COUNCIL AGENDA: 4-24-07
ITEM: 8.1

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Katy Allen

SUBJECT: SEE BELOW

DATE: 03-27-07

Approved

Date 3/27/07

COUNCIL DISTRICTS: 3 & 4

SUBJECT: NEW FIRE STATION NO. 34 - HEARING ON REQUEST FOR SUBSTITUTION OF SUBCONTRACTOR

RECOMMENDATION

Approval of the request of Gonsalves & Stronck Construction Company (G&S), the general contractor on the new Fire Station No. 34 project, to substitute Westmark Products, Inc. for California Woodworking (CW), the subcontractor listed by G&S to perform the custom cabinet work.

OUTCOME

Approval of the substitution of the listed subcontractor.

EXECUTIVE SUMMARY

G&S has requested the City's approval to substitute Westmark Products, Inc. for CW. G&S bases its request on the assertion that CW failed and/or refused to sign a subcontract after being given a reasonable opportunity to do so. CW is objecting to the request for substitution, resulting in the need for the City Council to conduct a hearing on whether to approve the request for substitution.

G&S sent CW a subcontract, which CW returned to G&S with a number of modifications. The modifications fall into the following three categories: (1) immaterial modifications, (2) material modifications needed to make the subcontract consistent with CW's subcontract bid proposal, and (3) material modifications that go beyond the changes needed to make the subcontract consistent with CW's subcontractor bid proposal. The first two categories of changes do ***not*** provide a basis for the City to approve G&S's substitution request. However, the third category of changes does provide a basis to approve G&S's substitution request. This third category of changes reflects provisions of the subcontract upon which the parties do not agree. Thus, this third category of modifications represents a failure by CW to sign the subcontract provided by

G&S and provides the basis of the recommendation of Public Works to approve the request for substitution.

BACKGROUND

On June 27, 2006, the City awarded a $5,093,500 contract to G&S to construct Fire Station No. 34. Fire Station No. 34 will be a new fire station located in the Berryessa area at 1034 Las Plumas Avenue.

G&S is requesting consent from the City to substitute Westmark Products, Inc. for CW, the subcontractor listed by G&S in its bid to perform the custom cabinet work. CW has submitted written objections to the requested substitution. When this occurs, Section 2-1.15B.1. of the City of San José Standard Specifications requires the City to conduct a hearing on the matter. Section 14.04.520 of the San José Municipal Code requires that the City Council conduct the hearing.

In preparation for the required hearing, G&S and CW presented Public Works with full written explanations of their respective positions on the requested substitution. The recommendation of Public Works to approve the requested substitution is based upon careful consideration of these explanations, as well as other relevant correspondence between G&S, CW and the City. The relevant documents are included in an addendum.

ANALYSIS

A. Relevant Facts

The following are the facts relevant to making a determination on G&S's substitution request.

On June 6, 2006, CW submitted its proposal to G&S to perform cabinet work for the San José Fire Station No. 34 project. (Addendum, pp. 15, 17-18, 64.) The proposal included a proposed scope of work, the price of performing such work, and a number of terms and conditions upon which the proposal was based. CW indicates that it also submitted this same proposal to G&S – less the price of the work – the day before. (Addendum, p. 64.)

On June 6, 2006, G&S submitted its bid to the City. In that bid, G&S accepted the proposal of CW by listing CW as the subcontractor that would perform the cabinetry work on the project. (Addendum, p. 15.) G&S was the low bidder on the project, and the City awarded the construction contract to G&S on June 27, 2006.

On November 16, 2006, G&S sent CW a subcontract to sign. (Addendum, pp. 15, 19-44.) G&S states that the subcontract it sent to CW was its standard form subcontract. (Addendum, p. 68.) G&S made no attempt to conform the subcontract to the terms and conditions of CW's proposal.

CW made numerous modifications to the subcontract. (Addendum, pp. 16, 45-61.) CW signed the modified subcontract and returned it to G&S on or about November 26, 2006. (Addendum,

p. 4.) CW gave G&S until December 25, 2006 to consider the changes it made to the subcontract. (Addendum, pp. 4, 46.) CW provided that after December 25, 2006, its signature would be deemed withdrawn. CW states that before December 25, 2006, it provided G&S with a notice reminding G&S of the need to respond to the requested changes. (Addendum, p.4.)

At some point, G&S determined that the modifications made by CW to the subcontract were not acceptable. (Addendum, p. 16.) There is no evidence that G&S has ever contacted CW – either before or after December 25, 2006 - to discuss the modifications or to communicate that the modifications were not acceptable. (Addendum, pp. 4-8, 14, 16, 64-65.) Not having heard anything from G&S by December 25, 2006, CW notified G&S on January 9, 2007 by letter that its signature was withdrawn from the subcontract. (Addendum, pp. 4, 6.)

At sometime in early January, G&S contacted Westmark Products, Inc. regarding performing the custom cabinetry work for the Fire Station No. 34 project. (Addendum, pp. 4-5, 16.) G&S and Westmark Products, Inc. have already executed a subcontract agreement for the work. G&S has represented that the subcontract agreement is "on-hold in obeyance of pending consent by the City to our proposed subcontractor substitution request." (Addendum, p. 68.) G&S has also represented that Westmark Products, Inc. has executed the standard form subcontract without modification. (Addendum, p. 68.)

On January 17, 2007, G&S requested permission from the City, via certified letter, to substitute Westmark Products for CW. (Addendum, p. 2.) G&S based its request on the assertion that CW refused to execute the written contract presented to it by G&S. By letter dated January 24, 2007, CW stated that it did not consent to the substitution. (Addendum, p. 26.)

On February 9, 2007, the City notified G&S and CW in writing that there would need to be a hearing on this matter. (Addendum, pp. 12-13.) In that notice, the City requested G&S and CW to provide documents supporting their respective positions. G&S provided its documents on February 21, 2007, and CW provided its documents on March 6, 2007. (Addendum, pp. 15-62, 64-65.)

B. <u>Requirements For Approving Requests For Subcontractor Substitution</u>

Pursuant to Section 2-1.15B of the City of San José Standard Specifications, G&S is prohibited from substituting another subcontractor for CW unless the City first consents to such substitution for one of the reasons specified in that Section. Section 2-1.15.B is consistent with the State's Subcontractor Listing Laws. These requirements are intended to protect subcontractors from general contractors engaging in bid shopping.

G&S is basing its request for substitution on Section 2-1.15B1(a), which provides that the City "may" consent to the substitution of another subcontractor:

> When the subcontractor listed in the bid after having had a reasonable opportunity to do so fails or refuses to execute a written contract, when that written contract, based upon the general terms, conditions, plans and specifications for the project involved or the terms of the subcontractor's written bid, is presented to the subcontractor by the Contractor.

Thus, to consent to G&S's request for substitution, the City must find as follows: (1) that G&S presented CW with a written contract based upon the general terms, conditions, plans and specifications for the Fire Station No. 34 project or the terms of the subcontractor's written bid, and (2) that CW failed and/or refused to execute the written agreement after being given a reasonable opportunity to do so.

C. Reasons For Recommendation

For the following reasons, Public Works concludes that G&S has met the requirements for the City to consent to the requested substitution.

The changes made by CW to the standard form subcontract sent to them by G&S generally fall into three (3) categories. The first category of changes is those that were not material. An example of these kind of changes would be CW's deletion of the references in the insurance provisions to Longshoreman's & Harbor Workers' Act coverage and coverage for Jones Act exposure on any maritime exposure. (Addendum, p. 50.) These coverages simply have no relevance to the Fire Station No. 34 project. Because this category of changes is not material, it can not be used to support G&S's substitution request.

The second category of changes made by CW was those needed to make the subcontract consistent with the proposal submitted by CW. Many of the changes made by CW fall into this category given that G&S made no effort to modify its form subcontract to reflect the proposal submitted by CW. The following are examples of changes falling into this category:

1. CW deleted the provision requiring all work to be installed by Union Carpenters. (Addendum, p. 4.) CW stated in its proposal that it was "a non-union shop." (Addendum, p. 18.)

2. CW deleted many of the insurance coverage provisions. (Addendum, pp. 50-51.) CW stated in its proposal that General Liability and Automobile Liability Insurance would be in the form and language offered by its carrier and would be basic coverage only. (Addendum, p. 18.)

3. CW deleted the requirement to provide a waiver of subrogation endorsement. (Addendum, p. 50.) CW stated in its proposal that it would not provide a waiver of subrogation. (Addendum, p. 18.)

4. CW deleted provisions providing for payment of materials "placed in position" and making G&S's payment to CW contingent upon first being paid by the City. (Addendum, p. 46.) CW stated in its proposal that it would be entitled to payment for work completed in its shop and that monthly progress payments "will not be denied for any reason." (Addendum, p. 18.)

5. CW attached its proposal to the subcontract. (Addendum, pp. 60-61.) CW stated in its proposal that the proposal needed to be attached to the subcontract and would take precedence over all other contract language. (Addendum, p. 18.)

G&S failed to comply with its obligation to provide CW with a subcontract that was consistent with CW's written bid proposal. This resulted in CW having to make a number of changes to the standard form subcontract. Because G&S was required to provide CW with a written subcontract consistent with CW's written bid proposal, this second category of changes also can not be used to support G&S's substitution request.

The third and final category of changes made by CW are those that were material and go beyond the changes needed to make the subcontract consistent with CW's bid proposal. This category involves changes to provisions that were never discussed by the parties before CW's proposal was accepted. Examples of changes in this category are as follows:

1. CW deleted the requirement that product submittals, coordination and shop drawings are due within 10 days of the receipt of the contract and replaced it with its own provision. (Addendum, pp. 46.)

2. CW made a number of material deletions to the indemnity provision. (Addendum, p. 47.)

3. CW deleted a provision requiring it to work overtime if needed to complete the work in compliance with the contract documents and added significant new terms and conditions related to "time." (Addendum, pp. 47, 58.)

4. CW deleted all requirements that it obtain a Labor and Material Bond and a Faithful Performance Bond. (Addendum, pp. 47, 52.)

5. CW made a number of material deletions to the provision setting forth what recourse G&S would have in the event that CW breached the subcontract. (Addendum, p. 48.)

6. CW deleted in its entirety the provision setting forth various terms and conditions relating to the parties' rights and responsibilities with regard to terminating the subcontract. (Addendum, p. 48.)

This third category of changes made by CW involves areas in which the parties are free to differ. G&S was within its right not to accept this category of changes proposed by CW. Thus, ***based solely upon this third category of changes***, Public Works concludes that CW failed or refused to execute a written contract that was presented to it by G&S and recommends approving the request for substitution on this limited basis.

Despite this recommendation, Public Works has some concerns about the way that G&S has handled this matter. Public Works is concerned that G&S did not make any attempt to modify its form subcontract agreement before sending it to CW. Public Works also is concerned that G&S never communicated with CW regarding the modifications proposed by CW. There is no evidence that G&S ever made an attempt to resolve the differences between the parties. While this is not required, professional courtesy would have dictated that G&S at least pick up the phone and call CW. More importantly, from the City's perspective, this matter might have been avoided or at least resolved more quickly, had G&S provided CW with a subcontract that was consistent with CW's proposal and/or communicated with CW. Nevertheless, Public Works staff concludes that G&S has met the technical requirements for the City to approve the request for substitution.

In making this recommendation, staff does not anticipate any additional costs to the project. Per the standard and special provisions of the contract, any delays to the construction resulting from the substitution request are incumbent on G&S to address and correct. Therefore, no cost impact or budget reference is included in this report.

POLICY ALTERNATIVES

Alternative # 1*:** Section 2-1.15B.1 of the City of San José Standard Specifications does not require the City to consent to the substitution if one of the grounds for granting substitution exists. It provides that the City "may" consent to the substitution in such situations. Accordingly, the City Council could decide ***not to give its consent to the requested substitution if it believes that G&S should negotiate with CW.
Pros: This alternative maximizes the protections afforded to the subcontractor CW.
Cons: Potential negative impact to the project – particularly the project construction schedule - while the contractor is forced to attempt to negotiate and execute a subcontract agreement with CW. If the parties are still not able to reach an agreement, G&S would end up having to make a second request to the City to consent to the substitution of CW.
Reason for not recommending: Potential negative impacts on the project, particularly the project schedule.

