



SUBCONTRACT AGREEMENT

THIS SUBCONTRACT AGREEMENT, made and entered into this [DAY] day of [MONTH] by and between Griffin Construction LLC (herein "Contractor") and [SUBCONTRACTOR] (herein "Subcontractor").

WHEREAS, Contractor has entered into a contract (herein "the Contract") with **Redmond Proficiency Academy** (herein "the Owner") to perform certain work generally described as **Redmond Proficiency Academy Middle School** (herein "the Project") in accordance with plans, specifications and related documents prepared by or for **BBT Architects**, all of which plans, specifications and related documents, including but not limited to general and special conditions and provisions, plans and drawings, specifications and standard specifications, addenda, change orders, modifications and price agreements, and other documents constituting or referred to in the Contract (herein collectively "the Contract Documents") are hereby incorporated by reference in this Subcontract Agreement; and

WHEREAS, Subcontractor warrants and represents that it is fully familiar with all of the terms, conditions and obligations of the contract and Contract Documents, with the local and general conditions under which the work is to be performed, including but not limited to the nature and character of the Work, transportation and utility facilities, availability, storage and disposal of materials, availability and requirements concerning labor and workmanship, and uncertainties of weather and physical conditions at the site of the Project, and the risks and hazards inherent in the Work, which warranty and representation is based upon Subcontractor's own investigation and analysis of all such matters and without reliance whatsoever upon any representation, opinion or information of the contractor; and

WHEREAS, Contractor and Subcontractor are desirous of entering into this Subcontract Agreement whereby Subcontractor, as an independent contractor, undertakes the performance of a portion of the work to be done by Contractor under the Contract, in strict accordance with the terms and conditions of the Contract and Contract Documents and this Subcontract Agreement, and for and in consideration of the compensation hereinafter recited;

NOW THEREFORE, in consideration of the mutual covenants and conditions set forth herein, Contractor and Subcontractor agree that Subcontractor shall perform those portions of the work required under the Contract which are hereinafter set forth (herein "the Work"), in strict accordance with all the terms and conditions of the Contract and Contract Documents and of this Subcontract Agreement.

[description]

and Contractor shall pay to Subcontractor therefore the sum of

[dollar amount in text]

(\$0.00) (HEREIN "THE Price"), at the times and in the manner and amounts determined as set forth in this Subcontract Agreement.



The provisions of the Contract and Contract Documents are attached hereto and by this reference incorporated herein to the extent provided herein.

The following special conditions are agreed:

Article 8, bond requirements is deleted from this Subcontract Agreement

Any extra work to this Subcontract Agreement must be approved in writing, in advance by Contractor. Any extra work not so approved in advance will not be paid and Subcontractor waives all claim for such payment at law and equity.

Addenda noted: TBD Alternated noted: TBD

The following terms and conditions are agreed:

ARTICLE 1. Performance of the Work

1.1 Subcontractor shall provide and perform all labor and supervision and shall furnish all materials, supplies, equipment, tools and facilities necessary or proper for the performance and completion of the Work in strict accordance with all of the terms and conditions of the Contract Documents and this Subcontract Agreement, and in accordance with all change orders, construction change directives, price agreements or other documents of change issued in connection therewith, all of which are by this reference hereby incorporated in this Subcontract Agreement and Subcontractor so warrants to Contractor and to Owner.

1.2 Subcontractor warrants to Contractor and Owner that all materials and equipment furnished shall be new unless otherwise specified, that all work shall be of good quality and best practice, and free from fault or defect, and that the Work shall conform to the requirements of the Contract Documents. Subcontractor also shall guarantee and warrant the Work to the same extent that Contractor is obligated to guarantee its work under the Contract and Contract Documents, and shall promptly obtain and furnish any warranties or guaranties required by the Contract and Contract Documents, in form satisfactory to Owner and Contractor. Such warranties are in addition to, and not in limitation of, all other warranties express or implied in this Subcontract Agreement and the Contract Documents.

1.3 Subcontractor shall perform the Work under the general direction and supervision of Contractor and of Owner and Owner's representatives, and shall be subject to all of the inspection and testing requirements of the Contract Documents as relate to the Work. Subcontractor shall adequately and continuously supervise and superintend its forces and shall, at the direction of Contractor or Owner, or the authorized representatives of either, immediately remove from the Project any person, equipment or materials determined to be inadequate or inappropriate to performance of the work.

1.4 Subcontractor shall comply with all applicable federal, state and local laws, regulations, ordinances and orders affecting the Project, the Work or Subcontractor. Without limitation, the Contractor or the Contract Documents may require all subcontracts relative to the Project to contain certain provisions; in such event each and every of said required provision



is by this reference hereby incorporated in this Subcontract Agreement as though fully set forth, and in such event Subcontractor agrees to incorporate each and every such required provision in every subcontract which Subcontractor may enter into pertaining to the Project or to the Work.

1.5 The Subcontractor shall secure and pay for permits, fees, licenses and inspections by government agencies necessary for proper execution and completion of the Work, the furnishing of which is required of the Contractor by the Contract.

1.6 Subcontractor will furnish any and all shop drawings, schedules, samples, literature or other submittals required for the Work by the Contract and Contract Documents, within sufficient time for the review and approval of Owner or its representatives in order to avoid any delay to the Work or to the Project, and will make such changes and furnish such corrected submittals as may be required. The Contractor and/or the Owner's representatives will review and approve shop drawings but only for conformance with the information given in the Contract documents. Such approval shall not relieve the Subcontractor from responsibility for any deviation from the requirements of the Contract documents, nor relieve the Subcontractor from responsibility for errors or omissions in the shop drawings.

1.7 Subcontractor will fully protect the Work and all portions and components thereof and materials therefore until all of the Work is fully completed and accepted by Owner, and as between Contractor and Subcontractor, Subcontractor shall bear all risk of loss thereof from any and all risk or hazard of whatsoever nature.

