnel, including all required utility connections and utility usage costs and material staging areas for Subcontractor's work. Locations of the above must be reviewed and approved in writing by FLINT or as otherwise instructed by FLINT. Subcontractor includes the costs of relocation of his office/changing/storage areas and temporary utilities to allow the work of the following trades to proceed or as otherwise instructed by FLINT.

23. Scaffolding. Subcontractor includes all required scaffolding, working platforms, ladders, and other temporary works (including required permits) necessary for completion of his work in accordance with job progress. Scaffolding must be inspected by a competent person, prior to use, each day. If scaffolding, ladders or other temporary works are provided by FLINT for use by the Subcontractor, Subcontractor is responsible for all daily inspections and training and will hold FLINT harmless from damage or injury. Subcontractor shall not alter or dismantle any scaffold or temporary works without prior written consent of FLINT Superintendent.

24. Temporary Lighting & Power. FLINT shall provide main temporary power service and one temporary 120/208V electrical panel (or spider box) per floor. Temporary panel shall feed 4 quad GFI receptacles on 20 amp 120V breakers. Subcontractor is responsible for distribution thereafter as required for its work. Subcontractor shall provide all extension cords and maintenance thereof for its work. Any power other than 120V receptacles shall be the responsibility of Subcontractor. FLINT shall not provide power for welding machines.

FLINT shall provide general site lighting meeting OSHA minimum requirements. Subcontractor shall provide all additional task lighting for its work as required.

25. Utility Location. Subcontractor includes notification of all utilities, USA Dig and any other regulatory agencies having jurisdiction, prior to beginning excavation for the work for utility locations and assumes all responsibility for damage to said utilities if they occur as a result of the actions of this Subcontractor, his employees or any sub-subcontractors. Such notifications must be made with sufficient lead times so as not to delay the performance of Subcontractor's work in accordance with the project schedule.

26. Existing Trees. The preservation of existing trees to remain is a critical project requirement. Subcontractor will be responsible for all repair and compensation costs of any tree to remain which is injured or destroyed due to Subcontractor's negligence. As a precaution, tree protection fencing around trees to be preserved will be provided by FLINT.

27. Digital Platforms. Subcontractor agrees to provide adequate digital platforms or their project team to complete their obligation via digital submissions. At a minimum, Subcontractor to provide employee/s with a digital tablet

or equivalent capable of operating Autodesk Build, Bluebeam, Pype Closeout and other similar software as required by FLINT.

II. Safety & Cleanup

1. **Subcontractor's Site Safety Plan.** Subcontractor shall submit a digital copy of its project specific safety program to FLINT prior to the start of the work. In addition to the requirements of OSHA, the project specific program shall provide, for inclusion in the master site safety program the following;
 - 24 hour emergency contact persons, and phone numbers
 - List of competent persons
 - List of site personnel with CPR, First Aid and OSHA (8, 10 or 30 hour) Training
 - Subcontractor's Injury and Illness Prevention Program (IIPP)
 - Other as required by FLINT
2. **Safety Meetings and Inspections.** Subcontractor shall make daily safety inspections and submit a recording of each to FLINT using the digital forms via Autodesk Build or similar software provided to Subcontractor by FLINT. Subcontractor shall hold weekly toolbox safety meetings with its workforce and submit weekly minutes via Autodesk Build or similar software to FLINT's superintendent along with its daily reports. Subcontractor shall also attend project wide safety meetings at times and locations determined by FLINT.
3. **Safety Data Sheets (SDS).** Subcontractor, its affiliates, sub-subcontractors and material suppliers shall provide and Subcontractor shall review and submit to FLINT (and where required, Public Agencies with Jurisdiction) digital copies of Safety Data Sheets, listing all health or other hazards, for all material, including commonly used construction material, to be incorporated in or used in the prosecution of the Work. Subcontractor shall take care to NOT submit SDS's for materials not used on or delivered to the site.

Subcontractor, its affiliates and sub-subcontractors shall train their employees regarding any and all Hazardous Substances present on the job site. Prior to an employee commencing work at the job site, Subcontractor shall provide FLINT with Certificates of Hazardous Communication Training (in a form to be provided with the sub-subcontractors) for all employees working at the job site, certifying that their employees have been trained within the past twelve months regarding any and all Hazardous Substances that may be present on the job site.

4. **Site Visitors.** Subcontractor shall insure that all its personnel and site visitors wear hard-hats, safety glasses, and all other appropriate safety protection as required by OSHA, at all times while on the job site. Subcontractor shall ensure that all visitors check in at FLINT site office. Further, Subcontractor shall ensure that all visitors who are not covered by its certificate of insurance complete and sign FLINT Project Site Liability Waiver prior to entry onto the site. These waivers shall be available at FLINT site office.

Subcontractor shall be responsible to obtain all security clearances for its employees, agents, subcontractors and suppliers.

5. **Cleanup and Waste Removal.** This Subcontractor shall be responsible for daily cleanup and removal of all debris to an approved and appropriate dumpsite. If a dispute arises between Subcontractor and another subcontractor as to their responsibility for cleaning up, assessment of the cleanup will be determined solely by FLINT. Upon completion and before final acceptance of the work, any remaining debris and protective coverings and rubbish, left over materials, tools and equipment shall be removed by Subcontractor from the jobsite. Subcontractor shall participate in the recycling program and separate his waste and depositing it into appropriate containers as designated by FLINT.
6. **Material & Equipment Storage.** Subcontractor shall not encumber the site with any materials or equipment without prior, explicit written permission from FLINT's Superintendent. Subcontractor shall remove and or relocate material and equipment as directed by FLINT, at its own expense.
7. **Quality Control Plan.** Subcontractor agrees to participate in and support the project's Quality Control Plan. Reports, as called for in the Plan shall be submitted to FLINT's project manager or representative of his choosing, or as appropriate, the Subcontractor shall assist such representative in the report's preparation.
8. **Fire Watch.** Subcontractor shall take necessary measures and safeguards to protect the work, including but not limited to providing fire watch during and for at least 30 minutes after the use of welding or other such

burning techniques or equipment used in the construction of the Work. Hot Work permits shall be obtained from FLINT within 24 hours prior to performance of such Hot Work activity. For all other work, Subcontractor shall provide sufficient watchmen as necessary to ensure the safety of the site, general public and the proper protection of the work at all times.

- 9. Flag/Watch Persons.** Subcontractor will provide flagmen/watch persons as required for the safe access and egress from the jobsite of his vehicles and sub-subcontractor's vehicles. Subcontractor shall be responsible for maintaining the cleanliness of all access areas and care shall be taken so as not to deposit debris on the surrounding streets.
- 10. Hoisting by Subcontractor.** Prior to commencing work at the jobsite, Subcontractor shall file its annual crane certifications with FLINT.
- 11. Safety Enforcement.** All FLINT safety requirements are mandatory and will be followed by all site personnel regardless of tier or contractual relationship. Subcontractor shall not be entitled to any additional costs to comply with any government agency or FLINT safety requirements. FLINT has the authority to write up safety notices to Subcontractor for non-compliance of actions or conditions; Subcontractor has the responsibility to observe and correct said conditions or acts in a timely manner.

III. Other Provisions

- 1. Weather Delays.** Subcontractor includes in the contract sum the project area's normal rainfall average included in Subcontractor's Performance Schedule.
- 2. Resources.** Subcontractor shall provide sufficient resources at all times to maintain progress of the job. A shortage of labor in the industry or the location of the Project shall not be accepted as an excuse for not properly manning the job.
- 3. RFI's.** Subcontractor acknowledges that the project will require an above average submission of Requests for Information (RFI's) and that no monetary claims, extensions of time, or personnel costs will be entertained as a result of the anticipated number of RFI's. RFI's will be processed via Autodesk Build or similar software.
- 4. Allowances.** Unless otherwise provided in the Contract Documents, allowances shall cover all costs to Subcontractor. Whenever the actual cost of an allowance item included in the work is more than or less than the allowance, the allowance amount shall be adjusted to the actual cost by change order. Payments for allowance items should be made in accordance with the normal progress payment procedures of the contract. The impact, if any, on Owner's decisions with respect to the utilization of the allowance items on other aspects of the work on or Subcontractor's schedule will be affected in accordance with the change order procedures of this Subcontract.
- 5. Daily Reports.** Subcontractor shall submit daily reports using the digital forms via Autodesk Build or similar software provided to Subcontractor by FLINT, that describe manpower, deliveries, incidents, lost time injuries, work performed, where and in what quantities the work was installed and other relevant information, on a daily basis to FLINT. Daily Reports shall not include opinions or subjective commentary of any kind. Any reports containing subjective or editorial comments or any information other than facts shall be rejected and the Subcontractor will be required to re-submit a new Daily Report in its place.
- 6. Meetings.** Subcontractor's field supervisor and project manager shall attend a preconstruction meeting with FLINT prior to start of Work, to review scope of Work, work site policies, safety requirements and other relevant information. Additionally, Subcontractor shall attend all regularly scheduled meetings as requested by FLINT. Such attendance at all meetings shall be included in the Subcontract Price, and any such representative attending the above mentioned meetings shall have the authority to make decisions and commitments on behalf of Subcontractor.
- 7. Lean Construction.** FLINT will be utilizing the "Last Planner System" to develop and implement a phased schedule that supplements and support the mutually agreed upon Master Schedule. This will require time commitment from officers and supervisors of Subcontractor. Subcontractor will be required to provide input and commitment to the final schedule.

Periodically “pull planning” sessions will be held to refine and expand on the detail in the Master Project Schedule. These sessions will require the subcontractor’s superintendents and foremen to brainstorm and create detailed activities and resource requirements that support the Master Schedule. After all subcontractors agree to each other’s input, all parties will commit to this updated schedule.

Six week look-a-head schedules will be reviewed and updated each week and will be the basis of a Weekly Work Plan (WWP). All subcontractors will be required to submit their WWP on a weekly basis prior to that week. The WWP will consist of a production plan in which quantity goals as well as weekly manpower requirements established consistent with meeting the overall project schedule. The project schedule and WWP will be monitored and updated each week during the construction phase by the whole project team. Monitoring and evaluation will cover not only future activities; but completed activities will be evaluated from a “lesson learned” perspective in order to measure and record team members ability to meet the committed objectives and improve on future planning activities. Project team members will be held accountable for meeting these goals.

8. Material Substitution Requests. Material substitution requests, if allowed, must be approved in writing by FLINT’s representative and included in Exhibit “B”. Any such approval shall not relieve Subcontractor from the requirements of the Contract Documents.

9. Secure Facility. Subcontractor shall be responsible to obtain all security clearances that may be required for its employees, agents, subcontractors and suppliers.

10. Jobsite Decorum. In addition to any policy which may be enforced by the Owner with regard to worker behavior, Subcontractor, its employees, agents, vendors, and subcontractors shall exercise appropriate decorum for the jobsite. Playing of am/fm radios or other sources of recorded music, including those with headphones, shall not be allowed on the jobsite. Subcontractor shall control its employees, agents, vendors and subcontractors so as to prevent unwanted interaction with Owner’s staff, personnel, clients, or visitors, or any other member of the public at large.

11. Field Directives. At no time shall Subcontractor proceed with work outside of the scope of the Work described in the Subcontract (and its Change Orders) without explicit written directive, given and signed by FLINT’s project manager. Should Subcontractor perform any work outside of the scope of the Subcontract solely on the basis of verbal direction of anyone, such work shall be considered to be within the scope of the Subcontract, and payment for that work will be denied by FLINT. Signatures on daily time tickets, or field work orders written by the Subcontractor shall not be considered to constitute explicit written directive given by the project manager.

12. Days. All days are defined as calendar days; i.e. 1 week = 7 days = Monday through Sunday unless otherwise defined in the Contract Documents.

13. Schedule. This Subcontractor will adhere to the schedule of milestones and durations as established by the Contract. The progress to meet those milestones will be of utmost importance. Missing a milestone date will precipitate issuance of a recovery plan by the Subcontractor acceptable to FLINT, so as to ensure corrections are made to meet the next milestone date.

14. O & M Manuals. Where training of Owner personnel is required by the Specifications, Operations and Maintenance manuals shall be due a minimum of 45 days prior to such scheduled training. Additionally, any lesson plans required by the Contract Documents shall be submitted 14 days prior to any such scheduled training sessions.

15. Billing of Close-out Documents and Attic Stock. Subcontractor shall include 5% of the value of the Subcontract Price as a separate line item in the Schedule of Values for Close-Out. Submission of Close-Out documentation and material, including without limitation, as-built drawings, O & M manuals, training manuals, warranties, special tools, attic stock, etc. shall be made as far in advance of completion of the Work as is practical, and at a minimum 60 days prior to Subcontractor’s final Application for Payment, to allow proper review and comment prior to payment thereof.

16. Warranty. Upon receiving written acceptance by both the Architect as well as FLINT, the Subcontractor is to provide a 24-month warranty for this scope of work, unless noted otherwise in the Contract Documents. Any

warranties required in the Contract Documents to be in excess of two (2) years shall be included with the submittals for approval by FLINT and the Architect.

17. Copper for Kids. FLINT supports the Copper for Kids program that places children, living in foster care, with permanent loving families. Each subcontractor is required to use the designated scrap bins, at the project site, for all scrap metals. The recycling proceeds will be donated to Sierra Forever Families; visit www.sierraff.org for more information. Thank you so much for your contribution to this very worthy cause.