PUBLIC OUTREACH/INTEREST

☐ **Criteria 1**: Requires Council action on the use of public funds equal to $1 million or greater. **(Required: Website Posting)**

- ☐ **Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This item does not meet any of the criteria.

This approval memo will be posted on the City's website for the April 10, 2007 Council agenda.

COORDINATION

This project and memorandum have been coordinated with the City Attorney's Office.

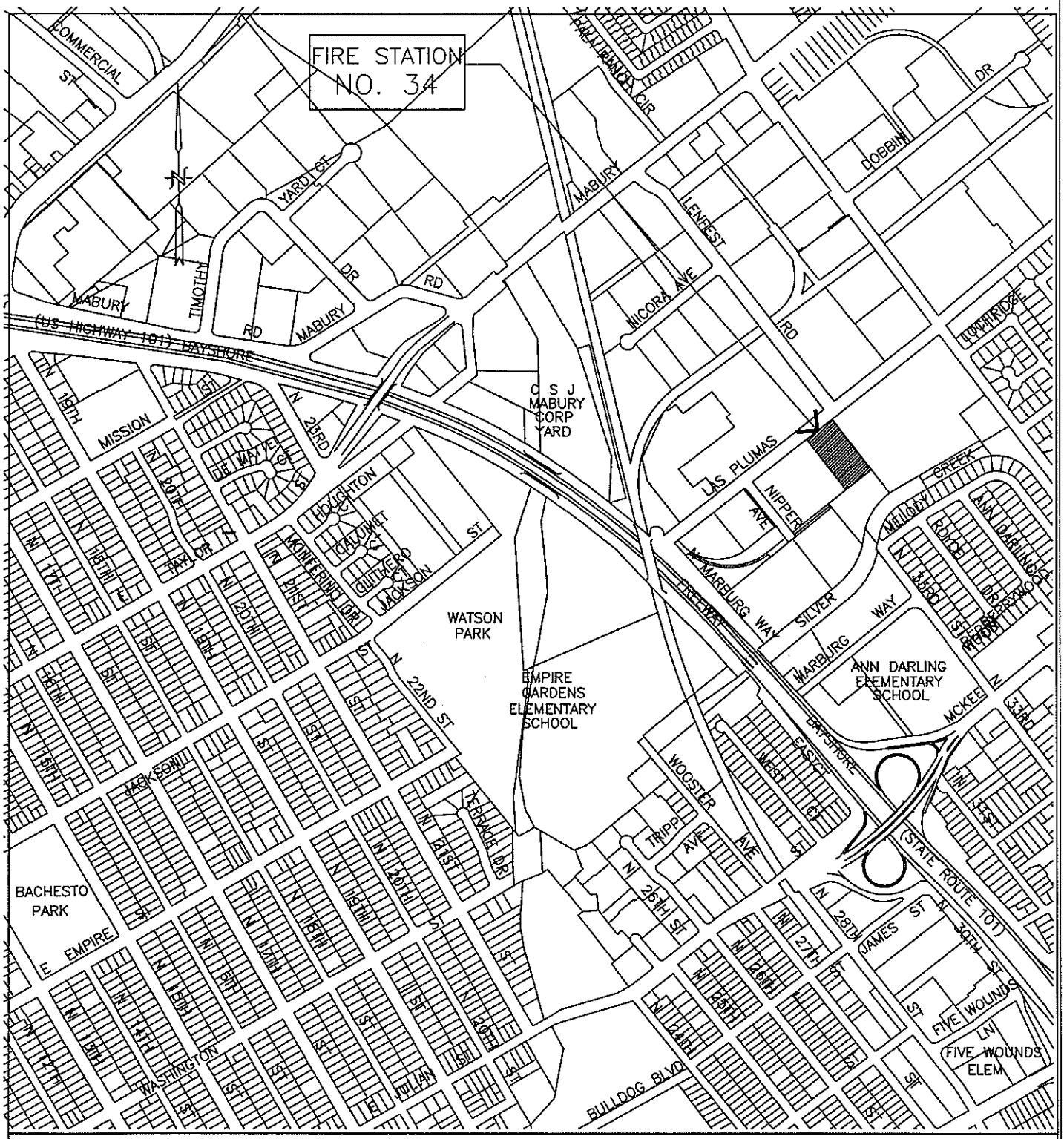
CEQA

CEQA: Mitigated Negative Declaration, File No. PP05-104.

Katy Allen
KATY ALLEN
Director, Public Works Department

For questions please contact DAVID SYKES, ASSISTANT DIRECTOR, at (408) 535-8300.

attachment
KJ:dp:df
New FS#34 Substitution of Subcontractor



FIRE STATION NO. 34
LOCATION MAP

N.T.S.

Council Agenda:
Item No.:

ADDENDUM
TO
MEMORANDUM REGARDING
NEW FIRE STATION NO. 34 –

HEARING ON REQUEST FOR
SUBSTITUTION OF SUBCONTRACTOR

CALIFORNIA WOODWORKING
FIRE STATION NO. 34

NO.	DATE	SENDER	RECIPIENT	DESCRIPTION
SJ001	01/09/07	R. GORMAN	D. FLAUDING	E-MAIL RE FIRE STATION NO. 34
SJ002-003	01/17/07	K. GENDOTTI	D. FLAUDING	LETTER RE CUSTOM CABINET SUBCONTRACTOR SUBSTITUTION
SJ004-005	01/19/07	R. GORMAN	D. FLAUDING	LETTER RE SUBSTITUTION OF LISTED SUBCONTRACTOR
SJ006	01/22/07	R. GORMAN	K. GENDOTTI	LETTER RE SUBCONTRACT AGREEMENT-CONFIRMATION OF SIGNATURE WITHDRAWAL
SJ007	01/22/07	R. GORMAN	K. GENDOTTI	LETTER RE SUBCONTRACT AGREEMENT
SJ008	01/22/07	R. GORMAN	K. GENDOTTI	LETTER RE SUBSTITUTION OF LISTED SUBCONTRACTOR
SJ009	01/22/07	K. JENSEN	CALIFORNIA WOODWORKING	LETTER RE FIRE STATION NO. 34
SJ010	01/26/07	R. GORMAN	D. FLAUDING	LETTER RE FIRE STATION NO. 34
SJ011	02/05/07	R. GORMAN	D. FLAUDING	LETTER RE FIRE STATION NO. 34
SJ012-013	02/09/07	D. PRINTY	GONSALVES & STRONCK CONSTRUCTION COMPANY, INC. and CALIFORNIA WOODWORKING	LETTER RE NOTICE OF HEARING ON CONTRACTOR'S REQUEST FOR SUBCONTRACTOR SUBSTITUTION
SJ014	02/12/07	R. GORMAN	D. PRINTY	LETTER RE G&S REQUEST FOR SUBCONTRACTOR SUBSTITUTION-LETTER OF 2/9/07 (MR. DAVID PRINTY)—CWW RESPONSE
SJ015-063	02/21/07	K. GENDOTTI	D. FLAUDING	LETTER RE CUSTOM CABINET SUBCONTRACTOR SUBSTITUTION, WITH

NO.	DATE	SENDER	RECIPIENT	DESCRIPTION
				EXHIBITS, WHICH INCLUDE THE SCOPE LETTER, THE SUBCONTRACT AGREEMENT, AND THE BID PROPOSAL
SJ064-067	03/06/07	R. GORMAN	D. FLAUDING	LETTER RE SUBCONTRACTOR SUBSTITUTION REQUEST BY GONSALVES & STRONK WITH LETTER DATED 2/21/07 FROM K. GENDOTTI TO D. FLAUDING ATTACHED
SJ068-069	03/07/07	D. FLAUDING	K. GENDOTTI; R. GORMAN	E-MAIL CHAIN RE FIRE STATION No. 34

Flauding, Deedee

From: Raymond Gorman [califwood@sbcglobal.net]
Sent: Tuesday, January 09, 2007 4:32 PM
To: Deedee Flauding
Subject: San Jose Fire Station No. 34- Listed Subcontractor
Attachments: 4127768955-12-14-06 Subcontract Agreement Follow Up.doc; 1487616918-1-09-07 Confirmation of Signature Withdrawal.doc

Dear Ms. Flauding-

CaliforniaWoodworking is a Listed Subcotractor on the Fire Station No. 34 project: Gonsalves and Stronk, Inc. / General Contractor.

To date, I have not executed a Subcontract Agreement with Gonsalves and Stronk for work on this project.

I respectfully offer the attached letters to G&S for your consideration. I am not requesting any action by the City at this time. It is my hope that G&S contacts me in the near future to execute an agreement.

However, should you have time to offer feedback regarding the letters attached, you can reach me at:

Raymond Gorman proprietor
California Woodworking
4550 E. Pine Ave. Fresno, Ca. 93703
ph: (559) 252-5568
fax: (559) 252-5579
e-mail: califwood@sbcglobal.net

Thank You,
Ray Gorman

SJ001

GONSALVES & STRONCK
Construction Company, Inc.

January 17, 2007

City of San Jose – Director of Public Works
Attn: Deedee Flauding
200 East Santa Clara Street, Sixth Floor
San Jose, Calif. 95113-1905

Re: San Jose Fire Station 34 – Custom Cabinet Subcontractor Substitution

Dear Ms. Flauding,

Please be advised that we sent a subcontract agreement to our intended/listed custom cabinet subcontractor; California Woodworking, for the Fire Station 34 Project.

California Casework made numerous and extensive modifications to that agreement, that are inconsistent with our project contracts, and included conditions that we could not accept. California Woodworking has since completely withdrawn their proposal, and deemed it null and void.

Accordingly, we have been unsuccessful in reaching an agreement with California Woodworking for this project.

We hereby respectfully request that the City of San Jose accept this proposed listing substitution from California Woodworking to Westmark Products, Inc., without prejudice to all parties involved.

Sincerely,

Ken Gendotti
Project Manager

Cc: California Woodworking
Westmark Products, Inc.
File

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www.gs-construction.com

SJ003

GONSALVES & STR
Construction Company

1000 Washington Street
San Carlos, CA 94070-531

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City of San Jose – Director of Public Works
Attn: Deedee Flauding
200 East Santa Clara St, Sixth Floor
San Jose, CA 95113-1905

95113\$1905 C056

1/19/2007

California Woodworking

4550 E. PINE AVE. FRESNO, CA. 93703 ph: (559) 252-5568 fax: (559) 252-5579
LICENSE NO. 646408 W.I.C. MEMBER SINCE 1997

To: City of San Jose, Ca. Dept. of Public Works
Attn: Ms. Dedee Flauding Project Manager
Project: City of San Jose Fire Station No. 34
General Contractor: Gonsalves and Stronk Const. Co., Inc.
Subject: Substitution of Listed Subcontractor

Dear Ms. Flauding:

California Woodworking (CWW) is a Listed Subcontractor with Gonsalves and Stronk Const. Co (G&S) for work on the City of San Jose Fire Station No. 4 project. This letter is to submitted to you as a follow up to our telephone conversation on or about Tuesday January 16, 2007 regarding a possible violation by G&S of Section 2-1.15B: Substitution of Subcontractors- as written in the San Jose Standard Specifications (July 1992).

Please see our attached Scope Letter of 6/6/2006 (project bid date) submitted to G&S. Please note that I also submitted this scope letter to G&S (without pricing) on 6/5/06 for their consideration.

On or about Nov. 16, 2006, G&S provided a Subcontract Agreement to California Woodworking wherein no consideration was given to any of the terms or conditions offered to G&S in our written scope letter (proposal) of 6/6/06. Subsequently, I modified the agreement accordingly, created an attached Addendum to the Agreement, and returned the signed agreement to G&S on or about 11/26/06. It should be noted that I included a signature withdrawal stipulation in the modified agreement giving G&S 30 calendar days to consider our changes and communicate to us. This was done as a substantial amount of time had lapsed since the project start prior to our receipt of an agreement, and as their original agreement did not address any of our bid day terms, I determined it to be necessary to accelerate our negotiations and resolve of the agreement process.