1.8 At any time during the course of the Work and until final acceptance of the Project, Contractor shall have the right to order additions or deletions in the Work or changes in the Work, and fair increases or decreases shall be made therefore in the Price to the extent provided in the Contract; provided, however, no addition, deletion or change in the Work shall be made and Subcontractor or paid for by Contractor unless and until such addition, deletion or change is duly authorized in writing by Contractor.

1.9 Subcontractor shall perform the work in such manner that the site of the Project shall at all times be clean, orderly and free from debris. When directed by the Project Superintendent, but not less than weekly, and upon completion of the Work, Subcontractor shall remove from the site and dispose of all plant and equipment, supplies, excess materials, refuse and debris, so as to keep and leave the site of the Project in a good and clean condition and in strict conformance with any requirements of the Contract Documents. Upon oral or written directive to do so, Subcontractor has 24 hours to comply with the provisions of this subparagraph. Failure to do so will result in the Contractor performing the clean-up at the expense of the Subcontractor.

ARTICLE 2. Payment for the Work

2.1 In consideration of all of the covenants and conditions of this Subcontract Agreement and the full, faithful and prompt performance of all of the terms and conditions of this Subcontract Agreement and of the Contract and Contract Documents pertaining to the Work, Contractor agrees to pay



Subcontractor the Price and hereinabove set forth, out of funds received from the Owner for the work performed by Subcontractor, and Subcontractor agrees to receive and accept the Price as full compensation for doing all things required to complete the Work to the satisfaction of the Owner, including all taxes.

2.2 Partial payments for the work performed under this Subcontract Agreement will be made by Contractor as and when Contractor is paid therefore by Owner, and will equal the value of the Work done by the Subcontractor according to the Owner's estimate, less the sum of previous payments and less a retention equal to Five percent (5%) of the said value of the Work done by Subcontractor; provided that the fund from which such payments shall be made shall be that created by the Owner in making payments to Contractor. In the event that a lesser retention is required by law, this provision shall be deemed amended accordingly, but in no event shall retainage be less than five percent (5%).

2.3 If the Project is an Oregon "public contract" under state law, and not otherwise, the provisions of this Section 2.2.1 shall apply, and shall supersede any conflicting provision of the Subcontract Agreement.

2.3.1 Contractor shall pay Subcontractor for satisfactory performance under this Subcontract Agreement within ten days out of such amounts as are paid to the Contractor by the public contracting agency under the contract. Contractor shall, if payment is not made within 30 days after receipt of payment from the Owner, pay to the first-tier subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause included in the previous sentence. Contractor shall not be obligated to pay an interest penalty if the only reason that the Contractor did not make payment when payment was due is that the Contractor did not receive payment from the Owner when payment was due. Interest shall be for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made. Interest shall be computed at the rate of three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is 30 days after the date when payment was received from the contracting agency or from the contractor, but the rate of interest may not exceed 30 percent.

2.3.2 Subcontractor shall include in each of its sub-subcontracts and purchase orders and payment clause and an interest penalty clause conforming to the standards of ORS 279C.580(4) and in each of its sub-subcontracts a provision requiring the sub-subcontractor to have a public works bond filed with the Construction Contractors Board before starting work on the project unless exempt according to law. Subcontractor shall also require each of its sub-subcontractors to include such clauses in their subcontracts with each lower tier subcontractor or supplier.

2.3.3 Notwithstanding the foregoing, the Contractor may (i) retain, in the even of a good faith dispute, an amount not to exceed 150 percent of the amount in dispute from amounts otherwise due the subcontractor, or (ii) make a determination that part or all of Subcontractor's request for payment may be withheld in accordance with this Subcontract, in each case without incurring any obligation to pay a late payment interest penalty, so long as prior notice under Article 2.3.4 is given to Subcontractor with a copy to the public contracting agency. As used



herein, "good faith dispute" means a documented dispute concerning: a) unsatisfactory job progress; b) defective work not remedied; c) third party claims filed or reasonable evidence that claims will be filed; d) failure to make timely payments for labor, equipment and materials; e) damage to prime contractor or subcontractor; or f) reasonable evidence that the subcontract cannot be completed for the unpaid balance of the Price.

2.3.4 Notice of any withholding under Article 2.3.3 shall be issued to Subcontractor, with a copy to the public contracting agency, specifying: a) the amount to be withheld; b) the specified causes for the withholding under the terms of the subcontract; and c) the remedial actions to be taken by the Subcontractor in order to receive payment of the amounts withheld.

2.3.5 If Subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract within 30 days after receipt of payment, Subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-day period that payment is due under ORS 279C.580 (4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest charged to Subcontractor on the amount due shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is 30 days after the date when payment was received from the contracting agency or from the contractor, but the rate of interest may not exceed 30 percent. The amount of interest may not be waived.

2.3.6 Subcontractor shall assure that workers of Subcontractor and all of its lower-tier subcontractors shall be paid not less than the specified minimum hourly rate of wage in accordance with law. Subcontractor agrees to comply with all prevailing wage requirements applicable to this Project as provided in the Contract Documents and as required under applicable provisions of Title 26, Oregon Revised Statutes, including the submittal of weekly Certified Payroll reports (for itself and all lower-tier subcontractors). Under no circumstances shall Subcontractor pay workers less than the specified minimum hourly rate of wage in accordance with ORS 279C.838 and ORS 279C.840. Subcontractor shall assure that the prevailing wage for the Project is posted in a conspicuous and accessible place in or about the Project. If the prevailing wage requirements also provide for contributions to health and/or welfare plans, Subcontractor shall assure that a notice remains posted describing the plan(s) in a conspicuous and accessible place in or about the Project. Subcontractor shall submit its Certified Payroll Reports to Contractor (for itself and all lower-tier subcontractors) no later than five (5) working days following the last day of each work week. Subcontractor's Certified Payroll Reports must be in accord with the requirements set forth in ORS 279C.845. If Subcontractor fails to file such Certified Payroll Reports, then in addition to Contractor's other withholding rights, Contractor may retain twenty-five percent (25%) of any amount earned by Subcontractor until Subcontractor achieves and Contractor verifies compliance with ORS 279C.845.