18. COVID-19 Prevention Program. Subcontractor shall have a written COVID Prevention Program, which can be incorporated in the IIPP or be stand-alone. The program shall have procedures for: a system for communicating, identification and evaluation of COVID-19 hazards, investigation and responding to COVID-19 hazards in the workplace, correction of COVID-19 hazards, training and instruction, face coverings, other engineering controls, administrative controls and PPE, reporting, recordkeeping, and access, exclusion of COVID-19 cases, and return to work criteria. Subcontractor shall also comply with FLINT's site specific COVID-19 prevention plan including but not limited to: attestation for worksite entry, COVID-19 exposure policy, and COVID-19 site protocol.

Exhibit “B”
To Subcontract Agreement between
«FirmName» and Flint Design Build, LLC dba FLINT
Provide «SLDescription»

The scope of work specifically includes, but is not limited to the following:

- 1.0 GENERAL:** Throughout the Exhibit “B”, the word “furnish” shall mean: deliver FOB jobsite, unload by Subcontractor’s own equipment, to a location determined by or acceptable to FLINT’s Superintendent. “Provide” shall mean furnish and install the Work in its final, intended state and location, in or on the building or site, as applicable.
- 1.1 Compliance.** All work must be performed in accordance with applicable laws, ordinances, rules, regulations and orders of public authorities with jurisdiction (the “Public Agencies with Jurisdiction”)
- 1.2 Purchase of Plans & Specifications.** Plans, specifications, revisions and updates are available for download and printing on the FLINT public share site. FLINT Project Manager to provide access information when requested by Subcontractor. Hard copy sets of contract plans and specifications as well as updates, bulletins or revisions are the responsibility of Subcontractor.
- 1.3 Layout.** FLINT shall provide layout of every other major gridline (i.e. A, C, E; 1, 3, 5), on every floor on the concrete formwork and on the finished slab. FLINT shall provide two benchmarks for elevation control on opposite sides of the building. All other layout is by this Subcontractor. Subcontractor is solely responsible for proper layout of the work, and for all lines and measurements for all the work executed under the Contract Documents.
- 1.4 Submittals.** Submittal documents may be submitted electronically upon approval of FLINT Project Manager or hard copies in the quantities indicated below.
- 1.4.1 Shop Drawings: Digital
1.4.2 Product Data: Digital
1.4.3 Samples: Four (4) sets
- 1.5 Sustainability and LEED Guidelines.** Subcontractor has included the responsibilities related to the Leadership in Energy and Environmental Design (LEED) requirements to achieve a LEED Gold rating as it pertains to «SLDescription». Subcontractor will be held liable for any actions or inactions that adversely affect obtaining LEED credits.
- 1.6 Labor Rates.** All labor rates shall adhere to the applicable prevailing wage at the time of bid and as required by the Contract Documents. Labor rate breakdown shall be submitted to FLINT within 15 days of award of contract for review and approval by FLINT and Owner.

2.0 SPECIFIC PERFORMANCE: Provide all engineering, drawings, submittals, labor, materials, tools, equipment, hoisting, scaffolding, mock-ups, temporary construction and appurtenances as required to perform the work for the «SLDescription», as called for in the Contract Drawings, as well as applicable provisions of Division 00 – Procurement and Contracting Requirements, Division 01 - General Requirements, Soils Report, LEED Scorecard and other Specification Sections listed below:

SPECIFICATION SECTIONS

«UDSPECSECTIONS»

INCLUSIONS:

«udscope»

3.0 CLARIFICATIONS: Subcontractor acknowledges and agrees that the intent and meaning of the Contract Documents is such that the Subcontractor shall provide installation that is complete with all items, related and/or incidental work, and appurtenances necessary, incidental to or customarily included, even though each and every item may not be specifically called out or shown on the drawings and/or specifications. Additionally, Subcontractor represents and agrees that it has conducted a thorough examination of the Contract Documents (including but not limited to their sufficiency) and the work to be performed by Subcontractor pursuant to this Agreement will result in fully functional and operable systems and/or installations regardless of whether or not all required work is included or indicated therein.

«udclarifications»

4.0 EXCLUSIONS:

«udexclusions»

5.0 UNIT PRICES: In accordance with paragraph 2.0, inclusive of Overhead and Profit. Unit prices are good for the duration of the Project.

«udunitprices»

6.0 ALTERNATES:

«udalternatesexb»

7.0 EQUIPMENT RATES: Equipment rates are inclusive of all equipment for Subcontractor and Subcontractor's lower tier Subcontractors, which include all fuel, maintenance, profit and overhead (including, but not limited to, management, supervision, engineering, services, consumables, supplies, tools, cleaning devices, testing devices, warehousing, temporary facilities, safety equipment, insurance, taxes, licenses, permits, profit, overhead (both jobsite and home office), fees and all other items, tangible or intangible). The rates for equipment shall not include any labor. It shall be solely FLINT's option to utilize these rates for any modifications of Subcontractor's scope of work.

«udequirates»

**Exhibit “C”
To Subcontract Agreement**

**Insurance Requirements for the Construction of
«ProjectDescription»**

Insurance: Subcontractor and its subcontractors, if any, of any tier (accepted by FLINT per Paragraph 9 of the Subcontract Agreement) shall at its (their) expense, procure and maintain insurance on all of its operations under this Subcontract whether its operations are by the Subcontractor or by anyone for whose acts subcontractor might be liable, in companies authorized to do business in the State of California with a Best’s Insurance Rating of A VII or better or otherwise acceptable to FLINT as follows:

1. Workers’ Compensation and Employer’s Liability Insurance. Workers’ Compensation insurance shall be provided as required by any applicable law or regulation. Employer’s Liability insurance shall be provided as in amounts not less than «udworkcomp» each accident for bodily injury by accident, «udworkcomp» policy limit for bodily injury by disease and «udworkcomp» each employee for bodily injury by disease. If there is an exposure of injury to Subcontractor’s employees under the U.S. Longshoremen’s and Harbor workers’ Compensation Act, the Jones Act or under laws, regulations or statutes applicable to maritime employees, coverage shall be included for such injuries or claims. If work is outside of California Subcontractor needs to include All States Endorsement

2. General Liability Insurance.

2.1 Subcontractor and its subcontractors of any tier shall carry primary Commercial General Liability insurance covering all operations by or on behalf of the Subcontractor providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:

- a. Premises, Operations and Mobile Equipment.
- b. Products and Completed Operations for a period of time equal to California’s statute of repose.
- c. Contractual Liability, including subcontractor’s bodily injury, insuring the obligations by the Subcontractor in this agreement.
- d. Broad Form Property Damage (including Completed Operations)
- e. Explosion, Collapse and Underground Hazards.
- f. Personal Injury Liability.
- g. Liability of independent contractors.
- h. Construction means, methods, techniques, sequences and procedures, including safety and field supervision.

2.2 The limits of liability for the insurance described in this Section shall not be less then:

«udgenliablimits»

The “general aggregate” limit shall apply separately to Subcontractor’s and all tiered sub-subcontractor’s work under this contract.

2.3 Items 2.1.a - 2.1.h above shall not be subject to any of the following limiting or exclusionary endorsements:

- a. Subsidence or earth movement
- b. Prior acts or prior work
- c. Action over – precluding indemnity for passive acts of FLINT contributing to injury of a Subcontractor’s employee
- d. Contractual limitation – eliminating cover for assumed liability
- e. Supervisory or inspection service limitation
- f. Insured vs. insured cross suits
- g. Clauses terminating coverage after a designated period of time
- h. Residential or habitational limitation if the Work includes residential or habitational work
- i. Classification limitation limiting coverage for work to be performed
- j. Defense inside limits provision
- k. Sub-contractor insurance coverage exclusions for failure to satisfy coverage conditions

3. “Claims Made” and “Modified Occurrence” Policy forms.

General Liability Insurance provided by Subcontractor and all tiered sub-subcontractors under a "Claims Made" policy form are not acceptable.

4. Umbrella Liability Insurance.

4.1 Covering all operation by or on behalf of the Subcontractor, providing the same coverages as in the insurance the underlying primary General Liability, Auto Liability and Employers Liability:

4.2 The limits of liability for the insurance described in this Section shall not be less then:

«udumbliab»

5. Professional Liability Insurance.

5.1 If Work under this Agreement includes design-build or any type of professional services, testing, design assist, stamped drawings, or LEED certification services Subcontractor and its consultants shall procure and maintain Professional Liability insurance (errors and omissions).

The limits of liability for the insurance described in this Section shall not be less than «udprofiabeo» each occurrence and «udprofiabga» general aggregate with a deductible of not more than «udprofiabded» per claim.

5.2 Claims-made policies must have a retroactive date prior to the first date design services were performed under the scope of Work, and coverage must extend a minimum of five (5) years beyond Subcontractor's or its consultants' completion of scope of Work, or end of this Subcontract, whichever is later. If claims-made coverage is canceled or non-renewed, and not replaced with another claims-made policy with a retroactive date prior to the Agreement effective date, the Subcontractor or its consultants must purchase extended reporting rail coverage for a minimum of five (5) years beyond completion of scope of Work or end of this Agreement, whichever is later.

6. Additional Insured (General Liability and Automobile Insurance).

6.1 «udaddins», shall be named as additional insureds under Subcontractor's and all tiered sub-subcontractor's and material supplier's insurance policies.

6.2 Coverage for «udaddins» as additional insureds, and to do so to the extent allowable by law, on a primary and noncontributing basis, including both premises-operations and products/completed operations coverage and will show evidence of endorsement on the face of the certificate of insurance. Provide a policy provision or an endorsement with coverage at least as broad as Insurance Services Office (ISO) Additional Insured endorsement forms CG 2010 11 85 or CG 2010 7 04 and CG 2037 7 04, or equivalent, under Subcontractor's and all tiered sub-subcontractor's policies, if any. This Section 5 shall, in no event, be construed to require that additional insured insurance coverage be provided to a greater extent than permitted under the statutes or public policy of the State of California.

6.3 The policy shall be endorsed to stipulate that the insurance afforded the additional insured's shall apply as primary insurance and that any other insurance or self-insurance maintained by FLINT or Owner shall be in excess only and shall not be called upon to contribute with this insurance.

7. Automobile Liability Insurance.

Subcontractor and all tiered sub-subcontractors shall carry automobile liability insurance, including coverage for all owned, hired and non-owned automobiles. The limits of liability shall be not less than «udauto» combined single limit each accident for bodily injury and property damage.

8. Certificates of Insurance.

8.1 As evidence of the insurance required by this Agreement, certificates shall be furnished by Subcontractor and all tiered sub-subcontractors to FLINT before any work hereunder is commenced by Subcontractor or any tiered sub-subcontractor. The certificates of insurance shall be issued using ACORD 25 (2010/05) forms.

- 8.2 The following will be endorsed to add to the policy:
“The insurance company agrees that policy No. _____ shall not be canceled or materially changed or allowed to lapse until 30 days after FLINT, 401 Derek Place, Roseville, CA 95678, has received written notice of cancellation of change or lapse, as evidenced by return receipt of registered letter and it is agreed further that, as to lapsing, such notice will not be valid if mailed more than 45 days prior to the expiration date shown on this policy.”
- 8.3. The Certificate of Insurance furnished as evidence of Comprehensive General Liability or Commercial General Liability insurance carried by the Subcontractor and all tiered sub-subcontractors shall include a copy of the policy provision or the additional insured endorsement adding FLINT, Owner, and, if required in Paragraph 5 of this Exhibit “C”, the Architect and its consultants as Additional Insured and shall provide that insurance for such additional insureds as primary insurance and that other insurance maintained by FLINT, Owner and Architect and its consultants, if applicable, shall not be called upon for contribution.

9. Waiver of Subrogation

All insurance policies of the Subcontractor and all tiered sub-subcontractors must contain a Waiver of Subrogation rights endorsement against that of FLINT, the Owner and, if applicable, the Architect and its consultants, and must be included on the certificate of insurance. It must state that “A Waiver of Subrogation also applies in favor of the certificate holder.”

10. Miscellaneous

- 10.1 Standard ISO Form CG 00 01 exclusions will be allowed. Allowance of any additional exclusions or coverage-limiting endorsements is at the sole discretion of FLINT.
- 10.2 If the Work is of a substantial maritime nature, special maritime coverages such as Longshore and Harbor Workers, Jones Act and Protection and Indemnity coverage shall be required as set forth in Section 26.
- 10.3 If the Work involves the moving, lifting, lowering, rigging or hoisting of property and/or equipment, Subcontractor shall obtain Rigger’s Liability coverage to insure against loss or damage to such property or equipment.
- 10.4 If the Work involves the remediation of, or creates an exposure to, any hazardous materials, Subcontractor shall maintain Pollution Liability coverage.
- 10.5 The required insurance shall be subject to the approval of FLINT, but any acceptance of insurance certificates FLINT shall in no way limit or relieve Subcontractor or any tiered sub-subcontractor of the duties and responsibilities by him in this Agreement. If higher limits or other forms of insurance are required in the Contract Documents, Subcontractor and all tiered sub-subcontractors will comply with such requirements.
- 10.6 FLINT may take such steps as are necessary to assure Subcontractor’s and all tiered sub-subcontractor’s compliance with the obligations under this Exhibit “C” are performed. In the event Subcontractor and/or any of its sub-subcontractors, of any tier, fail to maintain any insurance coverage required under this Subcontract Agreement, FLINT may obtain such coverage and charge the expense to Subcontractor, or terminate this Subcontract Agreement. Subcontractor shall include the provisions of this entire Exhibit “C” in any subcontracts it issues for any work to be performed on the Project, and shall further require that the provisions of this Exhibit “C” be included in any subcontracts issued by its subcontractors, of any tier. No payment for any work performed under the Subcontract shall be due and payable until the requirements of this Exhibit “C” have been met to the reasonable satisfaction of FLINT.
- 10.7 Subcontractor shall provide FLINT copies of insurance policies for insurance coverages required by this subcontractor agreement and Exhibit “C” hereto when requested in writing.