At no time during this process, has California Woodworking withdrawn from or requested from G&S our withdrawal from our position as a Listed Subcontractor on the project. In fact, I sent a mid-term letter to G&S reminding of them of the signature withdrawal stipulation to the modified agreement, and communicated to them that we did not relinquish our rights. You have a copy of this letter / provided by me.

G&S did not respond within the stipulated 30 day period, nor did they call or fax me to discuss the modified agreement. On 1/09/07 I faxed and mailed them a letter to withdraw my signature from that agreement. You have a copy of this letter / provided by me. It also should be noted that G&S has not contacted me since that date to discuss or resolve the agreement.

Our work on this project carries a specification to be certified by the Woodwork Institute (W.I.). As an Active Member Licensee, I contacted W.I. during the week of 1/12/07 to see if any other firms had requested

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1/19/07 SJ004

certification documents for the project. On or about 1/15/06, W.I. called me to inform me that Westmark Products of Tacoma, Wa. has requested labels and certification documents for Fire Station No. 34. After further discussion with W.I., they indicated they had been told by Westmark Products (Cabinet and Millwork Mfg. / W.I. Licensee) that Westmark has contracted with G&S for our scope of work on this project. I then called Westmark (Walt- Project Manager) and they confirmed that Westmark has contracted with G&S for this project.

I have also called RRM Design Group (Mr. Jim Duffy) to see if shop drawings have been submitted for their review, and communicate my concerns regarding actions by G&S.

From the information provided to me, I believe that G&S has circumvented and violated the San Jose Specifications regarding the Substitution of Subcontractors and violated my rights under the Subcontracting and Subletting provisions of the Calif. Public Contract Code. Therefore, I respectfully request immediate inquiries by the City from those persons who oversee and direct compliance with the San Jose Standards. Further, and until this concern is resolved, I respectfully request that you contact RRM (Mr. Jim Duffy) and direct them to reject any shop drawings or submittals offered to them by G&S unless they are accompanied by my signature.

Finally, should any inquiries by yourself or your staff show that information provided to me and given to you is incorrect, please contact me immediately so that all information is corrected and G&S is afforded all proper consideration relating to the current situation.

Thank You,
Ray Gorman Proprietor
California Woodworking

1/19/07

1/22/2007

California Woodworking

4550 E. PINE AVE. FRESNO, CA. 93703 ph: (559) 252-5568 fax: (559) 252-5579
LICENSE NO. 646408 W.I.C. MEMBER SINCE 1997

To: Gonsalves and Stronk Construction Co., Inc.
Attn: Mr. Ken Gendotti
Project: San Jose Fire Station No. 34
Subject: Subcontract Agreement- Confirmation of Signature Withdrawal

Dear Mr. Gendotti:

On or about 11/25/06, I submitted a signed Subcontract Agreement for your review and execution. Within that agreement, I stipulated in writing that in the event a fully executed agreement is not received by California Woodworking by 12/25/06 the signature offered by me and the entire agreement would be null and void.

To date, your firm has not responded to us regarding the signed agreement. There has been a considerable lapse of time since the start of the project and since our submittal of a signed agreement, and further considerations must now be made relative to our contractual commitment offered to you in that signed agreement. Therefore, this letter is to confirm to you that my signature on that agreement has been completely withdrawn, that the agreement is null, void and of no legal effect, and that California Woodworking does not hold or have any agreement with your firm for the above named project.

To be clear, we do not relinquish or withdraw from our position as a Listed Subcontractor for the project. It is my position that we have the legal right to provide services to your firm on this project under the Inclusions, Exclusions, Terms and Conditions set forth in our Scope Letter to your firm prior to Bid Day, and on Bid Day and accepted and Listed by your company. It is also my hope that you choose to contact me in the near future to execute and agreement so that we can move forward in the project.

Thank You,
Ray Gorman / California Woodworking

SJ006

1/22/2007

California Woodworking

4550 E. PINE AVE. FRESNO, CA. 93703 ph: (559) 252-5568 fax: (559) 252-5579
LICENSE NO. 646408 W.I.C. MEMBER SINCE 1997

To: Gonsalves and Stronk Construction Co., Inc.
Attn: Mr. Ken Gendotti
Project: San Jose Fire Station No. 34
Subject: Subcontract Agreement

Dear Mr. Gendotti:

On or about 11/25/06, California Woodworking returned a signed subcontract agreement to your firm for the San Jose #34 project. Please know that we are prepared to begin our submittal work on this project upon receipt of the fully executed agreement. We are looking forward to a successful project with Gonsalves and Stronk, and it is my hope that we can move forward on our work as soon as possible.

I have not heard from your firm regarding the subcontract agreement. If you have not had time to look at the agreement, please know that there is a signature stipulation included by me on Page 2, wherein my signature becomes null and void if California Woodworking does not receive a fully executed agreement before 5:00 p.m. on 12/25/06. To be clear, should I withdraw my signature due to non-receipt of an executed agreement, that action does not communicate our desire to decline, withdraw from or relinquish our position as a listed subcontractor for the project.

Thank You,
Ray Gorman / California Woodworking

SJ007

1/22/2007

California Woodworking

4550 E. PINE AVE. FRESNO, CA. 93703 ph: (559) 252-5568 fax: (559) 252-5579
LICENSE NO. 646408 W.I.C. MEMBER SINCE 1997

To: Gonsalves and Stronk Const. Co., Inc.
Attn: Mr. Ken Gendotti
Project: City of San Jose Fire Station No. 34
Subject: Substitution of Listed Subcontractor

Dear Mr. Gendotti:

California Woodworking is a Listed Subcontractor with Gonsalves and Stronk Const. Co for work on the City of San Jose Fire Station No. 34 project. You have not responded to the modified subcontract agreement for work on this project, have not responded to my letters of 12/15/06 and 1/09/07 and according to information given to me by the Woodwork Institute and Westmark Products, you have contracted with Westmark Products to provide the services that we have been listed for.

This information given to me and subsequent research indicates that you have clearly violated Section 2 –1.15B: Substitution of Subcontractors / of the City of San Jose Dept. of Public Works Standard Specifications (1992) by contracting with another firm that is not listed by you for this project and not affording California Woodworking due process in this action. I respectfully recommend that you research this specification as the penalties to the Contractor for this action are quite severe, and all information given to me indicates you are liable for the assessment these penalties.

I have been in contact with Ms. Dedee Flauding with the City of San Jose Public Works to express my concerns with this matter, and she has indicated that the compliance staff with The City will contact you to get complete information.

It is my hope that you choose to contact me today to discuss and resolve this matter, as I will submit my official complaint to The City at 4:30 p.m. today if you do not contact me. After that time and should the information provided to me be correct and should it be necessary for me to follow this course, I will make every effort to see that your firm is held accountable for any violations of the rights of California Woodworking as the Listed Subcontractor for this project.

Thank You,
Ray Gorman / California Woodworking

Ph: (559) 252-5568
Fax: (559) 252-5579
e-mail: califwood@sbcglobal.net

SJ008

CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY

Department of Public Works
CITY FACILITIES ARCHITECTURAL SERVICES DIVISION

January 22, 2007

CERTIFIED MAIL

California Woodworking
4550 East Pine Avenue
Fresno, CA 93703

Gentlemen:

SUBJECT: FIRE STATION NO. 34

Gonsalves & Stronck Construction Company, Inc., the general contractor for the subject project, has informed the City that California Woodworking, the listed subcontractor for the custom cabinet work, has refused to execute the written contract presented to it.

Gonsalves & Stronck Construction Company, Inc. has requested to substitute Westmark Products, Inc. for the custom cabinet work connected with the subject project. **If you wish to protest this request, please notify our office, in writing, within five (5) working days from the receipt of this notification.**

Please direct all correspondence to:

City of San Jose
City Facilities Architectural Services Division
200 East Santa Clara Street, 6th Floor
San Jose, CA 95113
ATTENTION: Deedee Flauding

Sincerely,

Katherine Jensen
Division Manager
City Facilities Architectural Services Division

KJ:df
CertMail1.doc

c: City Attorney
Equality Assurance
Gonsalves & Stronck Construction Company, Inc.

1/26/2007

California
Woodworking

4550 E. PINE AVE. FRESNO, CA. 93703 ph: (559) 252-5568 fax: (559) 252-5579
LICENSE NO. 646408 W.I.C. MEMBER SINCE 1997

To: City of San Jose
City Facilities Architectural Services Division
200 East Santa Clara Street 6th Floor
San Jose, Ca. 95113
Attn: Ms. Deedee Flauding
Subject: Fire Station No. 34

Dear Ms. Flauding:

Regarding the request by Gonsalves and Stronk Construction Co., Inc. to substitute Westmark Products, Inc. for the custom cabinet work at Fire Station No. 34-

I protest this request, and respectfully request the opportunity to defend against this request at the convenience of the City of San Jose.

Thank You,
Ray Gorman Proprietor
California Woodworking

SJ010

2/5/2007

California Woodworking

4550 E. PINE AVE. FRESNO, CA. 93703 ph: (559) 252-5568 fax: (559) 252-5579
LICENSE NO. 646408 W.I.C. MEMBER SINCE 1997

To: City of San Jose
CFASD
Attn: Ms. Deedee Flauding
Re: **Fire Station No. 34**

Dear Ms. Flauding:

I received a phone call from you on Friday 2/2/2007 in which you told me that I had responded to your letter regarding the G&S request within the 5 day period and we discussed the hearing process that will be set up in the near future. At that time, I presumed that you had received my response letter of 1/26/07.

However, on that same day I had received a letter (manila envelope) from the Postal Service that had my response letter to you inside that had become damaged during mailing. I didn't know about the damaged letter at that time because I did not open my Friday mail until Monday 2/5/07. Please see attached letter from the Postal Service saying that the damaged letter was found "outside the postal channels".

Actually, I mailed that letter myself by dropping it inside the mailbox at our U.S. Postal branch (Clinter Station / Fresno, Ca.) at 5:00 p.m. on 1/26/07. I do not see how it could be possible for the mail to be 'stolen' unless a postal employee dropped in on the ground while unloading the postal box.

Anyway, I have enclosed the response letter to you along with the letter from the Postal Service for your records.

Thank You,

Ray Gorman / California Woodworking

RECEIVED
FEB 13 2007 SJ011
DPW-CFAS

CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY

Department of Public Works
CITY FACILITIES ARCHITECTURAL SERVICES DIVISION

February 9, 2007

CERTIFIED MAIL

Gonsalves & Stronck Construction Company, Inc.
1000 Washington Street
San Carlos CA 94070

California Woodworking
4550 East Pine Avenue
Fresno, CA 93703

Gentlemen:

**SUBJECT: FIRE STATION NO. 34 –
NOTICE OF HEARING ON CONTRACTOR'S REQUEST FOR SUBCONTRACTOR SUBSTITUTION**

The purpose of this letter is to notify each of you that Public Works has tentatively set a hearing date of March 13, 2007 to consider the request of the general contractor, Gonsalves & Stronck Construction Company (G&S), to substitute Westmark Products, Inc. for California Woodworking, the listed subcontractor for the custom cabinet work connected with the above-referenced project. As required by the San Jose Municipal Code, this hearing will be conducted before the City Council.

On January 19, 2007, G&S requested permission from the City, via certified letter, to substitute Westmark Products for California Woodworking. G&S based its request on Section 2-1.15B.1.(a) of the City of San Jose Specifications, asserting that California Woodworking refused to execute the standard-form written contract presented to it by G&S. On January 24, 2007, the City received a letter from CW stating that it did not consent to be substitution and disputing G&S's stated reasons for requesting the substitution.

Section 2-1.15B of the City of San Jose Standard Specifications requires the City to conduct a hearing if a subcontractor objects to a general contractor's request for substitution. The issue at this hearing will be whether G&S has demonstrated both of the following:

1. That G&S presented CW with a written contract based upon the general terms, conditions, plans and specifications for the Fire Station No. 34 project as well as the terms of CW's written bid; and
2. That CW failed and/or refused to execute the written agreement after being given a reasonable opportunity to do so.

If G&S demonstrates both of the above, then the City Council would grant the request for substitution. If G&S can not demonstrate both of the above, then the City Council would deny the request for substitution.