2.3.7 Subcontractor shall have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt according to law.



2.3.8 Subcontractor shall pay all contributions or amounts due the Oregon Industrial Accident Fund from the subcontractor or its subcontractors at any lower tier incurred in the performance of this Subcontract.

2.3.9 Subcontractor shall, and shall cause all of its subcontractors at all lower tiers to, pay to the Oregon Department of Revenue all sums withheld from employees under ORS 316.167.

2.3.10 Subcontractor shall promptly, as due, make payment to any person, partnership, association or corporation furnishing medical, surgical, and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of Subcontractor, of all sums Subcontractor agrees to pay for the services and all moneys and sums Subcontractor collected or deducted from the wages of employees under any law, contract, or agreement for the purpose of providing or paying for the services. Subcontractor warrants that is an employer willing to comply with ORS 656.017 or, alternatively, that Subcontractor is exempt from complying with ORS 656.017 pursuant to ORS 656.126. Subcontractor shall impose the foregoing requirement in all contracts with subcontractors at all tiers.

2.3.11 Subcontractor shall not permit any lien or claim to be filed or prosecuted against the Owner or its property, on account of any labor or material furnished. Subcontractor shall impose the foregoing requirement in all contracts with subcontractors at all tiers.

2.3.12 Subcontractor shall confirm Contractor's drug testing program for the Project, and Subcontractor shall strictly comply, and cause all of its lower-tier subcontractors strictly to comply, with such program.

2.3.13 If the Work includes demolition, Subcontractor shall salvage and/or recycle construction and demolition debris, if feasible and cost-effective. If the Work includes lawn maintenance or landscaping work, Subcontractor shall compost or mulch yard waste material at an approved site, if feasible and cost effective.

2.3.14 if Contractor or Subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.

2.4 If the Project is located within the State of Oregon and is not a "public contract" under state law, is not subject to the Low-Rise Residential Dwelling Code, and is not "housing in which all or part of the dwelling units are reserved for rental to persons having an income equal to or less than 80 percent of the median household income for the area," but not otherwise, the provisions of this Section 2.2.2 shall apply.

2.4.1 Progress payments will be made by Contractor to Subcontractor for work actually performed and satisfactorily completed according to certified and approved billings timely received by Contractor from Subcontractor in accordance with the Contract Documents.

2.4.2 Subcontractor shall include in each of its sub-subcontracts and purchase orders a payment clause and an interest penalty clause conforming to the standards of ORS 701.625 and the terms of this



Subcontract Agreement. Subcontractor shall also require each of its sub-subcontractors to include such clauses in their subcontracts with each lower tier subcontractor or supplier.

2.4.3 To the extent permitted by law, the Alternate Billing Cycle, Extended Payment Provision and Extended Certification Period Provision shall be set forth in the Contract Documents. By the execution of this Subcontract Agreement, Subcontractor expressly consents to any change in such Cycle or Provision subsequent to its bid or proposal as is provided in this Subcontract Agreement or the Contract Documents.

2.5 Any billing or estimate submitted by Subcontractor under this Subcontract Agreement shall be in strict accordance with the provisions of this Subcontract Agreement, shall be in the form and detail prescribed by Contractor, shall be accompanied by appropriate notarized waivers of any bond, construction, mechanic's or materialman's lien from Subcontractor and from each person performing labor or supplying materials, products, equipment or services used in the Work, and shall be personally certified by Subcontractor's principal executive officer, evidenced by his or her signature and notarized verification, that-

(a) the signing officer has reviewed the billing or estimate;

(b) based on the officer's knowledge, the billing or estimate does not include any amounts for which Subcontractor is not entitled to payment under the terms of this Subcontract Agreement and mutually accepted modifications; and

(c) based on such officer's knowledge, the billing or estimate fairly present in all material respects the amount due and unpaid to Subcontractor as of the date stated.

Such certification is mutually agreed to be a material provision of this Subcontract Agreement.

2.6 Nothing in this Subcontract Agreement shall obligate Contractor to pay or to request payment for amounts withheld by the Owner, unsatisfactory work progress, defective construction work, materials or products not remedied, or disputed work, materials or products, nor in the event of Subcontractor's failure to comply with material provisions of this Subcontract Agreement or the Contract Documents, third party claims filed or which may be filed relative to the Work. Subcontractor's failure to make timely payments for labor, equipment, materials or products, damage to Contractor, another subcontractor, the public or the Owner, reasonable evidence that the Work cannot be completed for the unpaid balance of the Subcontract Price, retainage not due or other reasons set forth in the Contract Documents.

2.7 Payment will be made to Subcontractor for work actually performed and completed, as measured and certified to by Owner or its representative, which shall be accepted by Subcontractor as full compensation for furnishing all material and for doing all work contemplated and embraced in this Subcontract Agreement. In the event Subcontractor fails to invoice or otherwise indicate its contention as to the value of such work by a date five



days in advance of the monthly date set forth in the Contract or Contract Documents, Contractor may estimate the value thereof.

2.8 The determination made by Owner or its representative of quantities of the Work performed and to be paid for shall be binding and conclusive, and shall conclusively establish the amount of the Work done by Subcontractor. No compensation shall be paid Subcontractor for work not approved, accepted and paid for by Owner and Subcontractor will make no claims against Contractor based on any estimates or calculations other than those made by Owner and for which payment has been made by Owner to Contractor. It is specifically agreed that Contractor's actual receipt of payment from the Owner for Subcontractor's work is a necessary condition precedent to any and all partial and final payments by Contractor to Subcontractor.