Exhibit "D"
To Subcontract Agreement

List of Drawings and Specifications for the Construction of
«ProjectDescription»

Document Type	No	Description	Date	Prepared By

Exhibit "E"

CONDITIONAL WAIVER AND RELEASE ON
PROGRESS PAYMENT
(CA CIVIL CODE §8132)

NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT.

Identifying Information:

Name of Claimant: _____

Name of Customer: Flint Design Build, LLC dba FLINT

Job Location: «ProjectDescription», «JobAddress», «JobCity», «JobState» «JobZip»

Owner: «Owner»

Through Date: _____

Conditional Waiver and Release

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job through the Through Date of this document. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. This document is effective only on the claimant's receipt of payment from the financial institution on which the following check is drawn:

Maker of Check: Flint Design Build, LLC dba FLINT

Amount of Check: \$ _____

Check Payable to: _____

Exceptions

This document does not affect any of the following:

- (1) Retentions.
- (2) Extras for which the claimant has not received payment.
- (3) The following progress payments for which the claimant has previously given a conditional waiver and release but has not received payment:
Date(s) of waiver and release: _____
Amount(s) of unpaid progress payment(s): \$ _____
- (4) Contract rights, including:
(A) a right based on rescission, abandonment, or breach of contract, and
(B) the right to recover compensation for work not compensated by the payment.

SIGNATURE

Claimant's Signature: _____

Claimant's Title: _____

Date of Signature: _____

**UNCONDITIONAL WAIVER AND RELEASE ON
PROGRESS PAYMENT
(CA CIVIL CODE §8134)**

NOTICE TO CLAIMANT: THIS DOCUMENT WAIVES AND RELEASES LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM.

Identifying Information:

Name of Claimant: _____

Name of Customer: Flint Design Build, LLC dba FLINT

Job Location: «ProjectDescription», «JobAddress», «JobCity», «JobState» «JobZip»

Owner: «Owner»

Through Date: _____

Unconditional Waiver and Release

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job through the Through Date of this document. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. The claimant has received the following progress payment:

\$ _____

Exceptions

This document does not affect any of the following:

- (1) Retentions.
- (2) Extras for which the claimant has not received payment.
- (3) Contract rights, including:
 - (A) a right based on rescission, abandonment, or breach of contract, and
 - (B) the right to recover compensation for work not compensated by the payment.

SIGNATURE

Claimant's Signature: _____

Claimant's Title: _____

Date of Signature: _____

**CONDITIONAL WAIVER AND RELEASE ON
FINAL PAYMENT
(CA CIVIL CODE §8136)**

NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT.

Identifying Information:

Name of Claimant: _____

Name of Customer: Flint Design Build, LLC dba FLINT

Job Location: «ProjectDescription», «JobAddress», «JobCity», «JobState» «JobZip»

Owner: «Owner»

Conditional Waiver and Release

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. This document is effective only on the claimant's receipt of payment from the financial institution on which the following check is drawn:

Maker of Check: Flint Design Build, LLC dba FLINT

Amount of Check: \$ _____

Check Payable to: _____

Exceptions

This document does not affect any of the following:

Disputed claims for extras in the amount of: \$ _____

SIGNATURE

Claimant's Signature: _____

Claimant's Title: _____

Date of Signature: _____

**UNCONDITIONAL WAIVER AND RELEASE ON
FINAL PAYMENT
(CA CIVIL CODE §8138)**

NOTICE TO CLAIMANT: THIS DOCUMENT WAIVES AND RELEASES LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM.

Identifying Information:

Name of Claimant: _____

Name of Customer: Flint Design Build, LLC dba FLINT

Job Location: «ProjectDescription», «JobAddress», «JobCity», «JobState» «JobZip»

Owner: «Owner»

Unconditional Waiver and Release

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. The claimant has been paid in full.

Exceptions

This document does not affect the following:

Disputed claims for extras in the amount of: \$ _____

SIGNATURE

Claimant's Signature: _____

Claimant's Title: _____

Date of Signature: _____

EXHIBIT “F”

VIRTUAL DESIGN AND CONSTRUCTION PROCESS GUIDELINES

1. Process Overview

a. Project VDC Process expectations

The project team is expected to produce BIM deliverables and be a part of the VDC process on this project to proactively address both design and construction process requirements. The team members are expected to have knowledgeable resources, internal or external, that have participated in a VDC process as part of a project. Team members will participate in the overall VDC project process as further defined by this guide.

i. VDC process requirements

The exact requirements of the VDC process team members shall be clearly defined as part of the Level of Development specification outlined in section 2.e below and required to be filled out as part of the Project BIM execution plan described in section 2.a.

ii. BIM deliverable expectations

1. Design BIM deliverables:

- a. The design team will work with the construction team members as outlined in section 1.b to create the detailed models to be used by the other team as outlined in the LOD specification and model creation requirements defined in section 5.
- b. The design team is expected to update and share their model(s) to reflect material changes that require coordination throughout the project.

2. Construction BIM deliverables:

- a. The construction models shall be used as part of the overall project spatial coordination process as defined under section 6.
- b. The construction models shall be used to create the as contractual required system-based shop drawings as further defined in section 7.
- c. The construction models shall be used in the field as outlined in section 7.

3. Post Construction / Owner based BIM deliverables:

A list of additional BIM deliverables shall be developed as required for the specific project

iii. Process Goals:

A detailed list of project specific VDC / BIM goals and objectives shall be outlined for the project and included as part of the project BIM execution plan under Section D.1

b. Project VDC Process Team Members

For this project the following team members are expected to be a part of the VDC process. Their expected participation in the modeling and design or construction coordination is represented by an “X” in the corresponding boxes below. The model deliverables expected of each team is further defined in other sections below. A detailed list of the exact team members will be outlined in the project BIM execution plan Section C as further described in Section 2 below.

Design Consultants	Modeling	Basic/Gross Coordination	Fine Coordination
Architectural	X	X	x
Structural	X	X	x
MEP	X	X	x
Civil (UG Utilities)	X	X	
Special Systems*			
Design-Build Trades	Modeling	Basic/Gross Coordination	Fine Coordination
Concrete			X
Structural Steel	X	X	X

Prefab Metal Framing	X	X	X
Glazing/Ext Skin	TBD	x	x
Ceilings	TBD	x	x
Conveying Systems	TBD	x	x
Mechanical	X	X	X
Plumbing	X	X	X
Electrical	X	X	X
Fire Protection	X	X	X
Tele/Data and Security	X	X	X
Special Systems*			

*Special Systems shall be refined further as individual systems above, i.e. pneumatic tubes, lab fixtures, furnishings, etc.

**Expectation that design consultants are present at coordination meetings once a week – meeting duration ~1HR

c. **Process Kickoff Meeting**

The project team will hold a VDC process kickoff meeting before the start of the design and then corresponding construction coordination process once the team members as outlined 2.b have been selected. Individuals from the various team members that are responsible for the creation and oversight of their project BIM deliverables and overall field-based services shall attend this kickoff meeting. The goals of this meeting are outlined in the points below:

- Review Flint's Project VDC Process Guideline.
- Creation of the Project Specific Goals and BIM uses list. Items on the goals list will be used to judge the success of the process on the project. The BIM uses list will define the extent to which the BIM deliverables will be used on the project.
- Team will use the meeting to create the design and construction VDC process schedule for the project and include in the Project BIM execution. The team shall come to agreement on the major milestones outlined in process schedule. The team shall verify that outside data needed for successful creation of the project specific BIM deliverables can be acquired in time to meet the schedule. The process schedule will be included as part of the overall project master schedule. The process for creating the actual VDC process schedule is outlined below in section 3.
- The project team shall review/amend/approve Flint Standard Construction Coordination BIM execution plan which will be amended to the project team member's contracts.
- The project team members that participate in the process kickoff meeting are asked to share best practices from past project experience.
- During the meeting, the project team will determine the BIM uses for the project and record those uses in the Project BIM execution plan.
- The team will also update as needed the Project BIM Level of Development worksheet as defined in section 2.e.

2. **Process Execution and Management Plan**

a. **BIM Project Execution Plan**

The BIM Project Execution Plan is to be created by the project team. This plan will guide the team through the creation of the project BIM and corresponding VDC process requirements. All team members involved in creating and managing the Project VDC process shall be involved in the creation of the BIM Project Execution Plan.

b. **VDC Model Workflow**

As part of this BIM Process Guide and as a basis for the Process Schedule, the team members will develop a detailed workflow using the attached VDC Model Workflow chart as a guide. The agreed upon workflow will be incorporated into this document as an addendum.

c. **Flint Model Manager/Coordinator**

A member(s) of Flint's team will act as the model manager/coordinator for the project. The model manager / coordination lead may be an appointed individual or company outside of Flint. This individual / company will be responsible for coordinating the overall modeling efforts on this project. The coordination of these efforts will be based upon the VDC process schedule that is tied to the overall project master schedule.

d. Project Team Member Roles and Responsibilities

The BIM Project Execution Plan shall include a list of all the major team members that will be involved in the project VDC process and their responsibilities within the process. The list will be defined as part of the Project BIM execution plan. This list should include the name of the individual that will lead the process for each team. The individual listed shall have an advanced knowledge of BIM and VDC and have past experience on projects similar to this specific project. The individual selected is recommended to have past experience being a team leader through a collaborative VDC process. This person will be the point of contact between Flint's model manager/coordinator and the team member's BIM authors. The team member leader will be responsible for making sure that their team adheres to these guidelines and the Project BIM execution plan. They will also be responsible to participate in the coordination meetings as outlined in Section 5. They should be able to act as a representative of their company and address the issues and questions raised during the meetings directly or bring the team member(s) to the meeting that can.

e. BIM Use Matrix

A BIM Use matrix shall be completed by the project team members as part of the Project BIM execution plan. The BIM Uses matrix shall be filled out to match the overall VDC process goals as outlined by the project team. For those team members not familiar with all the possible BIM uses and how to fill out the worksheet, they may find additional information by visiting the BIM Project Execution Planning website that is part of the Computer Integrated Construction Research Program at Penn State. The site can be found at the following web address. <http://bim.psu.edu/>

f. Level of Development / Information Exchange

i. BIMForum Level of Development (LOD) Specification

The LOD Specification worksheet included in the appendix of this guide will be used to outline the expectations of the project 3D models and other BIM deliverables needed for the project.

1. The LOD worksheet will be used as a guide for all the BIM based project information and delivery dates. LOD is defined as follows based on the definitions contained in the Level of Development Specification version 2019 as released by the BIMForum

LOD 100

The Model Element may be graphically represented in the Model with a symbol or other generic representation but does not satisfy the requirements for LOD 200. Information related to the Model Element (i.e. cost per square foot, tonnage of HVAC, etc.) can be derived from other Model Elements.

BIMForum Interpretation: LOD 100 elements are not geometric representations.

Examples are information attached to other model elements or symbols showing the existence of a component but not its shape, size, or precise location. Any information derived from LOD 100 elements must be considered approximate.

LOD 200

The Model Element is graphically represented within the Model as a generic system, object, or assembly with approximate quantities, size, shape, location, and orientation. Non-graphic information may also be attached to the Model Element.

BIMForum interpretation: At this LOD elements are generic placeholders. They may be recognizable as the components they represent, or they may be volumes for space reservation. Any information derived from LOD 200 elements must be considered approximate.

LOD 300

The Model Element is graphically represented within the Model as a specific system, object or assembly in terms of quantity, size, shape, location, and orientation. Non-graphic information may also be attached to the Model Element.

BIMForum interpretation: The quantity, size, shape, location, and orientation of the element as designed can be measured directly from the model without referring to non-modeled information such as notes or dimension callouts. The project origin is defined, and the element is located accurately with respect to the project origin.

LOD 350

The Model Element is graphically represented within the Model as a specific system, object, or assembly in terms of quantity, size, shape, location, orientation, and interfaces with other building systems. Non-graphic information may also be attached to the Model Element.

BIMForum interpretation: Parts necessary for coordination of the element with nearby or attached elements are modeled. These parts will include such items as supports and connections. The quantity, size, shape, location, and orientation of the element as designed can be measured directly from the model without referring to non-modeled information such as notes or dimension callouts.

LOD 400

The Model Element is graphically represented within the Model as a specific system, object or assembly in terms of size, shape, location, quantity, and orientation with detailing, fabrication, assembly, and installation information. Non-graphic information may also be attached to the Model Element.

BIMForum interpretation: An LOD 400 element is modeled at sufficient detail and accuracy for fabrication of the represented component. The quantity, size, shape, location, and orientation of the element as designed can be measured directly from the model without referring to non-modeled information such as notes or dimension callouts.

LOD 500

The Model Element is a field verified representation in terms of size, shape, location, quantity, and orientation. Non-graphic information may also be attached to the Model Elements.

BIMForum interpretation: Since LOD 500 relates to field verification and is not an indication of progression to a higher level of model element geometry or non-graphic information, this Specification does not define or illustrate it.

2. Responsibility for the project model/drawing elements will be assigned to project team members for each of the various LOD stages. The project team for the creation of the model/drawings will include the prime designer as well as consultants and include Flint as the prime contractor and major trade contractors outlined in section 1.b. Element creation assignments will be unique to the project based on the experience of the project team members and the contractual responsibility of the team members.
3. A LOD worksheet for this project based on Flint's expectations of the various process team members is included in the appendix of this guideline. Team members involved in the VDC process for this project shall meet at a minimum the model level of development in the attached LOD worksheet. This LOD worksheet shall be reviewed during the project process kickoff meeting for acceptance by the various team members.