In order to assist the City in resolving the above issues, Public Works requests each party to present the City with a full written explanation, along with all supporting documentation, of their position with regard to the above issue. Public Works would request that the written explanation, exclusive of supporting documents, be no longer than five (5) pages. The written explanation, along with supporting documents, should be submitted concurrently to the City and the other party by 5 PM on February 15, 2007.

If either party wishes to reply to the other party's written explanation, Public Works would request that it submit such written reply to the City and other party by 5 PM on February 22, 2007. The City would request that any such written reply not exceed two (2) pages.

Please direct all submissions to the City to:

City of San Jose
City Facilities Architectural Services Division
200 East Santa Clara Street, 6th Floor
San Jose, CA 95113
ATTENTION: Deedee Flauding

Nothing in this notice shall be construed to relieve the general contractor from meeting all of its obligations under the contract for the subject project, including those related to project schedule.

Sincerely,

David O. Printy
Senior Architect
City Facilities Architectural Services Division

DP:dp
Substitution Hearing Notice - Rev GS

c: City Attorney
Equality Assurance
California Woodworking

2/12/2007

California Woodworking

4550 E. PINE AVE. FRESNO, CA. 93703 ph: (559) 252-5568 fax: (559) 252-5579
LICENSE NO. 646408 W.I.C. MEMBER SINCE 1997

To: City of San Jose CFASD
Attn: Mr. David Printy
Project: **Fire Station No. 34**
Subject: G&S Request for Subcontractor Substitution-
Letter of 2/9/07 (Mr. David Printy) – CWW Response

Dear Mr. Printy-

G&S Construction has taken action against California Woodworking through its request to remove us a Subcontractor on this project. After returning the signed agreement to G&S on or about Nov. 26, 2006, I have received no contact from G&S regarding their position in this matter.

The only information we have in this matter is the letter from G&S to Ms. Deedee Flauding dated 1/17/2006, in which G&S has requested the substitution.

As Proprietor of California Woodworking, I will be called upon to respond against this action by G&S, and therefore respectfully request supporting documents from G&S that supports their request for this substitution.

Thank You,

Ray Gorman Proprietor
California Woodworking

SJ014

GONSALVES & STRONCK
Construction Company, Inc.

RECEIVED
MAR 2 2007
DPW-CFAS

February 21, 2007

City of San Jose
City Facilities Architectural Services Division
200 East Santa Clara Street, 6th Floor
San Jose, Calif. 95113
Attention: Deedee Flauding

Re: San Jose Fire Station 34 – Custom Cabinet Subcontractor Substitution

Dear Ms. Flauding,

We offer the following explanation, and attached documents in support of our request for substitution of Westmark Products, for the listed custom cabinet subcontractor; California Woodworking on the Fire Station 34 Project.

The Fire Station 34 Project bid on June 6, 2006. Gonsalves and Stronck was one of four general contractors who submitted bids to the City of San Jose for the project. Gonsalves and Stronck's base bid was the lowest of the four general contractor bids.

Prior to the bid date, Gonsalves and Stronck had not worked with, nor heard of California Woodworking. On bid day, Gonsalves and Stronck received California Woodworking's bid for specification section 06200 – Finish Carpentry and 06410- Custom Cabinets, and at 1:49pm via fax, California Woodworking confirmed their base bid amount of $106,420. (See Exhibit A – attached)

Gonsalves and Stronck received four other subcontractor's cabinet bids on bid day. California Woodworking's bid of $106,420 was the lowest. Gonsalves and Stronck relied on that bid and in turn listed California Woodworking as the intended custom cabinet subcontractor.

On November 16, 2006, Gonsalves and Stronck forwarded Subcontract Agreement / Subcontractor Code No. 06410 to California Woodworking based on California Woodworking's June 6th bid, and the general terms, conditions, plans and specifications for the Fire Station No. 34 Project. (See Exhibit B – attached)

1000 Washington Street, San Carlos, CA 94070-5319 • 650/802-2960 • FAX 650/802-2970 • Lic. 672769
www.gs-construction.com

Upon receipt of the subcontract agreement from Gonsalves and Stronck, California Woodworking made numerous modifications to the subcontract agreement body without prior notification, nor consent of Gonsalves & Stronck. In addition to those modifications, California Woodworking created, attached, and returned to Gonsalves and Stronck the modified subcontract agreement with altered terms, and an additional, four page addendum. California Woodworking did not execute the written agreement as presented to them by Gonsalves and Stronck.(See Exhibit C – attached)

Many of the terms added and/or modified by California Woodworking were new terms not addressed in the California Woodworking bid and are not consistent with the terms and conditions of Gonsalves and Stronck's contractual project plans and specifications obligations. (See General Subcontract Provisions; A) Insurance, B) Indemnity Provision, C) Bonding of Subcontractors, D) Time, G) Liens, H) Recourse by Contractor, I) Termination of Agreement, J) Labor Relations, M) Provision for Inspection, Q) Clean-up, Addendum A, Appendix B, and Appendix E, etc.)

Accordingly, Gonsalves and Stronck determined that the extensive, new modified terms and requirements intended to be imposed by California Woodworking were unacceptable. California Woodworking rendered the entire, modified proposed agreement cancelled, void, and "Non-Executed" in it's entirety, with no legal effect for both parties if not signed by Gonsalves and Stronck on all pages by December 25, 2006.

In turn, Gonsalves and Stronck, contacted Westmark Products; the second lowest casework bidder from bid day, to hold their bid day price of $117,874. (See Exhibit D – attached) Westmark has agreed to honor their price, and the general contract terms, conditions, plans and specifications provisions. Therefore, the additional direct cost to Gonsalves and Stronck for the substitution would be $11,454.

As previously noted, Gonsalves and Stronck respectively request that the City of San Jose accept this proposed listing substitution from California Woodworking to Westmark Products, without prejudice to all parties involved.

Sincerely,

Ken Gendotti
Project Manager

Cc: California Woodworking
Westmark Products
File

~~$106,420~~

106,420-

SCOPE LETTER

6/6/2006
Prepared By: Ray Gorman

California
Woodworking
4550 E. PINE AVE. FRESNO, CA. 93703 ph: (559) 252-5568 fax: (559) 252-5579
LICENSE NO. 646408 W.I.C. MEMBER SINCE 1997

PROJECT: **SAN JOSE FIRE STATION NO. 34**

LOCATION: 1034 Las Pumas Ave. San Jose, CA.
ARCHITECT: RRM DESIGN GROUP

ADDENDUM: **1, 2 and 3 ONLY.**

SECTION: **06200 – Finish Carpentry**
06410 – Custom Cabinets

INCLUSIONS:

- Cabinetry- WI Premium Grade:
  - Cabinet Locks furnished at Dorm Lockers ONLY
  - Toe Kicks (Sub-Base) to be 2 x 3/4" (1-1/2") Plywood ONLY
- Plastic Laminate Countertops- WI Custom Grade
- Dorm Lockers- WI Premium Grade:
  - Cabinet Locks furnished at Dorm Lockers ONLY
    - Locks to be National 8173 or Olympus 100 series
  - 4 x 4 Metal Doors Vents to be on One Side ONLY
  - Wall Cabinetry above lockers is "one-sided" / inside Dorm room ONLY
- 2 x 10 Birch Cap at Stair Pony Wall

- Furnished and Installed – Tax Included

Note: this project requires Woodwork Institute Certification. Certification Fees will be listed within our Schedule of Values and billed as a separate line item.

RG 6/6/2006

SJ017

EXHIBIT A ½

(CalifWood – 6-06-06 San Jose Fire Station No. 34 / con't)

EXCLUSIONS:

- Exterior Work
- Lumber Core @ Plywood (Composition Core or Veneer Core ONLY)
- PVC "T-Molding".
  - All Edge banding to be 3MM PVC / applied with Automatic Edge Bander
- Finish Carpentry other than Pony Wall Cap @ Stairs
- Solid Polymer / Solid Surface Fabrications or Installations
- Paint / Stain / Finishing
- Steel Brackets and Braces / Stainless Steel Products / Metal or Steel Countertops
  - Metal Cap Cover at Pony Wall / Stairs
  - Sagatsune BTK-480 Support Brackets- Unless Specifically Noted in Plans
- Rough Carpentry / Blocking / Backing
- Electrical / Plumbing – Rough / Finish

Six Rlo

BASE BID: $ 106,420.00 (One Hundred ~~Seven~~ Thousand Four Hundred Twenty) **Total Installed**

Deductive Alternate # 2- Platform Bed Casework: DEDUCT $17,400.00 Total Installed
Scope: Delete Platform Bed Casework (20 Units) per Det. 11/A9.7

California Woodworking is a non-union shop. This proposal specifically excludes payment of prevailing wages for any 'off-site' work. The General Contractor shall be responsible for providing and maintaining building temperature and humidity conditions as noted in specifications.

California Woodworking will provide Additional Insured Endorsements for General Liability and Automobile Liability Insurance in the form and language offered by our carrier and packaged with our basic coverage only. Additional coverage is extra. Primary Wording is extra. Waiver of Subrogation is not offered.

Invoices are submitted for completed work on a monthly basis, and will be submitted directly prior to the submittal date required by the General Contractor. The completed work may include shop fabrication, and monthly progress payments for substantially complete, proper and correct shop fabrication will not be denied for any reason. The Owner / Contractor is invited to our shop at any time to review and inspect the progress of our work.

All invoices are for completed work based upon a Schedule of Values for that project. Progress payments are Past Due if not received by California Woodworking within 35 calendar days of the date of the invoice. All Past Due invoices are subject to interest charges of 2% per month (24% per year) on past due amounts.

The above proposal and the above terms shall be attached to the Subcontract Agreement, shall become part of that agreement, and these terms will take precedence over all other contract language that may affect the implementation of the above terms.

END OF PROPOSAL

Rlo 6/6/2006

SJ018

EXHIBIT A 2/2

Copy

November 16, 2006

TO: California Woodworking

Attn: Ray Gorman

RE: San Jose Fire Station #34
Subcontract Agreement - G & S Job #236

Gentlemen:

Enclosed you will find the Subcontract Agreement package for the Fire Station #34, San Jose. Please execute both copies of the Agreement and return to Gonsalves & Stronck Construction Company at your earliest convenience. We have also included a checklist outlining the mandatory project requirements.

The Subcontract Agreement Package contains:

Five-page Subcontract Agreement
Addendum "A": Subcontractor Insurance Requirements
Appendix "B": General Inclusions & Provisions
Appendix "C": Contract Documents
Appendix "D": Subcontractor Information Sheet
Appendix "E": Subcontract Addendum for Public Works Projects

The following shall be named as additional insureds on your "Additional Insured Endorsement" (Form No. CG 20 10 11 85):

General Contractor:	Gonsalves & Stronck Construction Company, Inc. 1000 Washington Street San Carlos, CA 94070
Owner:	City of San Jose, Dept of Public Works 200 E. Santa Clara St., 6th Floor San Jose, CA 95113
Architect:	RRM Design Group 3765 So. Higuera St., Ste. 102 San Luis Obispo, CA 93401

Also note limits of insurance: It is agreed that Endorsement No. CG2503 Amendment - Aggregate Limits of Insurance (Per Project) is added for this Project.

Your cooperation in completing the Subcontract Agreement Package in a timely manner is imperative to maintaining the demanding construction schedule. We look forward to working with you on this exciting and challenging project.

Sincerely,

GONSALVES & STRONCK CONSTRUCTION COMPANY, INC.

Kenneth Gendotti,
Proj. Mgr.
Encl

EXHIBIT B

SJ019

CHECKLIST

ALL ITEMS BELOW ARE REQUIRED TO BE COMPLETED & RETURNED WITHIN 10 DAYS OF RECEIPT OF CONTRACT

CONTRACT REQUIREMENTS:

- ☐ 5 Page SUBCONTRACT AGREEMENT: **both copies signed and all pages initialed**
- ☐ Appendix "D"
- ☐ Appendix "E" **all pages initialed**
- ☐ W-9 Form
- ☐ Photo Copy of Pocket License

INSURANCE REQUIREMENTS:

- ☐ Certificate of Insurances

  G&S Construction covering GL, including Form 2010 11/85 and Endorsement CG2503 Amendment , Auto, Workers Compensation with Waiver of Subrogation Endorsement attached.