2.9 Subcontractor shall make prompt payment to all its sub-subcontractors and material suppliers, and to persons performing labor or furnishing materials or equipment used or to be used in the performance of the Work. Subcontractor shall defend and indemnify Contractor, its sureties and representatives, from any claim or demand alleging Subcontractor's failure so to do, or the failure of any of Subcontractor's sub-contractors at any tier so to do, expressly including any interest, costs or attorneys fees which may be claimed or awarded. No moneys shall be deemed as earned or owing until Subcontractor has paid all obligations incurred for labor, materials, supplies, equipment and any other obligations incurred in performance of the Work, or which may become claims against Contractor's bond or may become liens against Contractor's earning or against the property or improvements of the Project. Any portion of the Price unpaid, whether upon partial payments or final payment, may be considered as held by Contract in trust for the benefit of any laborer, materialman or other creditor and Contractor reserves the right, prior to making any partial payment or final payment to request and receive from Subcontractor a certification under oath, and such other evidence as Contractor may request, that all obligations incurred by or on behalf of Subcontractor which are or may become such clam or lien have been paid, and Subcontractor's written waiver of any claim or lien to the extent of such payment.

2.10 Upon the completion and acceptance of the Project and payment therefore in full by Owner, Subcontractor will be paid the remaining amount due Subcontractor under this Subcontract Agreement, to the extent of Owner's payment to Contractor for the Work. All prior payments shall be subject to correction in the final payment. Final payment as herein provided shall release Contractor from any further obligation whatsoever in respect to this Subcontract Agreement. Subcontractor shall as a condition precedent to final payment, execute and deliver to Contractor a full and valid release and complete discharge of and from any and all claims and demands whatsoever for all matters arising out of, or in any manner connected with or founded upon, this Subcontract Agreement, the Work or the Project, in such form as Contractor may require.

2.11 It is specifically understood and agreed that Contractor is not an insurer or guarantor of the amount or nature of the Work and that quantities of the Work are approximate only, Owner and Contractor expressly reserving the right to add to or subtract from the amount thereof and to make changes therein. Subcontractor shall be bound thereby to the same extent



that Contractor is bound thereby. No adjustment in the Price shall be made unless Owner adjusts said price with Contractor and makes payment therefore to Contractor. Subcontractor shall not be entitled to damages for delays by reason of any act of Owner, unless and until Owner compensates Contractor for Subcontractor's damages, and Subcontractor's sole remedy for such delay shall otherwise be an extension of time, if granted by Owner. Subcontractor shall not be entitled to recover damages from Contractor for delays or damaged caused by the act or omission of any other subcontractor, nor shall Subcontractor be liable to Contractor for delays occasioned by the act or omission of any other subcontractor of Contractor, unless and until such other subcontractor compensates Contractor for Subcontractor's damages.

2.12 In the event that Subcontractor shall furnish any cost or pricing data cornering or pertaining to any adjustment or proposed adjustment of the Price, Subcontractor warrants and represents that any and all such data is complete, accurate and correct, and Subcontractor agrees to indemnify Contractor against any loss, cost or damage incurred by Contractor as a result of any defect or deficiency in any such data.

2.13 If any jurisdiction shall impose or collect any sales or use tax applicable to the Work, Subcontractor shall, wherever permitted by law, utilize a resale certificate stating that the property purchased is (1) for resale in the regular course of business, or (2) to be used as an ingredient or component in processing an article to be produced for sale, or whatever is required by the local tax authority. Where appropriate, Subcontractor shall utilize a blanket resale certificate. Where Subcontractor has not utilized a resale certificate but has paid tax on a purchase of articles that are subsequently sold at retail in connection with Subcontractor's performance of the Work, the Subcontractor shall not charge Contractor the sales tax paid by the Subcontractor. Subcontractor shall include a provision similar to the foregoing in all subcontracts and purchase orders issued by it in connection with the performance of the Work.

ARTICLE 3. Progress and Completion of the Work

3.1 Time is of the essence of this Subcontract Agreement. Subcontractor warrants and represents that it is fully familiar with all of the requirements and provisions of the Contract and Contract Documents concerning time of performance, and that the Price herein provided contemplates performance and completion of the Work within such time as may reasonably be necessary to permit Contractor to complete the Contract within the time required therefore.

3.2 Subcontractor agrees, within five (5) calendar days after being notified by Contractor so to do, to commence the Work at the Project at such points as Contractor may designate, and to continue diligently thereafter in the performance of the Work, and to fully complete all of the Work to the satisfaction of Contractor and Owner within Contractor's schedule, as such schedule may from time to time be adjusted by Contractor. Subcontractor shall be responsible to Contractor for any liquidated or actual damages imposed by Owner upon Contractor, or otherwise incurred by Contractor, as a result of Subcontractor's failure to perform or timely complete the Work, or as a result of any other action or inaction of or breach by Subcontractor or its subcontractors that hinders or delays Contractor's ability to complete



the work of the Contract in accordance with the time requirements of the Contract.

3.3 Subcontractor's performance of the Work will require integration thereof with work to be performed by Contractor or its other subcontractors, or by Owner or its other contractors, or by other utilities, public bodies or third persons, and Subcontractor agrees that it will fully cooperate with Contractor and all other entities to integrate and coordinate the Work with such other work as to time, location and schedule. Subcontractor acknowledges that the Work must be commenced and completed prior to other work to be performed by Contractor or such other entities, and Subcontractor therefore agrees to perform the Work diligently and expeditiously so that Contractor or such other entities will not be delayed in the performance of such other work. Contractor shall not be responsible to Subcontractor for any act, omission or damage caused to Subcontractor by any such other entity, including Contractor's other subcontractors. In the event Subcontractor is delayed by any cause beyond its control, Subcontractor is entitled to an extension of its scheduled time of performance to the same extent Contractor actually receives from Owner an extension of the Contract time and performance for Subcontractor's Work, provided Subcontractor shall have timely provided to Contractor all necessary notice and evidence required by the Contract Documents. Subcontractor shall not be entitled to any other remedy, cost, damage or adjustment on account of delay.

3.4 If any portion of the Work depends upon prior performance of any other work by Contractor or its other subcontractor, Subcontractor, by commencing such portion of the Work, accepts the adequacy and completeness of such other work.