3. Process Schedule

a. Process Schedule Integration with Project Master Schedule

Flint and its project team partners will come together to create a VDC milestone schedule during the kickoff meeting. The schedule will be approved after the completion of the process kickoff for official inclusion in the process execution plan. This schedule should be generated by the project team using a

schedule charrette type process. A charrette process allows for each project team member to place their milestones where they see them. Then the entire team creates the sequenced schedule which reflects the dependent needs of each milestone. It is recommended that the team use a pull scheduling type process for sequencing the milestone tasks. Pull scheduling starts with the last task in an activity, and then works back to the start of the schedule, inserting tasks based on dependent activities which must be accomplished before the next task can begin

b. Design Model Handoffs

The VDC schedule will include a model handoff schedule to occur through a staggered approach based on individual disciplines. This schedule will reflect the previously agreed upon VDC Workflow Guide Addendum (ref section 2.b.).

c. VDC Process Schedule

Beyond the VDC milestones, the team should also place schedule tasks for the construction coordination meetings. When possible, the coordination sessions should be given a description based on the area / system / and component of the project that they will be reviewed during that meeting. The coordination meetings should be seen as intermediate, model deliverable, deadlines that are creating the day to day VDC process which will help the team to assure timely completion of the milestone task. The coordination process for a project is outlined in section 5, which also includes a description of the actual coordination meetings and frequency.

i. Submittals

The Submittal Schedule for the project should be reviewed by the VDC process team members during the creation of the Project Specific VDC Process Schedule. In order to effectively model and coordinate the exact systems to be built on the project, submittals needing approval for the purchase of a system/equipment must be reviewed and approved prior to the element being modeled or virtually coordinated. The time needed to review and approve these various submittals, which are directly related to model systems, should be included as in the VDC process schedule with the Approve by Date noted as a milestone on the schedule. The Approve by Date is the last date possible for approval of the submittal before it will impact the overall modeling/coordination process, and the purchasing/delivery/installation dates of the system.

ii. Prefabrication Requirements

Prefabrication elements should be discussed during the process kickoff meeting. The delivery date of the major system / equipment prefabrication items should be included on the VDC Schedule. Prefabrication relies on detailed coordination, not only of the prefab system, but also all the systems around it. So unique prefab coordination milestones might need to be created to assure the successful delivery of the prefab element on time, and that the area of installation is clear to accept the item. During the creation of the design team's VDC Schedule, they should create place holders for these prefab coordination meetings and prefab milestones for review and confirmation by the construction team.

4. Model Standards

a. Modeling/Coordination Programs

Flint uses the following programs as part of its Virtual Construction efforts. All models need to be created so that they can be read in at least one of the programs below.

- i.** Revit – 2021 or Newer
- ii.** Autodesk Construction Cloud – Cloud Based
- iii.** Navisworks – 2021 or Newer
- iv.** AutoCAD – 2021 or Newer
- v.** *AutoCAD Civil 3D – 2019, 2020, 2021, 2022, 2023*
- vi.** Revizto – Cloud Based
- vii.** Plannerly – Cloud Based

b. Model Naming Structure

The Project BIM execution plan details the specific file naming and model structure requirements for the project. These naming and model structure requirements shall be followed during the design and construction process stages.

c. Orientation Point

Project specific model orientation expectations shall be outlined in the Project BIM execution plan. Below are the general global and local orientation expectations for the project.

i. Globally

During the initial Process Kickoff Meeting, the project team shall review and determine the global reference location for the project model(s). This spatial reference point shall be based on a geo-reference location. Flint's model manager/coordinator shall establish the geo-reference for the project team to use based on the projects specific GIS information and standards if they exist for the project. This point shall be used to globally locate both building models and site models.

ii. Locally

1. During the initial process kickoff meeting, the team will also establish a project specific model orientation point to be used by the team in their individual model authoring programs. This point should be a spatial reference location that is tied back to the Global reference point
2. At the start of the modeling efforts, the project team will agree upon the location of the project origin.
3. This point typically should be an intersection of two major grid lines at the top of the first floor slab.
4. The X, Y & Z axis for this point will be documented for all project team members.
5. Once established, this origin will be used for all future project information including 2D drawings and any 3D Models.

d. Model Sharing

- i. A collaborative data site will be set up for the project team to transfer BIM deliverables and other project information back and forth and will be defined in the Project BIM execution plan.
- ii. This site shall be set-up and managed by Flint, unless otherwise designated.

e. Layer Naming

i. Standardized Structure – Unifomat System

Flint uses a standardized model layer naming structure around the Unifomat convention of system-based numbering for its models. Design and construction team members should also use the Unifomat convention of naming to establish their model layers / worksets / etc. The layer name should be either a Unifomat 3rd or 4th level numbering.

f. Model Data

i. Element Naming Structure

Each model element should have a unique name based on its system or individual component / equipment. This name should be based when possible around the manufacturers name for the finished system / component / equipment. As well as the unique name given to the model element in the authoring program, each element should also have a global unique identifier (GUID) tag that the program creates.

ii. Integration of Data with Model Element

Data about a model element should be attached to that element when possible for the project owner's use after project completion and as outlined in the LOD worksheet. This data may include specification information, warranty information, operational information, and manufacturer product cut sheets, etc. Each project team member is responsible for updating the model element with the outside data that is created during their phase of the VDC process as outlined in the LOD worksheet.

5. Model Creation

Team members shall deliver their models based on the VDC Schedule and to the expected detail outlined in the LOD worksheet. The information below outlines the general model and system specific expectations for all

models created by the project design team. The requirements outlined below are the minimum expected VDC process and BIM deliverable expectation for this project and this list shall be included in the Project BIM execution plan and further developed as need by the project team as part of that plan. The minimum requirements are expected regardless of each system's level of detail as outlined in the LOD worksheet.

a. General Modeling Guidelines

Models shall be created in a format that can best be used by each of the individual project partners based on their specific scope of work. Each model needs to have the ability to be used by other project partners that will be adding information or coordinating around a design model. (Model flow: Design-Fabrication-Installation-Facility Management).

- i. All models will be supplied to Flint in their native file format as well as an ifc format if requested. The ifc format shall be the latest standardized version as outlined by BuildingSMART International. Currently the latest ifc file format that the project team should use is an ifc 2x3 or higher. Models may be requested to be supplied in alternative formats based on the modeling programs that Flint currently uses.
- ii. All elements of the project are to be created in 3D with real world information including material/product sizing and project specific location coordinates to match what is shown on the 2D contractual documents. Specifically, all elements shall be modeled to their overall height, width and depth and to a level of development as outlined in the attached LOD worksheet.
- iii. All materials assigned to model elements shall be identified in accordance with the project design. The elements shall best represent the expected final product.
- iv. Elements that are being provided by a specific manufacturer or based on a specific system shall be modeled using a model when available directly from the manufacturer. This model shall include relevant product specific information. Examples include: MEP Equipment, Doors, and Windows...
- v. Any element that needs specific clearance space around it shall have that space modeled as a semi-translucent element clearly labeled as to what it's for. This clearance element needs to be contained in a separate layer from the element which it is required for. Example: Work areas, both install and maintenance, around electrical panels, mechanical equipment.
- vi. Anything that is not intended to be seen in a model shall be removed or hidden prior to the model being shared.
- vii. Use only standard fonts in the model or any accompanying 2D drawings.
- viii. Xrefs – 2D Xrefs may be requested by project team members to be used as a background file during their modeling efforts. Please do not bind Xrefs files to any model that is being shared with the project team.
- ix. Worksets/Layers – All model elements should be drawn on unique worksets/layers that relate to that specific element or system. Text for a model element should be on its own separate layer. i.e. fire rated walls, standard partitions, etc...
- x. All project specific model worksets/layers need to be on/visible when the model is shared.

b. Site Elements

- i. Site topography
- ii. All underground utilities within 5'-0" of a building
- iii. All bundled conduit or piping with a cross sectional area of 36" or larger
- iv. All vaults, manholes, tanks, and underground storage containers
- v. All ductbanks
- vi. Light poles, light pole bases, and bollards
- vii. Sidewalks, curb, gutter, asphalt and concrete paving
- viii. Hardscape areas not mentioned above
- ix. All backwash preventers and control valves
- x. All site structures not included in the building architectural package

c. Architectural Systems

- i. All elements shall be modeled as they are to be built. i.e. walls from top of slab to bottom of the slab above.

- ii. Model all openings in slabs and walls,
 - iii. All slabs and floors not included in the structural model. Slab should include all materials required for their assembly.
 - iv. All walls both exterior and interior not included in the structural model. Walls need to include all materials required for their assembly and assembly ratings and be labeled in the model to match the labeling shown in the contract documents. Cuts through the walls should clearly show the various elements that make-up the overall wall assembly. *Walls can be drawn as different elements and uniquely labeled based on their assembly. i.e. metal studs, gyp. board, insulation...this is not a standard project requirement and shall be discussed by the team during the process kick-off.*
 - v. Non-structural wall modeling in preparation for pre-fabrication
 - 1. Interior walls shall have an identifier indicating the orientation of the inside and outside of the wall, i.e. outside layer of gyp. to be colored differently from the inside layer.
 - 2. All windows and doors in their respective families
 - 3. Window and door datums must be in the center of the opening
 - 4. Window and door families; rough width and rough height must be equal to the door/window size
 - 5. No generic model types
 - vi. All columns not included in the structural model.
 - vii. Furring as required for walls and columns included in the structural model as part of the component assembly, not individual members.
 - viii. All doors including their door frame and their material properties. Hardware should be included as a note in the model element or in the naming of the element but does not need to be included as a 3D element as part of the door.
 - ix. All exterior systems including but not limited to: masonry, precast, plaster, punched windows, curtain wall and storefront systems.
 - x. Ceilings and soffits. Ceilings shall include both hard and suspended acoustical ceilings.
 - xi. Stairs and railings
 - xii. Casework
 - xiii. Floor and wall coverings as outlined in the LOD worksheet.
 - xiv. Roofing System
 - xv. Scuppers and drains not included in the MEP model
 - xvi. Equipment and fixtures not included in the MEP model
- d. Structural Systems**
- i. All elements shall be modeled as they are to be built. i.e. model individual slabs per the way they are to be poured
 - ii. All foundations, caissons, and grade beams based on their actual sizes and shown at the correct top and bottom elevation based on the project origin.
 - iii. All structural walls
 - iv. All structural columns
 - v. All structural decks, beams and joists. Joists shall be modeled when possible as outlined in the project LOD worksheet using model elements provided by the project joist supplier. Joist openings shall match the fabricated locations for use in the coordination process.
 - vi. All lateral and diagonal bracing
 - vii. All openings in structural walls and decks
 - viii. Structural concrete and steel stairs including their related components
- e. MEPF Systems**
- i. **General**
 - 1. **All systems listed below are examples of Flint’s standards. Reference Section 6 for LOD requirements at different project stages**
 - 2. All elements are to be correctly allocated to a discipline and systems.

3. All elements that are identified in Appendix C, Section 2.3 as 'Defined Managed Assets' are to be tagged using the Managed Asset Naming Convention and populated with asset data.
4. All model elements are to be allocated to the correct Level parameter within the model.
5. Duct, piping, cable tray and similar items are to be identified by size – element geometry and in the metadata.
6. Piping to be modelled at the appropriate Outside Diameter including any lagging and be tagged in element metadata with the Nominal Diameter. Lagging to be modelled as a semi-transparent mass.
7. Duct, pipe, cable tray, etc. supports/hangers are to be modelled as required for the purposes of coordination.
8. All access requirements, insulation, lagging and/or linings are to be included in services models.
9. All concrete equipment pads, inertia pads, etc. to be modelled.
10. All acoustic and fire rated collars, dampers, etc. to be modelled.
11. Seismic bracing/restraints to be modelled.
12. All elements are to be identifiable by type as parameters. Subcontractors are to model elements that align to the specification of installed (or to be installed) elements. Key data associated with elements to include any size/dimension/type, etc.
13. Models from supplier's to be used in all possible instances throughout the Project.
14. All model elements are to be modelled using the appropriate category or element type e.g. an eccentric ductwork transition must belong to the 'Duct Fitting' category, and not as a mass element.
15. Clearance Installation / maintenance zones for access, service space requirements, and other operational clearance must be modelled (as a semitransparent element within the same group / family) for all equipment as part of the services equipment and checked for conflicts with other elements.
16. Equipment access doors and panels including access zones in front, above and below shall be modelled and comply with accessibility requirements per relevant code/maintenance requirements.
17. All elements shall include necessary information to enable scheduling as required for the discipline in a complete and accurate manner – including quantities, asset registers, etc.
18. All Elements, **regardless of size**, if residing in a prefabricated wall panel shall be modeled. This includes, but is not limited to, conduit, piping, MEPF stub-ups, etc.
19. All stubs through concrete into wall panels shall be modelled with 2" clearance zone around the stub.

ii. Mechanical Systems

1. All supply, return, exhaust, relief and outside air ductwork to be modelled, including any insulation modelled to the outside face dimension or duct insulation (whichever is greater). Insulation to be indicated as a separate model element as a semi-transparent element wrapping the duct/pipework.
2. All ductwork and pipework ($\geq 20\text{mm}$) to be modelled as fabricated lengths and incorporate flanges, joints, other connectors, etc.
3. All mechanical equipment under the subcontractor's scope of works to be modelled (e.g. fans, VAV's, compressors, chillers, cooling towers, AHU's, pumps, tanks, sensors, dampers, etc.)
4. All valves, gauges and control valves to be modelled.
5. Diffusers, registers, louvres, grilles, high/low point drains, starters, etc. to be modelled.
6. All controls devices are to be modelled.
7. All Elements, **regardless of size**, if residing in a prefabricated wall panel shall be modeled. This includes, but is not limited to, conduit, piping, MEPF stub-ups, etc.