SAFETY REQUIREMENTS:

- ☐ MSDS Request (with MSDS sheets if applicable)
- ☐ IIPP Request (with Program if applicable)

PROJECT REQUIREMENTS:

- ☐ SHOP DRAWINGS: Submit eight (9) opaque reproductions of any and all submittals.
- ☐ PRODUCT DATA: Submit at least eight (9) copies. This allows at least one (1) to be returned to you. If you require more - submit extra copies.
- ☐ SAMPLES: Submit two (2) unless otherwise stated in your specific section.

attached

~~***PREVIOUSLY SENT UNDER SPERATE COVER***~~

CERTIFIED PAYROLL REQUIREMENTS: PLEASE USE CITY OF SAN JOSE FORMS

- ☐ DAS 140 Form (Public Works Contract Award Information)
  - Original to be sent to your specific trade committee (instructions attached)
  - cc: G&S Construction Co.
- ☐ Fringe Benefit Statement (Form PW 26)
- ☐ ***Please submit your certified payrolls (2) TWO Copies to G&S WEEKLY***

(Blank forms are attached for your use).

SUBCONTRACT AGREEMENT

Subcontract Code No. 06410
G&S Project No. 236-7

THIS AGREEMENT, made and entered into at **SAN CARLOS**, California, this 15th day of November 2006, by and between **GONSALVES & STRONCK CONSTRUCTION COMPANY, INC.**, hereinafter called **CONTRACTOR**, with its principal office at 1000 Washington Street, San Carlos, California 94070 and **California Woodworking** hereinafter called **SUBCONTRACTOR**, with its principal office at: 4550 East Pine Ave., Fresno, CA 93703 559-252-5568 / 559-252-5579 – fax
Attn: Ray Gorman email:

RECITALS

On or about the 28th day of July 2006 CONTRACTOR entered into a prime contract with **City of San Jose, Dept of Public Works** hereinafter called **OWNER**, whose address is 200 E. Santa Clara St., 6th Floor, San Jose, CA 95113 to perform the following construction work:
San Jose Fire Station #34
1634 Las Plumas Ave.
San Jose, CA 95133

Said work is to be performed in accordance with the prime contract and the plans and specifications.
Said plans and specification have been prepared by or on behalf of **RRM Design Group** hereinafter called **ARCHITECT**, whose address is 3765 So. Higuera St., Ste. 102, San Luis Obispo, CA 93401

SECTION 1 - ENTIRE CONTRACT

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

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

SECTION 2 - SCOPE

SUBCONTRACTOR agrees to furnish all labor, services, materials, installation, cartage, hoisting, supplies, insurance, equipment; scaffolding, tools and other facilities of every kind and description required for the prompt and efficient execution of the work described herein and to perform the work necessary or normally performed by SUBCONTRACTOR'S trade or incidental to complete **FINISH CARPENTRY & CUSTOM CABINETS** for the project in strict accordance with the Contract Documents and as more particularly, though not exclusively, specified in Section 6 Special Provisions and:
06200 Finish Carpentry
06410 Custom Cabinets

SECTION 3 - CONTRACT PRICE

CONTRACTOR agrees to pay SUBCONTRACTOR for the strict performance of its work, the sum of:
One Hundred Six Thousand Four Hundred Twenty Dollars 00/100 **$106,420.00**
subject to additions and deductions for changes in the work as may be agreed upon, and to make payment in accordance with the Payment Schedule, Section 4.

Sub-Contractor Initials _____
Date Reviewed _____

SJ021

SECTION 4 - PAYMENT SCHEDULE

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

SECTION 5 - GENERAL SUBCONTRACT PROVISIONS

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

SECTION 6 - SPECIAL PROVISIONS

CERTIFIED PAYROLL REQUIRED Bid Advertisement Date: 3-16-06

Prior to the start of your work on the said project, your fringe benefit statement, form DAS 140, List of Subcontractors, and Labor Compliance Work Force Statement need to be on file in our office. **(CITY OF SAN JOSE FORMS WERE SENT UNDER SEPARATE COVER ON 9-27-06.** We also request that certified payroll be submitted to us every week when your employees and/or subcontractors are on the jobsite. **We may withhold payment until all current and accurate certified payroll forms are submitted.**

THIS SUBCONTRACT SPECIFICALLY INCLUDES BUT IS NOT LIMITED TO:

1. Product data submittals, coordination and/or shop drawings are *due within 10 days of receipt of contract.*
2. Clean up of California Woodworking generated debris per article Q of General Subcontract Provisions.
3. W.I.C. Certification
4. All work shall be installed by Union Carpenters.
5. Pony wall cap at stairs.
6. Cabinet locks.
7. All tax, freight, cartage, delivery, and equipment costs.

Excludes:

1. Exterior work
2. Rough carpentry/blocking/backing
3. Electrical
4. Plumbing
5. Paint/stain/finishing specified in 09900

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

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

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

SUBCONTRACTOR	CONTRACTOR
California Woodworking	Gonsalves & Stronck Construction Company, Inc.
By:	By:
Name & Title	Name & Title: Kenneth Gendotti, Project Manager
Date	Date
Contractor's State License No.	Contractor's State License No. 672769

☐Corporation ☐Partnership ☐Proprietorship ■Corporation ☐Partnership ☐Proprietorship

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

Sub-Contractor Initials _____

Date Reviewed _____

SJ022

Gonsalves & Stronck Construction Company, Inc.

GENERAL SUBCONTRACT PROVISIONS

Revised 4/06

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

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

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

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

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

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

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

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

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

No claims for additional compensation or damages for delays, whether in the furnishing of material by CONTRACTOR, or delays by other SUBCONTRACTORS or OWNER, will be allowed by the CONTRACTOR, and an extension of time for the completion shall be the sole remedy of SUBCONTRACTOR; provided, however, that in such event, and in such event only, that CONTRACTOR obtains additional compensation from OWNER on account of such delays, SUBCONTRACTOR shall be entitled to such portion of the additional compensation so received by CONTRACTOR from OWNER as is equitable under all of the circumstances. Notwithstanding the foregoing, CONTRACTOR shall have the right to suspend work for a reasonable time without payment of additional compensation. Nothing herein contained shall require CONTRACTOR to make any claim against OWNER for such delays, and it is specifically agreed that the failure of CONTRACTOR to prosecute any such claim against OWNER shall not entitle SUBCONTRACTOR to any claim for damages against CONTRACTOR. In the event CONTRACTOR prosecutes such a claim against OWNER, SUBCONTRACTOR agrees to pay its prorate share of all costs and expenses incurred in the prosecution of the claim, including, but not limited to, actual attorneys fees incurred in good faith, and SUBCONTRACTOR shall fully cooperate with CONTRACTOR in the prosecution of the claim.

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

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

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

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

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

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

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

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

GENERAL SUBCONTRACT PROVISIONS – CONT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

V. WAIVER - Any act or omission of CONTRACTOR which SUBCONTRACTOR might claim as an excuse for its own failure to perform shall be deemed waived by SUBCONTRACTOR unless it shall notify CONTRACTOR in writing of its intention to assert such excuse within ten (10) days after the occurrence of any such act or omission. No delay or omission on the part of CONTRACTOR in exercising any of its rights hereunder, nor the acquiescence in or waiver by CONTRACTOR of a breach of any term or condition of this Agreement shall be deemed or construed to operate as a waiver of such rights or acquiescence thereto except in the specific instance for which given. SUBCONTRACTOR waives any right it might have to assert the provisions of CALIFORNIA CIVIL CODE 1654 against CONTRACTOR.

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

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

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

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

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

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

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

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

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

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Gonsalves & Stronck Construction Company, Inc.

ADDENDUM "A" TO SUBCONTRACT

SUBCONTRACT INSURANCE REQUIREMENTS

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

1. Workers' Compensation Insurance as required by any applicable law, regulation or statute including:

   a. $1,000,000 each accident for bodily injury by accident;
      $1,000,000 each employee for bodily injury by disease;
      $1,000,000 policy limit for bodily injury by disease;
   b. Longshoreman's & Harbor Workers' Act coverage on any employees under this jurisdiction;
   c. Coverage for Jones Act exposure on any maritime exposure;
   d. Waiver of Subrogation endorsement.

2. General Liability Insurance, either Comprehensive General Liability or Commercial General Liability, at least as broad as Commercial General Liability, Insurance Service Office form CG 0001 10 01("Occurrence" form) including coverage for:

   a. Premises and Operations;
   b. Broad Form Property Damage including Completed Operations, shall be maintained for any appropriate Statute of Repose;
   c. Explosion, Collapse, Underground Hazards;
   d. Contractual Liability insuring obligations assumed in this subcontract;
   e. Contractors' Protective Liability
   f. Personal Injury Liability;
   g. Severability of Interest Clause;
   h. Aggregate Limits of Insurance shall apply separately to the project.

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

3. Limits of Liability

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

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

4. Automobile Liability Insurance, including:

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

5. A "Modified Occurrence" form is <u>not</u> acceptable.

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

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7. Aircraft Insurance:

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

8. Change in Limits or Requirements:

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

9. Certificates of Insurance:

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Date Reviewed _____

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

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

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

11. Professional Liability Exposure:

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

12. Maintenance of Certificates of Insurance:

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

13. Builders Risk Insurance:

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

14. Additional Insured Endorsement:

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

15. Hazardous Materials and Pollution Liability

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

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

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Date Reviewed _____

Gonsalves & Stronck Construction Company, Inc.

APPENDIX "B"

GENERAL INCLUSIONS & PROVISIONS:

A. Shop drawings and all submittals, in a state of preparedness, complete and ready for approval, shall be submitted to Gonsalves & Stronck Construction Company within **14 days** but in no event shall the submittals be turned in later than the date required to insure on schedule material deliveries.

B. Your firm hereby agrees to assist Gonsalves & Stronck Construction Company in the preparation of a project schedule and to complete its work in the sequence indicated and within the time duration's of each work activity for which your crews will be performing work. (Reference Job Schedule).

C. A subcontractor will not be paid more than 90% of its contract value until all "As-Builts" and other close-out items are complete.

D. Due to the recent changes in the Federal and California O.S.H.A. regulations, the project must be kept clean and safe at all times. With this in mind, the subcontractor agrees that its work area will be cleaned-up (per O.S.H.A. and industry standards) by the conclusion of each work day.

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

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

E. The subcontractor agrees to be bound to Gonsalves & Stronck Construction Company by the terms of the contract and to assume toward Gonsalves & Stronck all the obligations and responsibilities which Gonsalves & Stronck, by these documents, assumes toward the Owner and Architect. The only exception to this obligation is in regards to disputes between Gonsalves & Stronck and the subcontractor. All of which will be resolved in accordance with the GENERAL SUBCONTRACT PROVISIONS, Paragraph "X" (Or as amended herein).

F. All subcontractors submitting subcontract bonds to Gonsalves & Stronck Construction Company, must comply with the following requirements.

1. A separate 100% performance bond and a separate 100% labor and material bond must be executed on the forms provided.
2. The surety company executing the bonds must be listed in the latest Treasury Department Federal Registry of companies holding certificates of Authority as acceptable sureties of Federal Bonds.
3. The limit on the surety bond must not be in excess of the amount stated for that surety company in the above referenced Treasury list.
4. The surety company must be admitted to do business in the State of California.

G. The following wording shall be inserted in Section 1 of the Subcontract Agreement after the words "covered by this Agreement": except to the extent that the contract documents may include any arbitration requirement in which case CONTRACTOR and SUBCONTRACTOR agree that said arbitration shall not apply hereunder. Except as noted, SUBCONTRACTOR agrees...

H. Section B of the General Subcontract Provisions shall expand the Subcontractor's indemnity to include the owner as well as the Contractor. Therefore, the words "and the OWNER" shall be inserted after the word CONTRACTOR each time used in Section B except in Paragraph B(2).