3.5 Subcontractor shall comply with instructions given by Owner or its representatives, or by Contractor, including any instructions to suspend or delay the performance or completion of the Work or any portion thereof. Subcontractor shall be entitled to an adjustment of the Price or of the time of performance only to the extent that Contractor actually receives from Owner an adjustment of the amount paid to Contractor or an adjustment of the time of performance under the Contract or Contract Documents as a result of such instruction.

ARTICLE 4. Insurances

4.1 Subcontractor agrees to obtain and continuously maintain during the period this Subcontract Agreement remains in force, such insurance and bonds as are required by the Contract and Contract Documents and are required by law, or as Contractor and/or Owner consider necessary for the proper protection of the parties and the public, in form, deductible and companies satisfactory to Owner and Contractor. Without limitation thereof, Subcontractor shall provide the following, plus any additional coverages required of subcontractors under the Contract Documents:

4.1.1 Comprehensive Commercial General Liability insurance coverage in broad form, including completed operations and vehicle operation coverages, with a combined single limit of not less than:

- \$2,000,000 Products and Completed Operations Aggregate
- \$2,000,000 General Aggregate



- \$1,000,000 Any One Occurrence

4.1.2 Automobile Liability insurance coverage with a combined single limit of not less than \$1,000,000 each occurrence;

4.1.2.1 Business automobile coverage must include coverage for liability arising out of owned, leased, hired and non-owned automobiles

4.1.3 Commercial excess liability insurance ("umbrella") in an amount of not less than \$1,000,000 Products/Completed Operations and \$1,000,000 General Aggregate;

4.1.4 Workers' Compensation and employer's liability insurance coverage for all persons employed in the Work or on the Project in such form and amount as may be required by law and by the Contract and Contract Documents;

4.1.4.1 Employers liability shall be in a combined single amount of not less than:

- \$500,000 Each Accident
- \$500,000 Each Employee for Injury by Disease
- \$500,000 Aggregate for Injury by Disease

4.1.5 Professional Errors and Omissions insurance respecting any architectural or engineering design responsibilities directly or indirectly required for performance of the Work, with limits of not less than twice the amount of the Contract; and

Contractor, Owner and all higher-tier subcontractors, and any others as directed by Contractor or as provided in the Contract Documents, shall be additional named insureds on the policies required above, to the fullest extent allowed by law, and endorsements to that effect shall be delivered to Contractor. The additional insured endorsement shall provide coverage for ongoing and completed operations. Subcontractor's said insurance shall be primary and non-contributory, and endorsements to that effect shall be delivered to Contractor. Any insurance maintained by Contractor shall be excess and non-contributory. Certificates evidencing the insurance herein required, and endorsements as herein described, shall be delivered to Contractor before any Work begins and before any payment to Subcontractor shall become due or be paid. If Subcontractor's General Liability insurance policy has a general aggregate, then the general aggregate shall apply separately to this subcontract. Subcontractor shall carry and maintain completed operations coverage for a period of not less than ten (10) year following the date of completion of the work.

4.2 Subcontractor waives all rights against Contractor, Owner and Architect, their agents, officers, directors and employees for all damages to the extent such damages are covered by commercial general liability, excess liability, business automobile liability, workers compensation, employers liability insurance maintained as required hereinabove or are covered by any builders risk or property insurance policy.

4.3 Subcontractor shall require all insurance companies issuing any policies of insurance to Subcontractor which Subcontractor is required to



procure hereunder, to certify to Contractor and to Owner in writing that such policies have been issued and are in force and will not be cancelled or annulled except upon thirty (30) days' notice in writing to Contractor. Subcontractor shall not cancel any policies of insurance required hereunder either before or after completion of the Work without the written consent of Contractor.

4.4 Subcontractor shall pay all premiums and costs in connection with all bonds and/or insurance which Subcontractor shall be required to furnish or provide hereunder.

4.5 Contractor may, at its option, if deemed advisable, place insurance of the character and nature described above to cover the operations of Subcontractor, paying the premium therefore and charging the amounts thereof to Subcontractor.

4.6 Subcontractor agrees that in the event any of the work is further sublet, Subcontractor will arrange for insurance as herein provided.

ARTICLE 5. Liability and Indemnity

5.1 Subcontractor shall indemnify, defend, hold and save Contractor and Owner harmless from and against any and all claim, liability, loss, costs, penalties, fines, response costs, expenses, judgments and damages, including attorney's fees and expert costs, (i) for damage arising out of death or bodily injury to persons or damage to property caused in whole or in part by the acts or omissions of Subcontractor, its employees, agents or subcontractors at any tier, in the performance of the Work, and to the fullest extent allowed by law, (ii) for damage, including consequential, special, economic or liquidated damages, occurring on or in connection with the Work on the Project, arising out of the acts or omissions of Subcontractor, its employees, agents or subcontractors, in the performance of the Work, (iii) related to any PCB, asbestos, hazardous materials, hazardous waste, oil or petroleum under the care, custody or control of Subcontractor or any person or entity under the control of Subcontractor, including any sub-subcontractor or material supplier, or pertaining to protection of the environment, air, water, soil, noise or public or private property, (iv) from the failure to comply with any applicable law, rule, code or regulation by Subcontractor, its agents, employees, suppliers or subcontractors, and/or (v) related to or arising out of any breach of any term or condition of this Subcontract Agreement or of the Contract and Contract Documents by Subcontractor, its agents, employees, suppliers or subcontractors; all to the fullest extent allowed by law. Except to the extent otherwise prohibited by law, such obligation shall apply regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce other rights or obligations of indemnity which would otherwise exist as to a party or person. Without limiting the generality of the foregoing, Subcontractor's promise of indemnity specifically applies to claims arising out of injury or death to Subcontractor's own employees, and TO THE FULLEST EXTENT ALLOWED BY LAW SUBCONTRACTOR'S OBLIGATION THEREOF IS NOT LIMITED BY THE PROVISIONS OF ANY WORKERS' COMPENSATION OR SIMILAR STATUTE AND SUBCONTRACTOR WAIVES ANY IMMUNITY THEREUNDER AS TO THIS OBLIGATION.