iii. Hydraulic Systems

1. All piping systems (≥ 20 mm in diameter) to be modelled. All required insulation to be modelled as a separate semi-transparent thickness around the pipework.
2. All equipment including any elements associated with Domestic Cold Water, Chilled Water, Steam, pumps, tanks, water heaters, in-wall carriers, in-wall plumbing equipment, etc. to be modelled.
3. All fixtures to be modelled e.g. sinks, toilet fixtures, water tanks, etc.
4. All valves, gauges, control valves and clean-outs to be modelled.
5. All Elements, **regardless of size**, if residing in a prefabricated wall panel shall be modeled. This includes, but is not limited to, conduit, piping, MEPF stub-ups, etc.

iv. Electrical, Comm, Network and Security Services

1. All electrical/communications/network/security systems, equipment and devices/receptacles are to be modelled to the correct overall height, width and depth.
2. All cable containment and fittings (cable tray/ladder/ducting) are to be modelled.
3. All equipment including panels, transformers, switch/paralleling gear, generators, sensors, etc. to be modelled.
4. All light fixtures, exit signs, fire alarm components and devices, speakers, AV equipment and devices, recessed electrical devices etc. are to be modelled and coordinated with ceilings and walls.
5. Individual cables are not required to be modelled.
6. All conduits ≥ 1 " in diameter, or bundles of conduits ≥ 4 " in diameter are to be modelled.
7. All elements are to be included in panel schedules within the authoring platform.
8. All electrical components are to be assigned to an electrical switchboard.
9. All Elements, **regardless of size**, if residing in a prefabricated wall panel shall be modeled. This includes, but is not limited to, conduit, piping, MEPF stub-ups, etc.

v. Fire Protection/Fire Alarm

1. All risers, main and branch piping including sprinkler lines and heads to be modelled.
2. All pumps, controls, detectors, alarms (components and devices), public address systems and all other equipment are to be modelled.
3. All Elements, **regardless of size**, if residing in a prefabricated wall panel shall be modeled. This includes, but is not limited to, conduit, piping, MEPF stub-ups, etc.

f. Miscellaneous Systems

The following is a list of some of the additional systems that may or may not be required to be modeled on a project based on the project specific LOD worksheet. Incorporation of these elements will be determined at the VDC Process Kickoff meeting.

- i. Raised access floor system including under floor air distribution that's not been modeled as part of the overall mechanical system
- ii. Furniture system as outlined in the LOD worksheet
- iii. Water Features including fountains and pools
- iv. Security systems including devices and conduit larger than 1-1/2"
- v. Pneumatic tube systems

g. As-Built (Project Record) Modeling (If Required)

The construction model shall be updated by the project team during the construction phase to include the actual conditions of the final constructed systems / components. The LOD worksheet will outline which team members are responsible to update the various model systems to their as-built condition. The project team shall outline a written plan for creating a final as-built model upon completion of the project and include it in the BIM Project Execution Plan. This Plan may include the team's use of digital as-built collection tools such as 3D laser scanning and model based total station surveying systems.

6. Coordination Process

The goal of Flint's coordination process is to achieve an LOD 350 model at time of submission to the AHJ. This requires three (3) distinct phases of coordination which are listed below. Project specific collaboration procedures are further defined in section H of the Project BIM execution plan.

a. Basic and Gross Coordination (Award through DD)

- i. Basic coordination will be completed through the schematic design process. The goal for this phase is to have all teams complete their models to an LOD of 200 and submit those in tandem with milestone drawings.
- ii. Gross coordination will be completed through the design development phase. The goal for this phase is to have all teams complete their models to an LOD of 300 and submit those in tandem with milestone drawings.
- iii. Flint's Coordination Manager shall work with the various design team members Coordination leads to further detail the VDC process schedule to create coordination stages that match the needs of the design deliverable schedule.
- iv. Flint's Coordination Manager will act as lead representative for the construction team during the design stage of the project and will be responsible for making sure the construction teams requests and requirements are accurately relayed to the design team.
- v. Should construction team members outside of Flint be needed to help make design decisions and resolve project coordination issues then the coordination manager will be the lead to arrange for those team members to attend the design coordination meetings.
- vi. Each team's coordination manager shall be responsible for reviewing the accuracy of the model deliverables at the various stages of the project as outlined in the LOD worksheet.

b. Fine Coordination (CD's)

- i. Flint's Coordination Manager will be responsible for leading the model coordination process. This will include dividing the project up into specific model coordination areas for review.
- ii. Fine coordination is defined as the coordination phase throughout CD's which is intended to resolve issues to achieve an LOD 350+ model by the time of submission to the AHJ.
- iii. For design consultants (non-design build trades), all elements must be modelled and coordinated to an LOD of 300 or higher in this phase. Any changes made in coordination shall be reflected on the construction documents.
- iv. For design-build trade consultants, all elements must be modelled and coordinated to an LOD of 350 or higher in this phase. Any changes made in coordination shall be reflected on the construction documents.
- v. Additional coordination may be required after AHJ submission due to AHJ comments and/or additional constructability reviews. There will be a small time frame after AHJ approval to incorporate these changes and coordinate these items.
- vi. A coordination schedule will be created with the project team to outline the model coordination area sequence. This schedule will tie into the overall project schedule that is established during the initial process schedule charrette session.
 1. Below is an **example** of Flint's Fine coordination workflow/schedule
 - a. A typical coordination schedule would be for all models of a specific area to be turned over to Flint on the end of the day Tuesday.
 - b. Then Flint would internally review them on Wednesday and load them in to the model coordination review software.
 - c. The actual coordination of the specific model areas would occur as a team on Thursday during a live meeting either face-to-face or via a web meeting service.
 - d. Friday-Tuesday would be used for team members to update models based on coordination meeting deliverables.
- vii. Once a Fine Coordination area has been reviewed by the project team and is deemed to be substantially coordinated, each contributor will update their portion of the model, and a sign-off set will be published of that area. This sign-off set will be based on the exact model files used to create the final coordinated review model. The set will include an initial block for the various team members involved in that coordination area on each of the for-construction shop drawings. Also, a sequencing schedule for the work to be performed by the subcontractor, as represented on the sign-off documents, will be included on the cover sheet. By signing the drawings, the various trades agree to install the system as the model/drawings indicate.

- viii. The coordinated model/models shall be aligned to the contract documents. If changes are required due to the Fine Coordination process, these shall be incorporated into the drawings or into the project documents via RFI. In the event of material discrepancies between sign-off models/drawings and contract documents, contract documents shall govern. The responsible authoring party, however, shall be responsible for updating the model to an as-designed condition.
 - ix. Project team members that are involved in the modeling process will be required to attend the coordination meetings. The meetings shall be attended by individuals representing their companies that can approve the sign-off documents.
 - x. Model color schemes are a recommendation and are subject to adjustment at the time of Construction Coordination Kickoff and in the project specific BIM Execution Plan.
- c. Model Hierarchy/System Prioritization**
- i. For the purposes of model coordination/clash detection the following hierarchy shall be used as a guideline. Specific Hierarchy and prioritization with respect to design and construction models will be determined by the agreed upon BIM execution plan.
 1. Structural Elements
 2. Architectural Elements
 3. Main and medium pressure duct runs
 4. Main plumbing waste lines and vents
 5. Fire sprinkler mains and branches
 6. Hot and cold water mains and branches
 7. Plumbing fixtures
 8. Lighting fixtures
 9. Flexible ducts and smaller supply/return ducts
 10. Domestic cold and hot water supply lines
 - ii. This hierarchy may be adjusted based on the specific system requirements on the project. If the standard hierarchy as described below is to be changed for a project, then all team members must agree to the changes. Those changes shall be detailed in the Project BIM execution plan.
- d. Pre-Fabrication**
- The Design Consultant's shall develop the BIM up to LOD 300 throughout the design process. The Design Consultant provided BIM shall be used only for LOD 300 intended purposes per the BIM use matrix (i.e. layout, and coordination). The Design Consultant shall not be responsible for the accuracy of the BIM beyond LOD 300 as defined and interpreted in section 2.F.1 above. For pre-fabricated elements, the Design-Builder shall be responsible for additional LOD required (400+) for prefabrication such as walls, utilities, and finishes.
- e. Model Based Shop Drawings**
- Shop drawings shall be created directly from the construction models used during the design or construction coordination process. As outlined above during the construction coordination process, the subcontractors involved are responsible for creating model-based shop drawings that are to be approved by other team members involved in the process as well. The designated design consultants shall review these shop drawings for final approval and use in the field during construction. The Shop drawings mentioned in this section are intended to represent the output from LOD 350 models and are not intended to include the level of detail required for use as fabrication documents.

7. Construction Process Integration

a. Subcontractor Field Installation Process

- i. The subcontractor is responsible for coordinating the field installation of their systems to match that agreed to during the model coordination process and documented on the sign-off drawings.
- ii. The subcontractor shall be responsible for any cost incurred by other members of the project team due to a deviation from the sign-off drawings.
- iii. Any deviation from the sign-off drawings shall be recorded by the subcontractor and used to update the model that was the basis for those drawings.

- iv. Installation shall be laid out via total station or similar system.
- v. Flint reserves the right as part of its overall quality control process to spot check installed systems.
- vi. Items which are not specifically contained within the BIM are to be coordinated in the field against the BIM and the Contract Documents by the installing trade partner. Any cost incurred from failure to coordinate against the BIM and Contract Documents is the responsibility of the installing trade partner.

b. Field BIM

- i. Coordination models may be used on the project directly in the field as communication tools to help in the installation of various systems.
- ii. Coordination models may also be attached to material tracking software to monitor the flow of material from fabrication to installation on the project.
 - 1. If this is an elected option on a project, the subcontractor will be responsible for working with an agreed upon tracking system to install tracking devices on their materials to facilitate this process.
 - 2. Flint will be responsible to supply the subcontractor with the tracking devices necessary for the process. (i.e. RFID tags, barcode tags)

8. Building Management and Operations Integration (If Required)

- a. **Model Based O&M Data**
- b. **Asset Tagging**

9. Model Deliverables

a. Model Transfer / Deliverable

After the completion of the VDC coordination process for the project, the facility owner will be given a federated / coordinated model in an ifc and nwd format for viewing in their modeling software. The project owner will also be given all native model files that created that final model deliverable. All of design and construction models at the completion of the project should be transferred to Flint through the project collaboration site.

b. Data Transfer

i. Electronic Data Files (PDFs)

All data files attached to model elements as outlined in the LOD worksheet shall be delivered to Flint in a PDF format at the time of the model deliverables as outlined above. If the file has more information on it than that associated directly to a model element, then information that pertains to the project/element should be clearly highlighted. A spreadsheet listing the name and description of the electronic file and its associated model element should be created by the team and delivered to the Flint. This spreadsheet should be created in an excel format for easy future modifications by the Flint as needed.

ii. Model Based Drawings

All model-based drawings shall be delivered to Flint in both a hard copy and pdf format. Model based drawings shall be delivered as required by the process schedule.

10. Glossary of Terms

Building Information Modeling (BIM) – A building information model (BIM) is a digital representation of physical and functional characteristics of a facility. As such it serves as a shared knowledge resource for information about a facility forming a reliable basis for decisions during its lifecycle.

BuildingSMART Alliance – Organization established to coordinate the profound constructive changes coming to the fragmented real property industry in North America. The organization’s collective goal is to establish open interoperability and full lifecycle implementation of building information models.

<http://www.buildingsmartalliance.org/>

Charrette – An intensive process that involves the collaboration of all project stakeholders at the beginning of a project to develop a comprehensive plan or design.

GIS – Geographic Information System – integrates hardware, software, and data for capturing, managing, analyzing, and displaying all forms of geographically referenced information.

Industry Foundation Class (IFC) – IFCs are data elements that represent the parts of buildings, or elements of the process, and contain the relevant information about those parts. IFCs are used to assemble a computer-readable model of the facility that contains all the information of the parts and their relationships. The project model constitutes an object-oriented database of the information which continues to grow as the project goes through design, construction, and operation. The International Alliance for Interoperability (IAI) has created this IFC data exchange format. The IFC format is now controlled by the BuildingSMART International Alliance. IFC format allows models to be used/shared in other modeling software without losing element specific information.

Sign-off Drawings – These are drawings created by project team members to guide in the fabrication and installation of project systems/elements. The drawings are produced from models used by team members during the coordination process. Sign-off drawings may also be known as Shop Drawings and contractually are viewed as the same document.

Virtual Design and Construction (VDC) – Virtual Design and Construction is the use of multi-disciplinary performance models of design-construction projects, including the product (facilities information), work processes and organization of the design-construction-operation team in order to support business objectives.

VDC Process Goals – These are goals that are defined by the project team to outline the overall VDC objectives for the project. The goals include metrics for tracking and measuring the successful completion of the goals. The goals define the levels of BIM to be used on the project.

VDC Schedule – The VDC Schedule is created by the project team to outline the day-to-day and VDC milestones that lead to the creation of the design, construction and as-built BIM. VDC coordination meetings that are held by the team during both the design and construction phases of the project are also included in this schedule.

VDC Milestone – A VDC Milestone marks either the start of or completion/sign-off of a BIM area/system/element.