I. If a dispute arises between the parties relating to this Agreement, the parties agree to use the following procedure prior to either party pursuing other available remedies:

a. A meeting shall be held promptly between the parties attended by individuals with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute.

b. If, within thirty (30) days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will jointly appoint a mutually acceptable neutral person not affiliated with either of the parties (the "Neutral"), seeking assistance in such regard from the Judicial Arbitration and Mediation Services (JAMS) if they have been unable to agree upon such appointment within forty (40) days from the initial meeting. The fees of the neutral shall be shared equally by the parties.

c. In consultation with the Neutral, the parties will select or devise an alternative dispute resolution procedure

("ADR"), by which they will attempt to resolve the dispute, and establish a time and place for the ADR to be held. If the parties have been unable to agree upon the procedural manners within 20 days after initial consultation with the Neutral then the Neutral will make the decision as to the procedure, and/or place and time. The ADR will take place not later that sixty (60) days after selection of the Neutral (unless circumstances require otherwise).

d. The parties agree to participate in good faith in the ADR until resolution of the dispute or until deadlock, which in no event shall occur more than 30 days from the date when the type of ADR has been agreed upon or determined, unless extended by agreement of the parties. If deadlock is reached, either party may initiate litigation or such other dispute resolution procedure as may be provided under this Contract; however, no litigation shall be instituted until such time as the ADR process including ADR before the Neutral, described herein has been completed.

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Gonsalves & Stronck Construction Company, Inc.

Appendix "C"

CONTRACT DRAWINGS
San Jose Fire Station #34
JOB #236

DRAWING NUMBER	TITLE
T 1.1	Cover Sheet
T 1.2	Code Analysis
T 1.3	Master Keynotes
T 1.4	Accessibility Details
T 1.5	Accessibility Details
	CIVIL
C-1	Demolition Plan
C-2	Grading & Drainage Plan
C-3	Utility Plan
C-4	Construction Plan
C-5	Horizontal Control
CD-1	Details
CD-2	Details
	ARCHITECTURAL
A 1.1	Architectural Site Plan
A 1.2	Enlarged Site Plan
A 1.3	Site Details
A 2.1	First Floor Dimension Plan
A 2.2	First Floor Plan
A 2.3	Second Floor Plan & Dimension Plan
A 2.4	Enlarged Floor Plans
A 2.5	Enlarged Stair Plans/Sections
A 2.6	First Floor Control Joint layout
A 2.7	Finish Schedule/Second Floor Control Joint Layout
A 3.1	First Floor Reflected Ceiling Plan
A 3.2	Second Floor Reflected Ceiling Plan
A 4.1	Roof Plan
A 5.1	Exterior Elevations
A 5.2	Exterior Elevations
A 6.1	Building Sections
A 6.2	(Not Used)
A 6.3	Wall Sections
A 6.4	Wall Sections
A 7.1	Interior Elevations
A 7.2	Interior Elevations
A 7.3	Interior Elevations
A 8.1	Door Schedule, Types & Details
A 8.2	Door & Window Details
A 8.3	Window Schedule, Types & Detail
A 9.1	Exterior Details
A 9.2	Exterior Details
A 9.3	Exterior Details
A 9.4	Exterior Details
A 9.5	Interior Details
A 9.6	Interior Details
A 9.7	Casework Details
	STRUCTURAL
S1	Cover Sheet
S2	Foundation Plan & Notes
S3	Second Floor & Low Roof Framing Plan
S4	Roof Framing Plan
S5	Wall Elevations
S6	Foundation Sections & Details
S7	Floor Framing Details
S8	Floor Framing Details
S9	Roof Framing Details
S10	Typical Details
S11	Typical Details
S12	Miscellaneous Details
	MECHANICAL
M 1.0	Mechanical Schedules, Notes, Legend & Abbreviations
M 2.0	Mechanical Schedules, Notes, Legend & Abbreviations
M 2.1	Mechanical Schedules, Notes, Legend & Abbreviations
M 3.0	Mechanical Roof Plan
M 4.0	Mechanical Second Floor Plan
M 5.0	Mechanical First Floor Plan
T 24.1	Energy Compliance Forms
T 24.2	Energy Compliance Forms
T 24.3	Energy Compliance Forms

DRAWING NUMBER	TITLE
	PLUMBING
P 1.0	Plumbing Schedules, Notes, Legend & Abbreviations
P 2.0	Plumbing Details
P 2.1	Plumbing Details
P 3.0	Plumbing Site Plan
P 4.0	Plumbing First Floor Plan
P 5.0	Plumbing First Floor Plan
P 6.0	Plumbing Second Floor Plan
P 7.0	Plumbing roof Plan
	ELECTRICAL
E 1.0	General Notes, Legend & Abbreviations
E 1.1	Single Line Diagram
E 2.0	Electrical Site Plan
E 3.0	First Floor Lighting Plan
E 3.1	First Floor Power Plan
E 3.2	First Floor Communication Plan
E 3.3	Electrical Roof Plan
E 4.0	Second Floor Lighting Plan
E 4.1	Second Floor Power plan
E 4.2	Second Floor communication Plan
E 4.3	Enlarged Electrical Plans
E 5.0	Fixture Schedule
E 5.1	Panel Schedule
E 6.0	Electrical Details
E 6.1	Electrical Details
E 6.2	Electrical Details
E 6.3	Electrical Details
E T24.1	Title 24
E T24.2	Title 24
E T24.3	Title 24
	LANDSCAPING
L 1.1	Irrigation Plan
L 1.2	Irrigation Details
L 1.3	Irrigation Details
L 1.4	Irrigation Details
L 1.5	Re-cycle Water Irrigation Details
L 2.1	Planting Plan
L 2.2	Planting Details

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G&S Job Appendix "D" to
Subcontract

SUBCONTRACTOR INFORMATION SHEET

PLEASE COMPLETE ALL SECTIONS:

1. **COMPANY NAME:**_____

   STREET ADDRESS: _____
   CITY, STATE, ZIP: _____
   PHONE:_____ FAX:_____

   A. TRADE SPECIALTY: _____
   B. DIVISION / SPEC# : _____

PROJECT NAME:

3. **UNION AFFILIATION:**
   ☐ UNION CONTRACTOR; SIGNATORY TO: _____
   ☐ NON-UNION CONTRACTOR

4. **PLEASE CHECK ANY THAT APPLY:**
   ☐ DVBE ☐ WBE ☐ MBE ☐ DBE

5. **TYPE OF BUSINESS ENTITY (CHECK ONE):**
   ☐ CORPORATION: Corporate Number_____
   State of Incorporation_____
   Year of Incorporation_____
   ☐ PARTNERSHIP
   ☐ SOLE PROPRIETOR

6. **EMPLOYER IDENTIFICATION NUMBER:**_____
   OR
   SOCIAL SECURITY NUMBER:_____

7. **CONTRACTOR LICENSE NUMBER:** _____
   EXPIRATION DATE: _____
   CLASSIFICATION: _____

8. **WORKERS' COMPENSATION EXPERIENCE MODIFICATION RATE:**_____

9. **PLEASE ATTACH THE FOLLOWING TO THIS INFORMATION SHEET**
   A. COMPLETED W-9 FORM
   B. PHOTO COPY OF POCKET LICENSE

_____ _____
SIGNATURE **DATE**

_____
PRINTED NAME / TITLE

Gonsalves & Stronck Construction Company, Inc.

Appendix "E"

SUBCONTRACT ADDENDUM FOR PUBLIC WORKS PROJECTS

1. The attached California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813, and 1815 are incorporated into this subcontract. The subcontractor agrees to comply with all of the above-referenced Labor Code Sections applicable to the performance of its work on this project. The subcontractor further agrees to comply with all the above referenced Labor Code Sections for offsite fabrication of items produced specially for the public works project and not for sale on the general market pursuant to the March 4, 2003 DIR Director's coverage determination letter. In order to read the full text of the Director's determination that provides coverage for offsite fabrication and prefabrication work for public works projects, log on to www.dir.ca.gov.

   Specifically, the subcontractor agrees to:

   a. Pay all workers not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed.
   b. Pay all workers not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter.
   c. Adhere to the compliance measures outlined in LC 1775(b) for any second tier subcontractor that the subcontractor chooses to use on this project.
   d. Submit certified payroll records to the contractor on a weekly basis. Records shall be provided no later than three (3) working days after labor has been paid.
   e. Submit to the contractor within three (3) working days of a written request all payroll records as defined by the California Code of Regulations Section 16000, "Payroll Records".
   f. Comply with the applicable requirements and joint apprenticeship standards as required by LC 1777.5.

2. The subcontractor prior to receiving final payment for work performed on this project shall sign an affidavit under penalty of perjury that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees for the proper craft needed to fulfill the obligations of the subcontract. (The attached affidavit is incorporated into this subcontract.)
3. The subcontractor agrees to indemnify and hold harmless the contractor for any violations of the above-referenced Labor Code provisions, which were caused by the subcontractor's failure to comply with said provisions.

EXCERPTS FROM LABOR CODE

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

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

1775. a) (1) The contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than fifty dollars ($50) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director for the work or craft in which the worker is employed for any public work done under the contract by the contractor or, except as provided in subdivision (b), by any subcontractor under the contractor.

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

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

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

(B) (i) The penalty may not be less than ten dollars ($10) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) The penalty may not be less than twenty dollars ($20) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the contractor or Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1.

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

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

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

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

(1) The contract executed between the contractor and the subcontractor for the performance of work on the public works project shall include a copy of the provisions of Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.

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

(3) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not

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subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.

(iii) The penalty may not be less than thirty dollars ($30) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor 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

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Date Reviewed _____

diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.

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

1776. (a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

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

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

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

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

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

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through made. The public may not be given access to the records at the principal office of the contractor.

(c) The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

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

(e) Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's name and social security number. A joint labor management committee may maintain an action in a court of competent jurisdiction against an employer who fails to comply with Section 1774. The court may award restitution to an employee for unpaid wages and may award the joint labor management committee reasonable attorney's fees and costs incurred in maintaining the action. An action under this subdivision may not be based on the employer's misclassification of the craft of a worker on its certified payroll records. Nothing in this subdivision limits any other available remedies for a violation of this chapter.

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(f) The contractor shall inform the body awarding the contract of the location of the

either the body awarding the contract, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

(g) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply

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within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars ($25) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

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

(i) The director shall adopt rules consistent with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section

1777.5. a) Nothing in this chapter shall prevent the employment of properly registered apprentices upon public works.

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

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

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

(e) Prior to commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the awarding body if requested by the awarding body.

Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.

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

training.

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

(d) When the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set and minorities.

(g) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship program operates where the contractor agrees to be bound by those standards, but, except as otherwise provided in

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this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.

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

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

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

(k) An apprenticeship program has the discretion to grant to a participating contractor or contractor association a certificate, which shall be subject to the approval of the

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

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

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

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

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

(A) If there is an approved multiemployer apprenticeship program serving the same craft or trade and geographic area for which the

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.

training contributions were made to the council, a grant to that program shall be made.

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

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

(3) All training contributions received pursuant to this subdivision shall be deposited in the Apprenticeship Training Contribution Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all money in the Apprenticeship Training Contribution Fund is hereby continuously appropriated for the purpose of carrying out this subdivision and to pay the expenses of the Division of Apprenticeship Standards.