5.2 Except as specifically provided in this Agreement, NEITHER CONTRACTOR NOR OWNER SHALL BE LIABLE TO SUBCONTRACTOR FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO ANY LOSS OF USE, LOSS OF BUSINESS OR LOSS OF PROFIT.

5.3 If work is performed in the State of Washington under this Subcontract Agreement:

5.3.1 Subcontractor acknowledges and agrees that this indemnification obligation shall include, but is not limited to, all claims against contractor by an employee or former employee of subcontractor, and subcontractor expressly waives all immunity and limitation on liability under any industrial insurance act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such a claim;

5.3.2 In the event that a claim or demand is the result of concurrent negligence of the Subcontractor and Contractor, then Subcontractor's indemnity obligations will include Contractor's costs of defense and will otherwise be limited by the extent of Subcontractor's negligence.

5.3.3 Subcontractor acknowledges and agrees that this express waiver of all immunity and limitation on liability under any industrial insurance act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such a claim has been separately negotiated.

_____ (Subcontractor's Initials of Section 5.3)

ARTICLE 6. Claims and Disputes

6.1 It is understood and agreed by Subcontractor that this Subcontract Agreement is made for the consideration herein named, and that Subcontractor has, by examination and investigation, satisfied itself as to the nature and location of the Work, the character, quantity and kind of materials to be used and encountered, the character, kind and quantity of equipment necessary and appropriate for performance and timely completion of the Work, and all conditions and other matters which can in any manner affect the Work. No verbal agreement or representation, either before or after the execution of this Subcontract Agreement, shall affect or modify any of the terms or obligations herein contained, and this Subcontract Agreement and the documents herein incorporated by reference shall be conclusively considered as containing and expressing all of the terms and conditions agreed upon by the parties hereto. No changes, amendments or modifications of such terms or conditions shall be valid or of any effect unless reduced to writing and signed by the parties hereto.

6.2 Insofar as applicable to the Work, Subcontractor agrees to be bound to Contractor by all of the terms and conditions of the Contract and Contract Documents, and any changes or amendments thereto, and to assume toward Contractor all of the obligations and responsibilities that Contractor assumes toward Owner with respect to the Work. In addition to Contractor's other remedies, Contractor shall have the benefit of all rights, remedies and redress against the Subcontractor that the Owner, under such documents, has against the Contractor.



6.3 Subcontractor warrants and represents that it is fully familiar with all provisions of the Contract and Contract Documents, if any, pertaining to the presentation and resolution of disputes and claims or to the termination of the Contract, and any and all such provisions of the Contract and Contract Documents are herein incorporated by reference as though fully set forth.

6.4 Subcontractor agrees that any controversy or claim arising out of or related to this Contract, or the breach thereof, which Contractor determines or contends to involve Owner, its representatives or other contractors, or the Contract Documents, shall be settled by arbitration if the and to the extent that the Contract provides for such arbitration, and on the same terms and conditions as may be provided in the Contract. If any such arbitration relating to the Work of Subcontractor is commenced by Owner or Contractor, Subcontractor hereby consents to joinder therein, and judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof. Subcontractor further agrees to cooperate and participate with Contractor, and Contractor agrees to cooperate and participate with Subcontractor, in the presentation and resolution of any claim or dispute pertaining to the Work, and each agrees to be bound by any determination of any such claim or dispute or other disputed question or issue to the extent provided by the Contract and Contract Documents. If any portion of the Work is subcontracted by Subcontractor, Subcontractor shall arrange for its sub-subcontractor to be bound by the terms and provisions hereof to the same extent that Subcontractor is bound to Contractor.

6.5 In the event that any dispute shall arise between Subcontractor and Owner or Contractor as to the scope, adequacy, cost or quantity of the Work performed or to be performed, Subcontractor agrees to continue and complete the Work without interruption as directed in writing by Owner, its representative or Contractor.

6.6 In no event shall Subcontractor receive additional compensation for extra work or otherwise unless and until Contractor receives payment of such additional compensation by Owner. Subcontractor acknowledges that it is fully familiar with all notice provisions of the Contract and Contract Documents requiring timely presentation of claims for extra work or otherwise, and that, unless Subcontractor presents such claims in a proper and timely manner, it shall be deemed to have waived same.

6.7 In no event shall Subcontractor be entitled to any additional time for performance of the Work unless and until Contractor receives an extension of the time for performance from the Owner under the Contract and Contract Documents. Subcontractor acknowledges that it is fully familiar with all notice provisions of the Contract and Contract Documents requiring timely request for extension of time, and that, unless Subcontractor presents such request in a proper and timely manner, it shall be deemed to have waived same.

6.8 Any claim by Subcontractor against Contractor, for damage to the Work, for additional compensation, for time extension or otherwise, shall be presented to Contractor in writing within twenty-one (21) days after the occurrence giving rise to such claim, or such shorter time as may be required under the Contract, or be deemed to be waived.



ARTICLE 7. Subletting, Assignment and Supply

7.1 The Work shall be performed by Subcontractor with the assistance of workers under Subcontractor's immediate superintendence, and shall not be sublet, assigned or otherwise delegated, either in whole or in part, except with the prior written consent of Contractor. In any such event, Subcontractor shall assure that all the terms and conditions of this Subcontract Agreement are binding upon any such sub-subcontractor, assignee or delegee, and are fully complied with.

7.2 Subcontractor shall not assign, transfer or otherwise convey any of the earnings or payments due or to become due under this Subcontract Agreement without the express written consent of Contractor, and any such assignment shall not in any event have priority over any claims for labor, materials or equipment or other obligations incurred by Subcontractor which could be a claim against Contractor's bond or a lien against Contractor's earnings or against the property or improvements of the Project, nor have priority over any claim of Contractor for moneys advanced for the costs or damages incurred or to be incurred for breach of this Subcontract Agreement or other default of Subcontractor.

7.3 Upon execution of this Subcontract Agreement, and in any event prior to any payment becoming due to Subcontractor hereunder, Subcontractor shall deliver to Contractor a written list including the full name, correct address, Construction Contractor's Board Registration number, work or material description and price thereof, of any subcontractor or supplier for any portion of the Work, at any tier, and shall notify Contractor promptly of any revisions thereto.