11. Appendices

12. Addenda

EXHIBIT "G"

LABOR CODE COMPLIANCE REQUIREMENTS

1. Subcontractor agrees to comply with the provisions of the California Code of Regulations and California Labor Code, including but not limited to Sections 1771, 1775, 1776, 1777.5, 1813, and 1815. Subcontractor specifically 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 Labor Code 1775(b) for any second tier subcontractor that Subcontractor chooses to use on this Project.
 - d. Submit certified payroll records to FLINT on a weekly basis. Records shall be provided no later than five (5) days following the last day of each workweek.
 - e. Submit to FLINT within five (5) 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 Labor Code 1777.5.
2. Subcontractor, prior to receiving final payment for work performed on the Project, shall sign the below affidavit, under penalty of perjury, certifying that Subcontractor has paid the required general prevailing rate of per diem wages to its employees for the proper craft needed to fulfill the obligations of the Subcontract.
3. Subcontractor agrees to indemnify and hold harmless FLINT for any violations of the California Code of Regulations and California Labor Code provisions, which are caused by Subcontractor's inability or failure to comply with said provisions. Additionally, should FLINT incur additional cost associated with Subcontractor's refusal, inability or failure to comply with the California Code of Regulations and California Labor Code requirements, Subcontractor shall reimburse FLINT through deductive Change Order to this Subcontract Agreement, at the following hourly rates: Certified Payroll Administrator- \$55.00 per hour; Certified Payroll Supervisor-\$80.00 per hour; Project Manager \$115.00 per hour; Executive/Principal - \$175 per hour. FLINT assumes no risk in providing payroll compliance services, and provides such services at its sole discretion, in cooperation with, or in addition to Subcontractor. Services provided by FLINT shall in no way alter or negate the indemnity, hold harmless or any other provision to the benefit of FLINT under this Subcontract Agreement or at law.
4. FLINT has an in house payroll compliance program that requires the use of the eMARS system to input or upload payrolls into. This system will also allow you to produce the XML file needed for DIR reporting. The following documents are required from all subcontractors and tiered sub-subcontractors:
 - a. **Fringe Benefit Statement** – You must provide the **hourly** amounts being paid on behalf of the employees, and the name and address of the plan(s) they're being paid to. Training fund contributions cannot be paid to the employee; they must be paid to an approved 3rd party. This is submitted in eMARS in the E-documents area.
 - b. **Public Works Contract Award Information & Apprentices (DAS 140 & DAS 142)** – It is the duty of the subcontractor and tiered sub-subcontractors to employ apprentices on public works projects and to comply with all aspects of *Labor Code Section 1777.5*. Verification of submission of these forms is required. This is required of both signatory and non-signatory subcontractors and tiered sub-subcontractors. Please upload in the E-documents section. If you are not required to do these, mark the sheet N/A and upload.
 1. Notify approved apprenticeship programs of contract award (DAS 140)
 2. Request and employ apprentices (DAS 142) – all apprentices employed on the project must be registered with the State of California
 3. Pay training fund contributions
 - c. **CAC2 or Union Letters** – For each month worked on this project you are required to submit your CAC2 (for non-signatory subcontractors and tiered sub-subcontractors) or your union letter (for signatory subcontractors and tiered sub-subcontractors). If you're submitting a CAC2, please submit a copy of the check or check stub as well. Please submit these in eMARS in the E Document Section.
 - d. **Payroll Reporting Form** – Subcontractors and tiered sub-subcontractors are required to keep accurate payroll records showing the name, address, social security number, and work classification of each employee and owner performing work, including straight time and overtime hours worked each day, and actual per diem

wages paid to each person performing work on this project. This is done in the eMARS program. Subcontractors and tiered sub-subcontractors will also be required to upload the payrolls from the eMARS system into the eCPR System. Upon completion, upload the eCPR confirmation receipt to eMARS.

- The certified payroll records shall contain the same data as *Public Works Payroll Reporting Form (A-1-131)*
 - All social security numbers are to be listed in full. Partial or redacted numbers will not be accepted.
 - Travel and subsistence may be required. Please check the DIR website for Travel and Subsistence scopes.
 - **Classification of Workers** – Must be a classification recognized by the DIR. If you don't find your classification in EMARS, please contact us and we will get it added.
 - **Statement of Compliance** – This is now done as part of your eMARS payroll.
 - **Statement of Non-Performance** – This is completed in eMARS.
 - **Final Payroll** – Please mark your final payroll as "Final" in eMARS.
- e. **Trade Contractor Affidavit** – This form is filled out at the completion of the project and is usually submitted with your FINAL payroll. Please upload this into the E documents portion of eMARS.

5. The federal and state labor law requirements applicable to this Subcontract are composed of but not limited to the following items:
- a. The contractor's duty to pay prevailing wages under Labor Code Section 1770 et seq., should the project exceed the exemption amounts;
 - b. The contractor's duty to employ registered apprentices on the public works project under Labor Code Section 1777.5;
 - c. The penalties for failure to pay prevailing wages (for non-exempt projects) and employ apprentices including forfeitures and debarment under Labor Code Sections 1775 and 1777.7;
 - d. The requirement to keep and submit copies upon request of certified payroll records under Labor Code Section 1776, and penalties for failure to do so under Labor Code Section 1776(g);
 - e. The prohibition against employment discrimination under Labor Code Section 1777.6; the Government Code, and Title VII of the Civil Rights Act of 1964;
 - f. The prohibition against accepting or extracting kickback from employee wages under Labor Code Section 1778;
 - g. The prohibition against accepting fees for registering any person for public work under Labor Code Section 1779; or for filling work orders on public works under Labor Code Section 1780;
 - h. The requirement to list all subcontractors under Public Contracts Code Section 4104;
 - i. The requirement to be properly licensed and to require all subcontractors to be properly licensed and the penalty for employing workers while unlicensed under Labor Code Section 1021 and under the California Contractors License Law, found at Business and Professions Code Section 7000 et seq;
 - j. The prohibition against unfair competition under Business and Professions Code Sections 17200-17208;
 - k. The requirement that the contractor be properly insured for Workers Compensation under Labor Code Section 1861;
 - l. The requirement that the contractor abide by the Occupational, Safety and Health laws and regulations that apply to the particular construction project;
 - m. The federal prohibition against hiring undocumented workers, and the requirement to secure proof of eligibility/citizenship from all workers.
 - n. The requirement to provide itemized wage statements to employees under Labor Code Section 226.
6. FLINT and Subcontractor understand that Labor Code Section 218.7 provides that in certain circumstances, Contractor can be liable for lack of wage or fringe benefits payments to, or on behalf of, any individual employed by any subcontractor on the Project. In order to ensure employees of the Subcontractor are being properly compensated, Subcontractor agrees to promptly provide to FLINT, upon FLINT's request, Subcontractor's payroll records for its workers on the Project which show, at a minimum, the items required for paystubs by Labor Code Section 226, and which are payroll records as contemplated by Labor Code Section 1174, and sufficient information to apprise FLINT of the Subcontractor's payment status in making fringe or other benefit payments or contributions to a third party on the employees' behalf, timecards, canceled checks or proof of direct payments to employees/laborers, social security numbers of paid employees, payroll affidavits, W-2 forms, and labor reports. Prior to production, the Subcontractor shall mark or obliterate from these documents the first five numbers from the workers' social security number. As a further condition to final payment, Subcontractor must deliver to FLINT an affidavit signed under penalty of perjury from Subcontractor that the Subcontractor has paid the wage, fringe or other benefit payment or other contribution due to

employees or labor trust funds for all work performed on the Project. Furthermore, upon request of FLINT, the Subcontractor shall provide award information that includes the Project name, name and address of the Subcontractor, anticipated start date, duration, and contact information for its sub-subcontractors on the project.

7. To the extent applicable and not subject to any exemptions, Subcontractor shall comply, and shall cause any of its subcontractors and independent contractors (regardless of tier) to comply, with all statutes, regulations, orders, court decisions, and other laws relating to classification of individuals as employees or independent contractors, including without limitation and as applicable, Labor Code Section 2750.3 (AB 5) and *Dynamex Operations West, Inc. v. Superior Court*, 4 Cal. 5th 903 (2018). If Subcontractor, or its subcontractors and independent contractors (regardless of tier), utilize services, as defined by Labor Code Section 2750.3, from natural persons who are not compensated and otherwise treated as employees, Subcontractor shall ensure that any such person providing the services qualifies as an independent contractor and (i) is hired pursuant to a written contract; (ii) is a business entity formed as a sole proprietorship, partnership, limited liability company, limited liability partnership, or corporation; (iii) has registered with the Department of Industrial Relations as a public works contractor, if applicable; (iv) negotiates and contracts with, and is compensated directly by, a licensed contractor; (v) has a business license and has registered for business taxes, if the person is domiciled in a jurisdiction that requires such a license and/or registration; (vi) maintains a business location that is separate from the company that has hired him or her; (vii) has authority to hire and fire other persons who provide and/or assist in providing the services in question; (viii) has financial responsibility for errors and omissions in connection with the labor or services provided, as evidenced by insurance, indemnity obligations, bonds, and/or warranties; and (ix) is customarily engaged in an independently established business of the same nature as that involved with the work performed by any such person.

Provisions of California Labor Code, Sections 1771, 1775, 1776, 1777.5, 1813, and 1815:

Section 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.

Section 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 two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director for the work or craft in which the worker is employed for any public work done under the contract by the contractor or, except as provided in subdivision (b), by any subcontractor under the contractor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 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 and the Division of Labor Standards Enforcement of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public may not be given access to the records at the principal office of the contractor.

(c) Unless required to be furnished directly to the Labor Commissioner in accordance with paragraph (3) of subdivision (a) of Section 1771.4, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

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

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

(f) (1) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided nonredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number.

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

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

(h) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict

compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

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

(j) 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.

Section 1777.5.

(a) This chapter does not prevent the employment of properly registered apprentices upon public works.

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

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

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

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

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

(d) If the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the dispatch of apprentices to the contractor. A contractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that program. "Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. As used in this section, "contractor" includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).

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

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

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

(h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall

endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. When an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Administrator of Apprenticeship, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) All training contributions received pursuant to this subdivision shall be deposited in the Apprenticeship Training Contribution Fund, which is hereby created in the State Treasury. Upon appropriation by the Legislature, all moneys in the

Apprenticeship Training Contribution Fund shall be used for the purpose of carrying out this subdivision and to pay the expenses of the Department of Industrial Relations.

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

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

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

Section 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.

Section 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 ½ times the basic rate of pay.

**AFFIDAVIT OF COMPLIANCE WITH CALIFORNIA
PREVAILING WAGE LAW, CALIFORNIA LABOR CODE
SECTIONS 1720-1815**

1. I am _____ the _____
(Print Name) (Position Held)
of _____, a subcontractor to _____
(Subcontractor Name) (Contractor Name)
on the job of _____ I am familiar with the payroll practices of
(Project Name)

Subcontractor on the Project. One of my duties and responsibilities is to ensure that Subcontractor complies with the California Prevailing Wage Law, California Labor Code sections 1720 through 1815 on the Project. I make this sworn statement pursuant to California Labor Code Sections 1775, subdivision (b)(4), and 1777.7 subdivision (e)(4).

2. I have reviewed the payroll practices and the payroll records for Subcontractor on the Project. Subcontractor has paid the specified prevailing rate of wages to each of its employees on the Project as required by the Prevailing Wage Law, and has paid any amounts due such employees under California Labor Code section 1813. Subcontractor has employed the required number of Apprentices on the Project.

3. I have also reviewed the payroll practices of each Subcontractor's lower-tiered Subcontractors on the Project. Each of Subcontractor's lower-tiered Subcontractors has paid the specified prevailing rate of wages to its employees, has paid any amount due such employees under California Labor Code section 1813, has employed the required amount of Apprentices on the Project, and has provided Subcontractor with an affidavit that complies with California Labor Code sections 1775, subdivision (b)(4), and 1777.7, subdivision (e)(4).

4. I understand that Contractor is relying upon the truth of the contents of this sworn statement in making final payment to Subcontractor for work performed on the Project, and may suffer damages if my sworn representations were not true.

5. During the payroll periods commencing on _____ and ending on _____
_____ all persons employed by my company on the Project have been paid the specified general prevailing rate of per diem wages for the specified craft of classification pursuant to Labor Code Section 1771.

6. This statement is submitted in accordance with California Labor Code section 1777.5(e).

I, _____, the undersigned, as the

(Name)

(Position)

of _____, which worked as a Contractor/Subcontractor on the
(Company Name)

_____ Project. On this contract, for the craft of _____,
(Name of Project) (Apprenticeable Craft)

the total number of journeyman hours was _____, and the total number of apprenticeship hours was _____
establishing an apprentice/journeyman ratio in hours of _____ to _____.

Please check here if apprentice committee(s) either denied or failed to respond to request for apprentices, and therefore all workers were classified as journeyman.

I declare under penalty of perjury that the foregoing is true and correct.

Signature: _____ Date: _____

EXHIBIT "H"

DESIGN BUILD TERMS

To the extent required in Subcontract, Subcontractor shall provide design services in accordance with this Subcontract and the General Contract. Subcontractor shall perform the design services as detailed below.

1. Design and Pre-Construction Services.

1.1 Subcontractor shall, consistent with applicable state licensing laws, provide the architectural, engineering and other design professional services required to perform the Work. Subcontractor agrees that such services shall be provided through qualified, licensed design professionals who are either (i) employed by Subcontractor or (ii) procured by Subcontractor from qualified, licensed Design Consultants.

1.2 Subcontractor shall not engage the services of any Design Consultant without first obtaining the approval of FLINT, which approval shall not be unreasonably withheld. Subcontractor agrees that each Design Consultant shall be fully bound to Subcontractor in the same manner as Subcontractor is bound to FLINT for all the requirements of the General Contract which are applicable to Design Consultant's scope of services. Subcontractor shall at all times be responsible for the services performed by its Design Consultants, and shall coordinate the services of its Design Consultants to satisfy Subcontractor's obligations under the General Contract. Nothing in this Subcontract shall relieve Subcontractor from responsibility for the services performed by its Design Consultants, or create any legal or contractual relationship between FLINT and any Design Consultant.