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

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

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

1813. The contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars ($25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article. In awarding any contract for public work, the awarding body shall cause to be inserted in the contract a stipulation to this effect. The awarding body shall take cognizance of all violations of this article committed in the course of the execution of the contract, and shall report them to the Division of Labor Standards Enforcement

at not less than 11/2 times the basic rate of pay

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

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Date Reviewed _____

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NOV 29 2006
GONSALVES & STRONCK

SUBCONTRACT AGREEMENT

Subcontract Code No. 06410
G&S Project No. 236-7

THIS AGREEMENT, made and entered into at **SAN CARLOS**, California, this ~~15th~~ 25th day of November 2006, by and between **GONSALVES & STRONCK CONSTRUCTION COMPANY, INC.**, hereinafter called **CONTRACTOR**, with its principal office at 1000 Washington Street, San Carlos, California 94070 and **California Woodworking** hereinafter called **SUBCONTRACTOR**, with its principal office at: 4550 East Pine Ave., Fresno, CA 93703 559-252-5568 / 559-252-5579 – fax
Attn: Ray Gorman email: [redacted] CALIFWOOD@SBCGLOBAL.NET

RECITALS

On or about the 28th day of July 2006 CONTRACTOR entered into a prime contract with **City of San Jose, Dept of Public Works** hereinafter called **OWNER**, whose address is 200 E. Santa Clara St., 6th Floor, San Jose, CA 95113 to perform the following construction work:
San Jose Fire Station #34
1634 Las Plumas Ave.
San Jose, CA 95133

Said work is to be performed in accordance with the prime contract and the plans and specifications.
Said plans and specification have been prepared by or on behalf of **RRM Design Group** hereinafter called **ARCHITECT**, whose address is 3765 So. Higuera St., Ste. 102, San Luis Obispo, CA 93401

SECTION 1 - ENTIRE CONTRACT

SUBCONTRACTOR certified that it is fully familiar with all of the terms, conditions and obligations of the Contract Documents, as hereinafter defined, the location of the job site, and the conditions under which the work is to be performed, and that it enters into this Agreement based upon its investigation of all of such matters and is in no way relying upon any opinions or representations of CONTRACTOR. This Agreement represents the entire agreement. The Contract Documents are incorporated in this Agreement by this reference, with the same force and effect as if they were set forth at length herein, and that SUBCONTRACTOR and its subcontractors will be and are bound by any and all of the Contract Documents insofar as they relate ~~in any part or in any way~~, directly ~~or indirectly~~ to the work covered by this Agreement. SUBCONTRACTOR agrees to be bound to CONTRACTOR in the same manner and to the same extent as CONTRACTOR is bound to OWNER under the Contract Documents, to the extent of the work provided for in this Agreement, and that where, in the Contract Documents reference is made to CONTRACTOR and the work or specification therein pertains to SUBCONTRACTOR'S trade, craft, or type of work then such work or specification shall be interpreted to apply to SUBCONTRACTOR instead of CONTRACTOR. In the event of any conflict between the requirements of the prime contract and this Subcontract, the SUBCONTRACTOR shall be governed by the provisions WITHIN THIS AGREEMENT ~~imposing the greater duty on the SUBCONTRACTOR~~. The phrase "Contract Documents" is defined to mean and include this Agreement, together with any exhibits or addenda thereto, the prime contract, together with its general, supplementary and other conditions, addenda and modifications, plans and specifications and:
ADDENDUM TO THE SUBCONTRACT AGREEMENT (ATTACHED)
Addendum "A" To Subcontract: Subcontractor Insurance Requirements
Appendix "B": General Inclusions & Provisions
Appendix "C": Contract Drawings
Appendix "D": Subcontractor Information Sheet
Appendix "E": Subcontract Addendum for Public Works Projects
G&S Code of Safe Practices; Safety In Construction; Request for MSDS & Injury & Illness Prevention Program.

SECTION 2 - SCOPE

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

06200	**Finish Carpentry**
06410	**Custom Cabinets**

SEE ATTACHED SCOPE LETTER FOR INCLUSIONS, EXCLUSIONS AND TERMS

SECTION 3 - CONTRACT PRICE

CONTRACTOR agrees to pay SUBCONTRACTOR for the strict performance of its work, the sum of:
One Hundred Six Thousand Four Hundred Twenty Dollars 00/100 **$106,420.00**
subject to additions and deductions for changes in the work as may be agreed upon, and to make payment ~~in accordance with the Payment Schedule, Section 4.~~ PER ATTACHED ADDENDUM

Sub-Contractor Initials
Date Reviewed 11/28/06

EXHIBIT C

SECTION 4 - PAYMENT SCHEDULE

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

SEE ADDENDUM

SECTION 5 - GENERAL SUBCONTRACT PROVISIONS

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

SECTION 6 - SPECIAL PROVISIONS

CERTIFIED PAYROLL REQUIRED Bid Advertisement Date: 3-16-06

Prior to the start of your work on the said project, your fringe benefit statement, form DAS 140, List of Subcontractors, and Labor Compliance Work Force Statement need to be on file in our office. **(CITY OF SAN JOSE FORMS WERE SENT UNDER SEPARATE COVER ON 9-27-06. We also request that certified payroll be submitted to us every week when your employees and/or subcontractors are on the jobsite. We may withhold payment until all current and accurate certified payroll forms are submitted.**

THIS SUBCONTRACT SPECIFICALLY INCLUDES BUT IS NOT LIMITED TO:

1. ~~Product data submittals, coordination and/or shop drawings are due within 10 days of receipt of contract.~~
2. ~~Clean up of California Woodworking generated debris per article Q of General Subcontract Provisions.~~
3. W.I.C. Certification
4. ~~All work shall be installed by Union Carpenters.~~
5. Pony wall cap at stairs.
6. ~~Cabinet locks.~~
7. All tax, freight, cartage, delivery, and equipment costs.

Excludes:

1. ~~Exterior work~~
2. Rough carpentry/blocking/backing
3. Electrical
4. Plumbing
5. ~~Paint/stain/finishing specified in 09900~~

SEE ATTACHED SCOPE LETTER

SIGNATURE BY SUBCONTRACTOR IS GOOD FOR 30 DAYS FROM DATE OF SIGNATURE. AGREEMENT SHALL BE VOIDED ENTIRELY IF NOT RECEIVED BY CALIFORNIA WOODWORKING IN A FULLY EXECUTED FORM PRIOR TO 5:00 p.m. ON 12/25/06

SEE ATTACHED ADDENDUM

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

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

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

SUBCONTRACTOR	CONTRACTOR
California Woodworking	Gonsalves & Stronck Construction Company, Inc.
By:	By:
Name & Title RAYMOND KOENIG OWNER	Name & Title: Kenneth Gendotti, Project Manager
Date 11/25/06	Date
Contractor's State License No. 646958	Contractor's State License No. 672769

☐Corporation ☐Partnership ☒Proprietorship ■Corporation ☐Partnership ☐Proprietorship

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

Sub-Contractor Initials

Date Reviewed 11/27/06

Gonsalves & Stronck Construction Company, Inc.

GENERAL SUBCONTRACT PROVISIONS

Revised 4/06

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

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

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

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

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

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

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

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

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

~~No claims for additional compensation or damages for delays, whether in the furnishing of material by CONTRACTOR, or delays by other SUBCONTRACTORS or OWNER, will be allowed by the CONTRACTOR, and an extension of time for the completion shall be the sole remedy of SUBCONTRACTOR; provided, however, that in the event, and in such event only, that CONTRACTOR receives additional compensation from OWNER on account of such delays, SUBCONTRACTOR shall be entitled to such portion of the additional compensation so received by CONTRACTOR from OWNER as is equitable under all of the circumstances. Notwithstanding the foregoing, CONTRACTOR shall have the right to suspend work for a reasonable time without payment of additional compensation. Nothing herein contained shall require CONTRACTOR to make any claim against OWNER for such delays, and it is specifically agreed that the failure of CONTRACTOR to prosecute any such claim against OWNER shall not entitle SUBCONTRACTOR to any claim for damages against CONTRACTOR.~~ In the event CONTRACTOR prosecutes such a claim against OWNER, SUBCONTRACTOR agrees to pay its prorate share of all costs and expenses incurred in the prosecution of the claim, including, but not limited to, actual attorneys fees incurred in good faith, and SUBCONTRACTOR shall fully cooperate with CONTRACTOR in the prosecution of the claim.

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

SEE INCLUSIONS & EXCLUSIONS OF WORK

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

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

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

SEE ATTACHED BIDDE LETTER OF 6/6/06

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

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

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

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

GENERAL SUBCONTRACT PROVISIONS – CONT.

H. **RECOURSE BY CONTRACTOR** - In the event that SUBCONTRACTOR at any time refuses or neglects to supply a sufficient number of properly skilled workers or a sufficient quantity of materials of proper quality, or be adjudicated a bankrupt, or files an arrangement proceeding, ~~or commits any act of insolvency,~~ or makes an assignment for benefit of creditors without CONTRACTOR'S consent, or fails to make prompt payment to its material suppliers and laborers, or fails ~~in any respect~~ to properly and diligently prosecute the work covered by this agreement, or becomes delinquent with respect to contributions or payments required to be made to any Health and Welfare, Pension, Vacation, Apprenticeship or other employee benefit program or trust, ~~or fails to fulfill any of the provisions of Paragraph 3 of these General Subcontract Provisions~~ or otherwise fails to perform fully any and all the agreements herein contained, CONTRACTOR may, at its option, after giving forty-eight (48) hours written notice to SUBCONTRACTOR, provide any such labor and materials as may be necessary and deduct the cost thereof, including, without limitation, CONTRACTOR'S profit and overhead, administrative costs, and attorneys ~~and consultants fees~~ actually incurred in good faith, from any money then due or thereafter to become due to the SUBCONTRACTOR under this Agreement, or CONTRACTOR may, at his option, terminate SUBCONTRACTOR'S right to proceed with the work and, in that event, CONTRACTOR shall have the right to enter upon the premises of the Project and take possession, for the purposes of completing the work included under this Agreement, of all materials, tools and machinery and equipment of SUBCONTRACTOR, and may employ any other person(s) or entity(s) to finish the work and provide the materials therefor. In case of such termination of SUBCONTRACTOR'S right to proceed with the work, SUBCONTRACTOR shall not be entitled to receive any further payment under this Agreement until all the work undertaken by CONTRACTOR in its prime contract is completely finished. At that time, if the unpaid balance of the amount to be paid under this Agreement exceeds the expenses incurred by CONTRACTOR in finishing SUBCONTRACTOR'S work, the excess shall be paid by CONTRACTOR to SUBCONTRACTOR, but, if the expenses shall exceed the unpaid balance, then SUBCONTRACTOR shall promptly pay to CONTRACTOR the amount by which the expenses exceeds the unpaid balance. The expenses referred to in the last sentence shall include expenses incurred by CONTRACTOR for furnishing materials, for finishing the work, for actual attorneys ~~and consultants fees~~ incurred in good faith, ~~and for any damages sustained by CONTRACTOR by reason of SUBCONTRACTOR'S default, plus a markup of fifteen percent (15%) General Overhead and ten percent (10%) Profit~~ on any and all such expenses; and CONTRACTOR shall have a lien upon all materials, tools and machinery and equipment taken possession of, as aforesaid, to secure SUBCONTRACTOR'S payment thereof. The notice referred to in this paragraph will be sufficient and complete when mailed to SUBCONTRACTOR at the address shown in this Agreement. In the event of an emergency affecting the safety of persons or property, no notice referred to in this paragraph shall be required.

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

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

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

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

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

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

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

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

SEE ADDENDUM

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

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

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

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

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

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

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

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

Sub-Contractor Initials

Date Reviewed 12/2[illegible]

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GENERAL SUBCONTRACT PROVISIONS – CONT.

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

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

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

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

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

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

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

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

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

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

V. WAIVER - Any act or omission of CONTRACTOR which SUBCONTRACTOR might claim as an excuse for its own failure to perform shall be deemed waived by SUBCONTRACTOR unless it shall notify CONTRACTOR in writing of its intention to assert such excuse within ten (10) days after the occurrence of any such act or omission. No delay or omission on the part of CONTRACTOR in exercising any of its rights hereunder, nor the acquiescence in or waiver by CONTRACTOR of a breach of any term or condition of this Agreement shall be deemed or construed to operate as a waiver of such rights or acquiescence thereto except in the specific instance for which given. SUBCONTRACTOR waives any right it might have to assert the provisions of CALIFORNIA CIVIL CODE 1654 against CONTRACTOR.

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

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

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

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

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

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

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

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

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

Sub-Contractor Initials 53049
Date Reviewed 11/25/26

Gonsalves & Stronck Construction Company, Inc.