ARTICLE 8. Payment and Performance Bond

Unless otherwise stated in this Subcontract, Subcontractor shall, at its sole expense and prior to the time for commencing performance of the Work, post unto Contractor a bond in a penal sum of the full amount of the Price, in form satisfactory to Contractor and in a good and sufficient surety, assuring Subcontractor's performance of all obligations under this Subcontract Agreement and assuring Subcontractor's payment of all due bills for labor, materials and equipment.

ARTICLE 9. Safety, Rules, and Utilities

9.1 Contractor will provide, at its own expense, temporary lighting, temporary heat and water to such extent as Contractor may deem reasonable, and a 110-120 volt power source, at the site of the Project. Subcontractors will provide, at its own expense, all additional work and safety lighting, power sources, utilities, dump boxes and other facilities necessary for the clean, safe and proper performance of the Work.

9.2 Subcontractor shall perform the Work in a safe and workmanlike manner, and shall at all times keep the site of the Work and the Project in a safe and orderly condition, and free of waste and debris. Subcontractor acknowledges that it has received and reviewed Contractor's Safety Plan, and will at all times strictly conform and comply therewith, and that all of the requirements thereof are included within the Price. If any portion of the Work is subcontracted by Subcontractor, Subcontractor shall arrange for its



sub-subcontractor to be bound by the terms and provisions hereof to the same extent that Subcontractor is bound to Contractor.

9.3 Without limitation, Subcontractor specifically agrees fully to comply with all provisions, regulations and requirements of any federal, state or local statute or regulation concerning occupational safety and health, and with any rules and regulations promulgated pursuant thereto. Subcontractor agrees to indemnify and hold Contractor harmless from any and all liability, fines, accelerated fines, costs, expenses or damages, including attorney's fees, incurred by Contractor arising out of any failure or allegation of failure of Subcontractor so to do. Subcontractor shall provide all necessary and required safety equipment to assure the safety of its own workers, unless otherwise provided by Contractor. Failure to provide proper safety equipment constitutes a breach of this Subcontract Agreement and is cause for Contractor to stop the Work. Contractor shall not be responsible to Subcontractor for any costs of delay if the Work is stopped for failure of Subcontractor to provide proper safety equipment.

9.4 To the extent required or appropriate, Subcontractor shall provide, erect and maintain such warning signs, signals, lights, barricades, fences, shoring, cribbing and other devices on or about the Work or the Project as may be necessary for the protection of the Work or the safety of workers or the public. Subcontractor shall comply with all directives and directions of the Owner and its representatives in regard thereto, and with all requirements of the Contract and the Contract Documents. Subcontractor shall, if necessary or appropriate to the Work, provide all labor, equipment, materials and supplies necessary for the control of traffic for the performance of the Work, without cost to Contractor.

9.5 Subcontractor shall, and shall cause all of its subcontractors at all tier to, familiarize themselves with and strictly comply with any and all rules and regulations of Owner or Contractor relating to the Project or the job site. Subcontractor shall report to Contractor immediately in writing any observed noncompliance with the same.

9.6 Subcontractor shall immediately report to Owner any accident or injury at the job site, and shall coordinate with Contractor to assure that claim is timely made upon Subcontractor's insurance policies that cover such accident or injury.

ARTICLE 10. Labor

10.1 Contractor and Subcontractor are equal opportunity employers. Subcontractor will comply with all federal, state and local laws and regulations concerning equal employment opportunity and non-discriminatory hiring policies. Subcontractors will comply with all requirements of the Contract and Contract Documents concerning affirmative action in hiring policies, subcontracting and procurement.

10.2 Subcontractor represents and warrants that it is familiar with all of the terms and conditions of the Contract and Contract Documents and of federal, state and local law or regulation concerning hours and wages, and Subcontractor agrees to adhere thereto. Subcontractor shall indemnify and hold Contractor harmless from any failure or alleged failure of Subcontractor to do so.



10.3 Subcontractor agrees that, should a two-gate entry systems be established by Contractor at the Project, all material, equipment and workers used on or in connection with the Work shall enter and exit only through the gate specified for Subcontractor's use. Subcontractor shall be responsible for any delay, expenses or damages arising out of noncompliance with this clause.

10.4 In the event of a labor dispute at the Project site, Subcontractor shall continue full performance of this Subcontract Agreement unless otherwise requested in writing by the Contractor. If the Subcontractor ceases to fully perform the Work on the Project by reason of a labor dispute within twenty-four (24) hours after receiving written notice from the Contractor, Subcontractor shall be in breach and the provisions of Article 12.1 shall apply.

ARTICLE 11. Patents

Subcontractor shall hold and save Contractor harmless from claim or liability of any nature or kind for or on account of the use of any patented or unpatented invention, article, appliance or process furnished or used in, or in connection with, the performance of the Work.

ARTICLE 12. Remedies; Termination

12.1 If Subcontractor shall fail timely to commence or to complete the Work, or shall fail to prosecute the Work continuously with sufficient workers or equipment to insure its timely completion, or shall fail to perform the Work according to the provisions of the Contract and Contract Documents, or shall fail timely to pay its employees, subcontractors and suppliers all sums due in a manner sufficient to prevent any claim or lien upon the Project or any payment bond, or shall become insolvent or the subject of a petition in bankruptcy or assignment for the benefit of creditors, or shall for any other cause or reason whatsoever fail to carry on the Work in an acceptable manner, or shall be in breach of any term or obligation of this Subcontract Agreement, then Contractor shall have all remedies available at law and equity for such default. Contractor may elect to give notice in writing of such default, specifying the same, and if Subcontractor, within a period of twenty-four (24) hours after such notice, shall not cure such default, then Contractor shall have full power and authority, without process of law, with or without notice to Subcontractor's surety, and without terminating or violating this Subcontract Agreement, to the Contractor may, by appropriate Modification, and without prejudice to any other remedy the Contractor may have, make good such deficiencies and/or take the performance of the Work out of the hands of Subcontractor and complete the Work with Contractor's own forces, or contract with other parties for its completion, or use such other measures as in Contractor's opinion are necessary for its completion, including the use of the equipment, plant, materials and other property of Subcontractor at the Project. Neither by making good deficiencies, taking over the Work nor by performance in accordance with the terms of this provision shall Contractor affect its right to recover damages from Subcontractor or from Subcontractor's surety for failure to complete or for delay in such completion. Should the expense incurred by Contractor, including but not limited to damages claims of Owner and Contractor, Contractor's cost of overhead and administration and a reasonable profit, be less than the Price that would have become payable