1.3 The standard of care for all design professional services performed by Subcontractor and its Design Consultants pursuant to this Subcontract shall be the care and skill ordinarily used by members of the applicable profession practicing under similar conditions at the same time and locality of the Project.

1.4 Subcontractor shall assist FLINT regarding the selection of building systems, materials and equipment, as well as cost, schedule and construction feasibility assistance for the Work. Such assistance shall include providing advice relative to, among other things, labor availability, construction costs, procurement strategies (including scheduling the procurement of items with long-lead times) related to the requirements set forth in the General Contract for the Work.

1.5 In accordance with the times set forth in the Project Schedule, Subcontractor shall submit to FLINT all interim design submissions and revisions for the Work as required by the Contract Documents. Interim design submissions shall be consistent with Owner's Project Criteria as well as the Basis of Design Documents, as the Basis of Design Documents may have been modified or supplemented in accordance with the General Contract. Such interim design submissions shall be in the form and quantity called for in the General Contract and may include design criteria, drawings, diagrams and specifications setting forth the Project requirements. The submissions shall also show the relationship of the Work to the overall Project design. FLINT and Subcontractor agree that prior to the scheduled date for submitting all design submissions to Owner, FLINT, Subcontractor and FLINT's Design Consultant will hold meetings for the purpose of discussing and monitoring the design for consistency with the requirements of the General Contract.

1.6 In accordance with the General Contract and with the times set forth in the Project Schedule, Subcontractor shall submit to FLINT Construction Documents setting forth in detail drawings and specifications describing the requirements for construction of the Work and showing the relationship of the Work to the overall Project. The Construction Documents shall be consistent with the latest set of interim design submissions, as such submissions may have been modified in a design review meeting. Subcontractor shall provide the Construction Documents in the form and quantity called for in the General Contract. Subcontractor shall perform agreed upon revisions and submit revised Construction Documents to FLINT for FLINT's and Owner's approval.

1.7 Subcontractor shall attend and participate in such meetings as are held between and among Owner, FLINT and FLINT's Design Consultant to discuss interim design submissions and the Construction Documents for the Work. Subcontractor shall identify during each such meeting, among other things, the evolution of the design and any changes or deviations from the Contract Documents, including the Basis of Design Documents, or, if applicable, previously submitted design submissions. To the extent that Subcontractor fails to identify such changes or fails to produce Construction Documents for the Work consistent with the Basis of Design Documents and identified and approved changes and FLINT incurs additional uncompensated costs as a result, Subcontractor shall be responsible for such costs. Minutes of the meetings, including a full listing of all changes, will be maintained by FLINT and provided to all attendees for review.

Subcontractor shall review such minutes and provide notice of any objections thereto. The Construction Documents for the Work shall be consistent with the latest set of interim design submissions, as such submissions may have been modified in a design review meeting and recorded in the meetings minutes. Subcontractor shall provide required documentation and support for submissions to AHJ and provide necessary revisions or supplemental information required by the AHJ to obtain a permit.

1.8 In addition to the interim design submissions and Construction Documents, if requested by FLINT, Subcontractor shall prepare (i) those design documents and pricing information for the Work that may be necessary for the establishment of a GMP Exhibit or GMP Proposal and (ii) interim design submissions and Construction Documents for the Work required to permit commencement of construction on a portion of the Project before the entire Construction Documents for the Project are completed.

1.9 FLINT's and Owner's review and/or approval of interim design submissions and the Construction Documents are for the purpose of mutually establishing a conformed set of Construction Documents for the Work compatible with the requirements of the General Contract. The review and/or approval by either FLINT or Owner of any interim design submission or the Construction Documents shall not be deemed to transfer any design liability from Subcontractor to FLINT or Owner.

1.10 Subcontractor will, at its own cost, revise any interim design submission or Construction Document it has provided to correct any errors, mistakes or omissions. Such revisions shall be performed timely and so as not to jeopardize the Project Schedule.

2. Ownership of Work Product

2.1 All drawings, specifications and other documents and electronic data furnished by Subcontractor to FLINT under this Subcontract ("Work Product") are deemed to be instruments of service, and upon FLINT making all payments as required under this Agreement, Subcontractor expressly grants FLINT and Owner (to the extent required under the General Contract) an irrevocable license to, and FLINT and Owner shall receive ownership of, the property rights of all Instruments of Service and/or Design Documents, including all documents, Plans, Drawings, Specifications, electronic data and information prepared, provided or procured by Subcontractor and its Design-Consultants for this Project. Except as to software licenses, FLINT and Owner may use, reproduce and make derivative works from the Instruments of Service and Design Documents as authorized in this Agreement. Subcontractor shall secure from its Design Consultants property rights and rights of use that correspond to the rights given Subcontractor to FLINT and Owner in this Subcontract.

2.2 If either FLINT or Subcontractor uses the Work Product on any other project, such party agrees that it shall do so at its sole risk and without liability or legal exposure to the other party, Owner, or anyone working through them. Such party further agrees that it shall defend, indemnify and hold harmless the other party and Owner from and against any and all claims, damages, liabilities, losses and expenses, including attorneys' fees, arising out of or resulting from such use of the Work Product on another project.

2.3 If FLINT terminates this Agreement for its convenience as set forth in the Subcontract, Subcontractor, upon FLINT's payment in full of the amounts due Subcontractor under the General Contract, grants FLINT and Owner the same rights as set forth in Section 2.1 above to use the Work Product to complete the Project and subsequently occupy the Project, conditioned on the following: Use of the Work Product is FLINT's sole risk without liability or legal exposure to Subcontractor or anyone working by or through Subcontractor.

2.4 If this Agreement is terminated due to Subcontractor's default, then FLINT shall have the same rights as set forth in Section 2.1 above to use the Work Product to complete the Project and subsequently occupy the Project, and FLINT and Owner shall thereafter have the same rights and obligations as set forth in Section 2.1 above. Notwithstanding the preceding sentence, if it is ultimately determined that Subcontractor was not in default, Design-Builder shall be deemed to have terminated the Agreement for convenience, and Subcontractor shall be entitled to the rights and remedies set forth in Section 2.3 above.

EXHIBIT "J"

SKILLED AND TRAINED WORKFORCE COMPLIANCE

This Project is subject to **Skilled and Trained Workforce Requirements** as defined in Chapter 2.9 (Section 2600 et seq.) of the Public Contract Code. The attached **Public Contract Code Sections 2600 et seq.** are incorporated into this Subcontract as **Attachment A**. Subcontractor and all tiered subcontractors shall comply with all of the above-referenced Public Contract Code Sections applicable to the performance of work on this Project.

Summary of Skilled and Trained Workforce Requirements

Effective January 1, 2019, for the following crafts, the make-up of a contractor's or any subcontractor's journeylevel workforce on a public works project subject to these requirements shall include no less than **30%** journeypersons who have graduated from an approved apprenticeship program during each calendar month: Acoustical Installer, Bricklayer, Carpenter, Cement Mason, Drywall Installer or Lather, Marble Mason, Finisher, or Setter, Modular Furniture or Systems Installer, Operating Engineer, Pile Driver, Plasterer, Roofer or Water Proofer, Stone Mason, Surveyor, Terrazzo Worker or Finisher and Tile Layer, Setter or Finisher.

Graduates from all other apprenticeship programs shall be at no less than **50%** of the journeylevel workforce effective January 1, 2019, and **60%**, effective January 1, 2020.

The remaining journeypersons for each craft shall have at least as many hours of on-the-job experience in the occupation as would be required to graduate from the applicable apprenticeship program.

The apprenticeship graduation percentage requirements are satisfied if, in a particular month, either of the following is true for work performed by the contractor or subcontractor on the project: a) at least the **required percentage of journeypersons** employed meet the graduation percentage requirement; or b) for the **hours of work performed by journeypersons**, the percentage of hours performed by journeypersons who meet the graduation requirement is at least equal to the required graduation percentage.

Exceptions to Apprenticeship Graduation Requirements

A subcontractor need not meet the apprenticeship graduation requirements if both of the following requirements are met: a) the Subcontractor was not a listed subcontractor under Section 4104 of the Public Contract Code or a substitute for a listed subcontractor; and b) the Subcontract Sum does not exceed one-half of one percent of the price of the prime contract.

A subcontractor need not meet the apprenticeship graduation requirement if, during the calendar month, the Subcontractor employs skilled journeypersons to perform fewer than ten (10) hours of work on the Project.

Subcontractor Reporting Requirements

Subcontractor shall complete and submit to FLINT on or before the fifth (5th) business day of each calendar month from the start of Subcontractor's work on the Project through the final calendar month when Subcontractor's work is 100% complete, whether or not Subcontractor works in a specific month, the attached **Skilled and Trained Workforce Compliance Report, Attachment B**, for each apprenticeable occupation. Subcontractor shall submit this documentation demonstrating compliance with the Skilled and Trained Workforce Requirements for every tier subcontractor operating under its direction.

If Subcontractor fails to timely submit the month report (Attachment B) or provide a report that is incomplete, FLINT shall be entitled to withhold an amount equal to 150 percent of the value of Subcontractor's monthly billing(s) until Subcontractor submits a complete report and the public agency or awarding body subsequently pays FLINT any withheld payments with respect to Subcontractor's noncompliance.

If a monthly report does not demonstrate compliance with said requirements with respect to the relevant apprenticeable occupation for itself, and each of its subcontractors at every tier if applicable, FLINT shall be entitled to withhold an amount equal to 150 percent of the value of Subcontractor's monthly billing(s) until Subcontractor: a) demonstrates compliance with said requirements or b) provides a plan to achieve substantial compliance with said requirements, prior to completion of the Project, provided said plan to achieve substantial compliance is not rejected by the public agency or

awarding body and the public agency or awarding body is not withholding payments associated with the Subcontractor's noncompliant relevant apprenticeable occupation.

Prior to receiving payment for work performed on the Project, Subcontractor shall sign an affidavit under penalty of perjury that Subcontractor has complied with the skilled and trained workforce requirements of Public Contract Code Section 2600 et seq. (The attached affidavit is incorporated in this Subcontract as **Attachment C.**)

Indemnification

Subcontractor shall hold harmless and indemnify FLINT from any claims, complaints, withholds, or any other legal matters related to Subcontractor's lack of compliance with the above referenced requirements, including the lack of compliance by any tier subcontractor under Subcontractor's direction.

ATTACHMENT A TO EXHIBIT “J”

SKILLED AND TRAINED WORKFORCE

PUBLIC CONTRACT CODE -

CHAPTER 2.9. Skilled and Trained Workforce Requirements [2600 - 2603]

2600.

(a) This chapter applies when a public entity is required by statute or regulation to obtain an enforceable commitment that a bidder, contractor, or other entity will use a skilled and trained workforce to complete a contract or project.

(b) A public entity may require a bidder, contractor, or other entity to use a skilled and trained workforce to complete a contract or project regardless of whether the public entity is required to do so by a statute or regulation.

2601.

For purposes of this chapter:

(a) “Apprenticeable occupation” means an occupation for which the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations had approved an apprenticeship program pursuant to Section 3075 of the Labor Code before January 1, 2014.

(b) “Chief” means the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations.

(c) “Graduate of an apprenticeship program” means either of the following:

(1) An individual that has been issued a certificate of completion under the authority of the California Apprenticeship Council for completing an apprenticeship program approved by the chief pursuant to Section 3075 of the Labor Code.

(2) An individual that has completed an apprenticeship program located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

(d) “Skilled and trained workforce” means a workforce that meets all of the following conditions:

(1) All the workers performing work in an apprenticeable occupation in the building and construction trades are either skilled journeypersons or apprentices registered in an apprenticeship program approved by the chief.

(2) (A) For work performed on or after January 1, 2017, at least 30 percent of the skilled journeypersons employed to perform work on the contract or project by every contractor and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation. This requirement shall not apply to work performed in the occupation of teamster.

(B) For work performed on or after January 1, 2018, at least 40 percent of the skilled journeypersons employed to perform work on the contract or project by every contractor and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation, except that the requirements of subparagraph (A) shall continue to apply to work performed in the following occupations: acoustical installer, bricklayer, carpenter, cement mason, drywall installer or lather, marble mason, finisher, or setter, modular furniture or systems installer, operating engineer, pile driver, plasterer, roofer or waterproofer, stone mason, surveyor, teamster, terrazzo worker or finisher, and tile layer, setter, or finisher.

(C) For work performed on or after January 1, 2019, at least 50 percent of the skilled journeypersons employed to perform work on the contract or project by every contractor and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation, except that the requirements of subparagraph (A) shall continue to apply to work performed in the following occupations: acoustical installer, bricklayer, carpenter, cement mason, drywall installer or lather, marble mason, finisher, or setter, modular furniture or systems installer, operating engineer, pile driver, plasterer, roofer or waterproofer, stone mason, surveyor, teamster, terrazzo worker or finisher, and tile layer, setter, or finisher.

(D) For work performed on or after January 1, 2020, at least 60 percent of the skilled journeypersons employed to perform work on the contract or project by every contractor and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation, except that the requirements of subparagraph (A) shall continue to apply to work performed in the following occupations: acoustical installer, bricklayer, carpenter, cement mason, drywall installer or lather, marble mason, finisher, or setter, modular furniture or systems installer, operating engineer, pile driver, plasterer, roofer or waterproofer, stone mason, surveyor, teamster, terrazzo worker or finisher, and tile layer, setter, or finisher.

(3) For an apprenticeable occupation in which no apprenticeship program had been approved by the chief before January 1, 1995, up to one-half of the graduation percentage requirements of paragraph (2) may be satisfied by skilled journeypersons who commenced working in the apprenticeable occupation before the chief's approval of an apprenticeship program for that occupation in the county in which the project is located.

(4) The apprenticeship graduation percentage requirements of paragraph (2) are satisfied if, in a particular calendar month, either of the following is true:

(A) At least the required percentage of the skilled journeypersons employed by the contractor or subcontractor to perform work on the contract or project meet the graduation percentage requirement.

(B) For the hours of work performed by skilled journeypersons employed by the contractor or subcontractor on the contract or project, the percentage of hours performed by skilled journeypersons who met the graduation requirement is at least equal to the required graduation percentage.

(5) The contractor or subcontractor need not meet the apprenticeship graduation requirements of paragraph (2) if, during the calendar month, the contractor or subcontractor employs skilled journeypersons to perform fewer than 10 hours of work on the contract or project.

(6) A subcontractor need not meet the apprenticeship graduation requirements of paragraph (2) if both of the following requirements are met:

(A) The subcontractor was not a listed subcontractor under Section 4104 or a substitute for a listed subcontractor.

(B) The subcontract does not exceed one-half of 1 percent of the price of the prime contract.

(e) "Skilled journeyperson" means a worker who either:

(1) Graduated from an apprenticeship program for the applicable occupation that was approved by the chief or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

(2) Has at least as many hours of on-the-job experience in the applicable occupation as would be required to graduate from an apprenticeship program for the applicable occupation that is approved by the chief.

2602.

(a) When a contractor, bidder, or other entity is required to provide an enforceable commitment that a skilled and trained workforce will be used to complete a contract or project, the commitment shall be made in an enforceable agreement with the public entity or other awarding body that provides both of the following:

(1) The contractor, bidder, or other entity, and its contractors and subcontractors at every tier, will comply with this chapter.

(2) The contractor, bidder, or other entity will provide to the public entity or other awarding body, on a monthly basis while the project or contract is being performed, a report demonstrating compliance with this chapter.

(b) If the contractor, bidder, or other entity fails to provide the monthly report required by this section, or provides a report that is incomplete, the public agency or other awarding body shall withhold further payments until a complete report is provided. If a monthly report is incomplete due to the failure of a subcontractor to timely submit the required information to the contractor, bidder, or other entity, the public agency or awarding body shall only withhold an amount equal to 150 percent of the value of the monthly billing for the relevant subcontractor. If a public agency or other awarding body withholds amounts

pursuant to this subdivision, the contractor, bidder, or other entity shall be entitled to withhold the same amount from the subcontractor until the subcontractor provides the contractor, bidder, or other entity a complete report, and the public agency or awarding body subsequently pays the contractor, bidder, or other entity the withheld payments. If the contractor, bidder, or other entity substitutes a subcontractor pursuant to Chapter 4 (commencing with Section 4100) for failure to provide a complete report, and the contractor, bidder, or other entity replaces the subcontractor with one that provides an enforceable commitment that a skilled and trained workforce will be used to complete the contract or project, the public agency or awarding body shall immediately resume making payments to the contractor, bidder, or other entity, including all previously withheld payments.

(c) If a monthly report does not demonstrate compliance with this chapter, the public agency or other awarding body shall do all of the following:

(1) Withhold further payments until the contractor, bidder, or other entity provides a plan to achieve substantial compliance with this chapter, with respect to the relevant apprenticeable occupation, prior to completion of the contract or project. All of the following shall apply to the withholding of payments under this paragraph:

(A) The public agency or awarding body shall withhold an amount equal to 150 percent of the value of the monthly billing for the entity that failed to comply with this chapter, or 150 percent of the value of the monthly billing for the subcontractor that failed to comply with this chapter. If a public agency or other awarding body withholds amounts pursuant to this paragraph, the contractor, bidder, or other entity shall be entitled to withhold the same amount from the subcontractor that did not demonstrate compliance with this chapter.

(B) If the contractor, bidder, or other entity substitutes a subcontractor pursuant to Chapter 4 (commencing with Section 4100) for failure to demonstrate compliance, and the contractor, bidder, or other entity replaces the subcontractor with one that provides an enforceable commitment that a skilled and trained workforce will be used to complete the contract or project, the public agency or awarding body shall immediately resume making payments to the contractor, bidder, or other entity, including all previously withheld payments.

(C) If a contractor, bidder, or other entity submits to the public agency or awarding body a plan to achieve substantial compliance with this chapter, the public agency or awarding body shall immediately resume making payments to the contractor, bidder, or other entity, including all previously withheld payments unless, within a reasonable time, the public agency or awarding body rejects the plan as insufficient and explains the reasons for the rejection.

(2) Forward a copy of the monthly report to the Labor Commissioner for issuance of a civil wage and penalty assessment in accordance with Section 2603.

(3) Forward to the Labor Commissioner a copy of the plan, if any, submitted by the contractor, bidder, or other entity to achieve substantial compliance with this chapter and the response to that plan, if any, by the public agency or awarding body.

(d) A monthly report provided to the public agency or other awarding body shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and shall be open to public inspection.

2603.

(a) If the Labor Commissioner or his or her designee determines after an investigation that a contractor or subcontractor failed to use a skilled and trained workforce in accordance with this chapter, the contractor or subcontractor responsible for the violation shall forfeit, as a civil penalty to the state, not more than five thousand dollars (\$5,000) per month of work performed in violation of this chapter. A contractor or subcontractor that commits a second or subsequent violation within a three-year period shall forfeit as a civil penalty to the state the sum of not more than ten thousand dollars (\$10,000) per month of work performed in violation of this chapter.

(b) For the purposes of this section:

(1) "Any interest" shall have the same meaning as in subdivision (h) of Section 1777.1 of the Labor Code.

(2) "Contractor or subcontractor" shall have the same meaning as in subdivision (g) of Section 1777.1 of the Labor Code.

(3) "Entity" shall have the same meaning as in subdivision (i) of Section 1777.1 of the Labor Code.

(c) The amount of any monetary penalty may be reduced or waived by the Labor Commissioner if the amount of the penalty would be disproportionate to the severity of the violation. The Labor Commissioner shall consider, in setting the amount of a monetary penalty, all of the following circumstances:

(1) Whether the violation was intentional.

(2) Whether the contractor or subcontractor has committed other violations of this chapter or of the Labor Code.

(3) Whether, upon notice of the violation, the contractor or subcontractor took steps to voluntarily remedy the violation.

(4) The extent or severity of the violation.

(5) Whether a contractor or subcontractor submitted and followed a plan to achieve substantial compliance with this chapter.

(d) The Labor Commissioner or his or her designee shall issue a civil wage and penalty assessment, in accordance with the provisions of Section 1741 of the Labor Code, upon determination of penalties assessed under subdivision (a). Review of a civil wage and penalty assessment issued under this subdivision may be requested in accordance with the provisions of Section 1742 of the Labor Code. The regulations of the Director of Industrial Relations, which govern proceedings for review of civil wage and penalty assessments and the withholding of contract payments under Article 1 (commencing with Section 1720) and Article 2 (commencing with Section 1770) of Chapter 1 of Part 7 of Division 2 of the Labor Code, shall apply.

(e) The determination of the Labor Commissioner as to the amount of the penalty imposed under subdivision (a) shall be reviewable by the Director of Industrial Relations only for an abuse of discretion.

(f) If a subcontractor is found to have violated this chapter, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had knowledge of the subcontractor's failure to comply with this chapter or unless the prime contractor fails to comply with any of the following requirements:

(1) For contracts entered into on or after January 1, 2019, the contract executed between the contractor and the subcontractor for the performance of work on the project shall include a copy of this chapter.

(2) The contractor shall periodically monitor the subcontractor's use of a skilled and trained workforce.

(3) Upon becoming aware of a failure of the subcontractor to use a skilled and trained workforce, the contractor shall take corrective action, including, but not limited to, retaining 150 percent of the amount due to the subcontractor for work performed on the project until the failure is corrected.

(4) Prior to making the final payment to the subcontractor for work performed on the project, the contractor shall obtain a declaration signed under penalty of perjury from the subcontractor that the subcontractor has met the requirements of this chapter.

(g) The Labor Commissioner shall notify the prime contractor within 15 days of the receipt by the Labor Commissioner of a complaint that a subcontractor violated this chapter.

(h) Whenever a contractor or subcontractor is found by the Labor Commissioner to be in violation of this chapter with intent to defraud, the contractor or subcontractor or a firm, corporation, partnership, or association in which the contractor or subcontractor has any interest is ineligible for a period of not less than one year or more than three years to do either of the following:

(1) Bid on or be awarded a contract for a public works project.

(2) Perform work as a subcontractor on a public works project.

(i) Whenever a contractor or subcontractor is found by the Labor Commissioner to have committed two or more separate willful violations of this chapter within a three-year period, the contractor or subcontractor or a firm, corporation, partnership,

or association in which the contractor or subcontractor has any interest is ineligible for a period of up to three years to do either of the following:

(1) Bid on or be awarded a contract for a public works project.

(2) Perform work as a subcontractor on a public works project.

(j) The debarment procedures adopted by the Labor Commissioner pursuant to Section 1777.1 of the Labor Code shall apply to any finding made under subdivisions (h) or (i) of this section.

(k) The Labor Commissioner shall publish on the commissioner's Internet Web site a list of contractors who are ineligible to bid on or be awarded a public works contract, or to perform work as a subcontractor on a public works project pursuant to this section. The list shall contain the name of the contractor, the Contractors' State License Board license number of the contractor, and the effective period of debarment of the contractor. Contractors shall be added to the list upon issuance of a debarment order and the commissioner shall also notify the Contractors' State License Board when the list is updated. At least annually, the commissioner shall notify awarding bodies of the availability of the list of debarred contractors.

(l) (1) If a public entity or awarding body that is required to obtain an enforceable commitment that a skilled and trained workforce will be used to complete a contract or project receives a monthly report which does not demonstrate compliance with the skilled and trained workforce requirements of subdivision (c) of Section 10506.6, Section 10506.8, Section 10506.9, or subdivision (c) of Section 20928.2 of this code, Article 9 (commencing with Section 388) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, or subparagraph (B) of paragraph (8) of subdivision (a) of Section 65913.4 or subparagraph (B) of paragraph (4) of subdivision (f) of Section 66201 of the Government Code, the public entity or awarding body shall forward a copy of the monthly report to the Labor Commissioner for issuance of a civil wage and penalty assessment in accordance with this section.

(2) The penalty and debarment procedures of this section shall apply to violations of subdivision (c) of Section 10506.6, Section 10506.8, Section 10506.9, or subdivision (c) of Section 20928.2 of this code, Article 9 (commencing with Section 388) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, or subparagraph (B) of paragraph (8) of subdivision (a) of Section 65913.4 or subparagraph (B) of paragraph (4) of subdivision (f) of Section 66201 of the Government Code.

the contractor's total number of graduate journeypersons on the project (per occupation) that month by the contractor's total number of journeypersons in the occupation on the project that month. To calculate cumulative percentages by **percent workforce**, add the contractor's number of graduate journeypersons on the project (per occupation) used for each month's report and divide by the sum of the contractor's total number of journeypersons per occupation used for each month's report. For example, if a contractor reported monthly journeypersons as follows: 1/3, 2/4, 3/5, and 2/5, then the cumulative total would be 8/17 or 47%. The Owner may ask to review the calculation(s).

Under penalty of perjury, and with specific reference to the California False Claims Act, Government Code sections 12650 *et seq.*, I certify that 1) **all** of the workers used on the Project in the past month were either a) skilled journeypersons under Public Contract Code section 2601(e) or b) apprentices registered in an apprenticeship program approved by the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations; 2) submission of the above report is made in good faith; 3) that I have made reasonable investigation to verify the accuracy of data reported above; 4) that the information is accurate and complete to the best of my knowledge and belief; and 5) that I am duly authorized to certify the report on behalf of the company identified below. I acknowledge that submission of this report is an express condition on payment.

Dated: _____ Company: _____

Signature: _____

Title: _____

This report is a public record under the California Public Records Act, Government Code sections 6250 et seq., and is open to public inspection.

EXPLANATION AND COMPLIANCE PLAN

If the above report shows that the required percentages were not met during the month for any contractor or trade, explain why the percentages were not met and how they will be met by the completion of construction. Pursuant to Public Contract Code section 2602, the Owner is required to withhold 150% of the value of the monthly billing of the contractor or a non-compliant subcontractor for any month in which they do not meet the requirements. The Owner will release withheld funds to FLINT once an acceptable plan to achieve substantial compliance with the skilled and trained workforce requirement by the end of the project is provided to the Owner, with respect to the relevant apprenticeable occupation(s), **or** the non-compliant subcontractor is substituted in accordance with Public Contract Code section 4107.

ATTACHMENT C TO EXHIBIT "J"
SUBCONTRACTOR AFFIDAVIT
SKILLED AND TRAINED WORKFORCE

I, _____ of _____ declare under penalty of perjury that
(Owner, Officer, Partner) *(Company)*

_____ has complied with the skilled and trained workforce requirements on the
(Company)

_____ Project as defined in Chapter 2.9 (Section 2600 et. seq.) of the California Public
(Project Name)

Contract Code for its workforce and the workforce of all subcontractors operating under its direction.

Executed this _____ day of _____, 20____, in _____ (city), CA.

(Name)

(Signature)

EXHIBIT "K"

SUPPLEMENTAL TERMS AND CONDITIONS

The following Supplemental Terms and Conditions add to or modify the Contract. In the case of a conflict between Supplemental Terms and Conditions and the Contract, the Supplemental Terms and Conditions shall prevail.

«udsuptermnotes»