under this Subcontract Agreement if the Work had been completed by Subcontractor, then the Subcontractor shall be entitled to the difference, and should such expense exceed the Price, then Subcontractor and Subcontractor's surety shall be liable to and shall pay Contractor for the amount of such excess immediately upon demand. Upon the taking over of the Work by Contractor as herein provided, no further payment will be made to the subcontractor until the work is completed, and any moneys due or that may become due Subcontractor under this Subcontract Agreement will be withheld and may be applied by Contractor to payments for labor, materials, supplies and equipment used in the performance of the Work, and/or for the payment of rental charges on equipment used therein, or to the payment of any excess cost to Contractor of completing the Work. The election by Contractor to make good deficiencies or take over the Work shall be wholly at Contractor's option and shall be in addition to any and all other remedies of Contractor at law or in equity, and Contractor does reserve unto itself all other remedies of Contractor at law or in equity upon default or breach of this Subcontract Agreement. In the event it is determined that Contractor's election to take over the Work was without proper cause, such election shall be deemed a termination in accordance with Article 12.2 below, and in no event shall Subcontractor have any claim or right, in law or in equity, under contract, in quantum meruit, quantum valebant, quasi contract or tort.

12.2 Contractor reserves the right, in its sole and exclusive discretion, with or without cause, to terminate this Subcontract Agreement, as to all or any part of the Work, for Contractor's convenience at any time prior to completion of the Work, by written notice effective upon Subcontractor's receipt of notice or such later time as such notice may provide. In such event, Subcontractor shall cease performance of the Work at the time provided but shall continue to completion any portion of the Work so indicated in Contractor's notice, shall secure and protect any portion of the Work then performed and all materials and equipment theretofore furnished, and shall promptly notify all its subcontractors and suppliers to the same effect. Subcontractor, for itself and for all of its subcontractors and suppliers, shall thereafter present to Contractor a termination inventory in writing describing the nature, quantity, cost and location of all materials and equipment theretofore furnished or ordered for the Work, and shall, at the Contractor's option, assign to Contractor such subcontracts and purchase orders as Contractor may direct. Subcontractor shall take such actions as Contractor may direct or as may be reasonable to terminate, cancel, assign, assemble, return, sell or otherwise account for the termination inventory, and shall thereafter account to Contractor for all costs of labor, materials, equipment and overhead incurred by Subcontractor pursuant to this Subcontract Agreement, and all credits realized upon termination. Such accounting shall be supported by such documentation, and shall be subject to such verification, as Contractor shall reasonably require. If termination was not due to breach or default of Subcontractor, Contractor shall thereupon at completion of the Work pay to Subcontractor the amount of Subcontractor's net costs incurred and documented to Contractor's satisfaction together with an allowance of five percent (5%) as general overhead and profit, but in no event more than the lesser of (i) the Price or (ii) the amount actually received from Owner for such Work, minus such amount as Subcontractor may have previously received as partial payment upon the Price.



ARTICLE 13. Miscellaneous

13.1 This Subcontract Agreement shall bind the successors, assigns and personal representatives of the parties hereto.

13.2 If any provisions of this Subcontract Agreement shall be determined to be invalid or unenforceable or otherwise inoperative, such provision shall continue in effect to the extent permitted, and all remaining provision of this Subcontract Agreement shall remain in full force and effect.

13.3 A waiver by either party of any breach or violation of the other shall not constitute a waiver of any further or additional breach of any kind.

13.4 Captions in this Subcontract Agreement are for convenience only and shall not limit the terms and provisions hereof. Subcontractor may be a corporation or other entity, or one or more natural persons of either gender, and all pronouns and other grammatical changes in the terms and provisions of this Subcontract Agreement shall be made and assumed.

13.5 In case of any conflict between these General Conditions and the provision of the Contract Documents, these General Conditions shall apply.

13.6 Notices shall be given to either party at the address herein set forth or at such other address as a party may designate by written notice to the other party, or by facsimile transmission. Notices shall be deemed given when actually delivered to such address, except that notices sent by United States certified mail, correctly addressed and postage prepaid, shall be deemed given when deposited, and notices given by facsimile shall be deemed given when the transmission is completed.

13.7 If the Contract includes a prevailing-party attorney fee provision, such provision shall apply as to any dispute between Contractor and Subcontractor. In the event Owner is entitled to recovery of attorney fees from Contractor in any proceeding arising from a dispute regarding the Work, Contractor shall be entitled to recovery from Subcontractor of such attorney fees, together with Contractor's attorney fees, incurred in connection with such proceeding. Except as provided above, or as otherwise provided at law, each party shall bear its own attorney fees in any proceeding arising under this Subcontract.



IN WITNESS WHEREOF, the parties have executed this Subcontract Agreement the date and year first above written, and have warranted their authority to do so.

Griffin Construction LLC
Contractor

Signature: _____

By: Samuel L Griffin Or Sharalee A Griffin

Title: Member

Address: 1411 NW Murphy Court
Prineville, OR 97754

Telephone: (541) 447-7237

Facsimile: (541) 447-2244

Oregon CCB #140758

[SUBCONTRACTOR]
Subcontractor

Signature: _____

By: _____

Title: _____

Address: _____

Telephone: _____

Facsimile: _____

State work performed in: _____

State License #: _____

Federal ID #: _____

Individual
Corporation
Partnership