ADDENDUM "A" TO SUBCONTRACT

SUBCONTRACT INSURANCE REQUIREMENTS

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

1. Workers' Compensation Insurance as required by any applicable law, regulation or statute including:

   a. $1,000,000 each accident for bodily injury by accident;
   $1,000,000 each employee for bodily injury by disease;
   $1,000,000 policy limit for bodily injury by disease;
   ~~b. Longshoreman's & Harbor Workers' Act coverage on any employees under this jurisdiction;~~
   ~~c. Coverage for Jones Act exposure on any maritime exposure;~~
   ~~d. Waiver of Subrogation endorsement.~~

2. General Liability Insurance, either Comprehensive General Liability or Commercial General Liability, at least as broad as Commercial General Liability, Insurance Service Office form CG 0001 10 01("Occurrence" form) including coverage for:

   a. Premises and Operations;
   b. Broad Form Property Damage including Completed Operations, shall be maintained for any appropriate Statute of Repose;
   c. ~~Explosion, Collapse, Underground Hazards;~~
   d. Contractual Liability insuring obligations assumed in this subcontract;
   e. Contractors' Protective Liability
   f. Personal Injury Liability;
   g. Severability of Interest Clause;
   ~~h. Aggregate Limits of Insurance shall apply separately to the project.~~

   NOTE ON ALL: COVERAGES AND AMOUNTS AS PROVIDED BY CARRIER IN BASIC PACKAGE ONLY. SEE SCOPE LETTER

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

3. Limits of Liability

   NOTE ON ALL: COVERAGES AND AMOUNTS AS PROVIDED IN BASIC PACKAGE ONLY. SEE SCOPE LETTER

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

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

4. Automobile Liability Insurance, including:

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

   NOTE ON ALL: COVERAGES AND AMOUNTS AS PROVIDED IN BASIC PACKAGE ONLY. SEE SCOPE LETTER.

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

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

7. Aircraft Insurance:

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

8. ~~Change in Limits or Requirements:~~

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

Sub-Contractor Initials RG SJ050
Date Reviewed 11/25/06

9. Certificates of Insurance:

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

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

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

~~11. Professional Liability Exposure~~:

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

12. Maintenance of Certificates of Insurance:

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

13. Builders Risk Insurance:

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

14. Additional Insured Endorsement:

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

A.I. AS PROVIDED BY CARRIER IN BASIC PACKAGE ONLY

15. Hazardous Materials and Pollution Liability

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

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

Gonsalves & Stronck Construction Company, Inc.

APPENDIX "B"

GENERAL INCLUSIONS & PROVISIONS:

A. Shop drawings and all submittals, in a state of preparedness, complete and ready for approval, shall be submitted to Gonsalves & Stronck Construction Company [redacted] but in no event shall the submittals be turned in later than the date required to insure on schedule material deliveries.

B. Your firm hereby agrees to assist Gonsalves & Stronck Construction Company in the preparation of a project schedule and to complete its work in the sequence indicated and within the time duration's of each work activity for which your crews will be performing work. (Reference Job Schedule).

C. A subcontractor will not be paid more than 90% of its contract value until all "As-Builts" and other close-out items are complete.

D. Due to the recent changes in the Federal and California O.S.H.A. regulations, the project must be kept clean and safe at all times. With this in mind, the subcontractor agrees that its work area will be cleaned-up (per O.S.H.A. and industry standards) by the conclusion of each work day.

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

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

E. The subcontractor agrees to be bound to Gonsalves & Stronck Construction Company by the terms of the contract ~~and to assume toward Gonsalves & Stronck all the obligations and responsibilities which Gonsalves & Stronck, by these documents, assumes toward the Owner and Architect.~~ The only exception to this obligation is in regards to disputes between Gonsalves & Stronck and the subcontractor. All of which will be resolved in accordance with the GENERAL SUBCONTRACT PROVISIONS, Paragraph "X" (Or as amended herein).

F. ~~All subcontractors submitting subcontract bonds to Gonsalves & Stronck Construction Company, must comply with the following requirements.~~

1. A separate 100% performance bond and a separate 100% labor and material bond must be executed on the forms provided.
2. The surety company executing the bonds must be listed in the latest Treasury Department Federal Registry of companies holding certificates of Authority as acceptable sureties of Federal Bonds.
3. The limit on the surety bond must not be in excess of the amount stated for that surety company in the above referenced Treasury list.
4. ~~The surety company must be admitted to do business in the State of California.~~

G. The following wording shall be inserted in Section 1 of the Subcontract Agreement after the words "covered by this Agreement": except to the extent that the contract documents may include any arbitration requirement in which case CONTRACTOR and SUBCONTRACTOR agree that said arbitration shall not apply hereunder. Except as noted, SUBCONTRACTOR agrees...

H. Section B of the General Subcontract Provisions shall expand the Subcontractor's indemnity to include the owner as well as the Contractor. Therefore, the words "and the OWNER" shall be inserted after the word CONTRACTOR each time used in Section B except in Paragraph B(2).

I. If a dispute arises between the parties relating to this Agreement, the parties agree to use the following procedure prior to either party pursuing other available remedies:

a. A meeting shall be held promptly between the parties attended by individuals with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute.

b. If, within thirty (30) days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will jointly appoint a mutually acceptable neutral person not affiliated with either of the parties (the "Neutral"), seeking assistance in such regard from the Judicial Arbitration and Mediation Services (JAMS) if they have been unable to agree upon such appointment within forty (40) days from the initial meeting. The fees of the neutral shall be shared equally by the parties.

c. In consultation with the Neutral, the parties will select or devise an alternative dispute resolution procedure ("ADR"), by which they will attempt to resolve the dispute, and establish a time and place for the ADR to be held. If the parties have been unable to agree upon the procedural manners within 20 days after initial consultation with the Neutral then the Neutral will make the decision as to the procedure, and/or place and time. The ADR will take place not later that sixty (60) days after selection of the Neutral (unless circumstances require otherwise).

d. The parties agree to participate in good faith in the ADR until resolution of the dispute or until deadlock, which in no event shall occur more than 30 days from the date when the type of ADR has been agreed upon or determined, unless extended by agreement of the parties. If deadlock is reached, either party may initiate litigation or such other dispute resolution procedure as may be provided under this Contract; however, no litigation shall be instituted until such time as the ADR process including ADR before the Neutral, described herein has been completed.

Sub-Contractor Initials

Date Reviewed 12/25/06 SJ052

Sub-Contractor Initials _____
Date Reviewed _____

DRAWING NUMBER	TITLE
T 1.1	Cover Sheet
T 1.2	Code Analysis
T 1.3	Master Keynotes
T 1.4	Accessibility Details
T 1.5	Accessibility Details
	CIVIL
C-1	Demolition Plan
C-2	Grading & Drainage Plan
C-3	Utility Plan
C-4	Construction Plan
C-5	Horizontal Control
CD-1	Details
CD-2	Details
	ARCHITECTURAL
A 1.1	Architectural Site Plan
A 1.2	Enlarged Site Plan
A 1.3	Site Details
A 2.1	First Floor Dimension Plan
A 2.2	First Floor Plan
A 2.3	Second Floor Plan & Dimension Plan
A 2.4	Enlarged Floor Plans
A 2.5	Enlarged Stir Plans/Sections
A 2.6	First Floor Control Joint layout
A 2.7	Finish Schedule/Second Floor Control Joint Layout
A 3.1	First Floor Reflected Ceiling Plan
A 3.2	Second Floor Reflected Ceiling Plan
A 4.1	Roof Plan
A 5.1	Exterior Elevations
A 5.2	Exterior Elevations
A 6.1	Building Sections
A 6.2	(Not Used)
A 6.3	Wall Sections
A 6.4	Wall Sections
A 7.1	Interior Elevations
A 7.2	Interior Elevations
A 7.3	Interior Elevations
A 8.1	Door Schedule, Types & Details
A 8.2	Door & Window Details
A 8.3	Window Schedule, Types & Detail
A 9.1	Exterior Details
A 9.2	Exterior Details
A 9.3	Exterior Details
A 9.4	Exterior Details
A 9.5	Interior Details
A 9.6	Interior Details
A 9.7	Casework Details
	STRUCTURAL
S1	Cover Sheet
S2	Foundation Plan & Notes
S3	Second Floor & Low Roof Farming Plan
S4	Roof Framing Plan
S5	Wall Elevations
S6	Foundation Sections & Details
S7	Floor Framing Details
S8	Floor Framing Details
S9	Roof Framing Details
S10	Typical Details
S11	Typical Details
S12	Miscellaneous Details
	MECHANICAL
M 1.0	Mechanical Schedules, Notes, Legend & Abbreviations
M 2.0	Mechanical Schedules, Notes, Legend & Abbreviations
M 2.1	Mechanical Schedules, Notes, Legend & Abbreviations
M 3.0	Mechanical Roof Plan
M 4.0	Mechanical Second Floor Plan
M 5.0	Mechanical First Floor Plan
T 24.1	Energy Compliance Forms
T 24.2	Energy Compliance Forms
T 24.3	Energy Compliance Forms

DRAWING NUMBER	TITLE
	PLUMBING
P 1.0	Plumbing Schedules, Notes, Legend & Abbreviations
P 2.0	Plumbing Details
P 2.1	Plumbing Details
P 3.0	Plumbing Site Plan
P 4.0	Plumbing First Floor Plan
P 5.0	Plumbing First Floor Plan
P 6.0	Plumbing Second Floor Plan
P 7.0	Plumbing roof Plan
	ELECTRICAL
E 1.0	General Notes, Legend & Abbreviations
E 1.1	Single Line Diagram
E 2.0	Electrical Site Plan
E 3.0	First Floor Lighting Plan
E 3.1	First Floor Power Plan
E 3.2	First Floor Communication Plan
E 3.3	Electrical Roof Plan
E 4.0	Second Floor Lighting Plan
E 4.1	Second Floor Power plan
E 4.2	Second Floor communication Plan
E 4.3	Enlarged Electrical Plans
E 5.0	Fixture Schedule
E 5.1	Panel Schedule
E 6.0	Electrical Details
E 6.1	Electrical Details
E 6.2	Electrical Details
E 6.3	Electrical Details
E T24.1	Title 24
E T24.2	Title 24
E T24.3	Title 24
	LANDSCAPING
L 1.1	Irrigation Plan
L 1.2	Irrigation Details
L 1.3	Irrigation Details
L 1.4	Irrigation Details
L 1.5	Re-cycle Water Irrigation Details
L 2.1	Planting Plan
L 2.2	Planting Details

9/00 Edition

Sub-Contractor Initials KB

Date Reviewed 12/25/06

SJ054

G&S Job 236

Appendix "D" to Subcontract

SUBCONTRACTOR INFORMATION SHEET

PLEASE COMPLETE ALL SECTIONS:

1. COMPANY NAME: CALIFORNIA WOODWORKING

   STREET ADDRESS: 4550 E. PINE AVE
   CITY, STATE, ZIP: FRESNO, CA. 93703
   PHONE: 559-252 5568 FAX: 559 252 5579

   A. TRADE SPECIALTY: CABINET / MILLWORK
   B. DIVISION / SPEC# : DIVISION 6/12

2. PROJECT NAME: SAN JOSE FIRE STATION #34

3. UNION AFFILIATION:
   ☐ UNION CONTRACTOR; SIGNATORY TO: _____
   ☒ NON-UNION CONTRACTOR

4. PLEASE CHECK ANY THAT APPLY:
   ☐ DVBE ☐ WBE ☐ MBE ☐ DBE

5. TYPE OF BUSINESS ENTITY (CHECK ONE):
   ☐ CORPORATION: Corporate Number _____
   State of Incorporation _____
   Year of Incorporation _____
   ☐ PARTNERSHIP
   ☒ SOLE PROPRIETOR

6. EMPLOYER IDENTIFICATION NUMBER: 77-0362486
   OR
   SOCIAL SECURITY NUMBER: _____

7. CONTRACTOR LICENSE NUMBER: 646408
   EXPIRATION DATE: 5/31/2008
   CLASSIFICATION: C-6

8. WORKERS' COMPENSATION EXPERIENCE MODIFICATION RATE: _____

9. PLEASE ATTACH THE FOLLOWING TO THIS INFORMATION SHEET
   A. COMPLETED W-9 FORM
   B. PHOTO COPY OF POCKET LICENSE

SIGNATURE

11/25/06
DATE

RAYMOND BOERMAN
PRINTED NAME / TITLE

SJ055

11/25/2006

California Woodworking

4550 E. PINE AVE. FRESNO, CA. 93703 ph: (559) 252-5568 fax: (559) 252-5579
LICENSE NO. 646408 W.I.C. MEMBER SINCE 1997

Addendum to Subcontract Agreement

Job: **San Jose Fire Station No. 34**
1634 Las Plumas Ave. San Jose, Ca. 95133

Contractor: Gonsalves and Stronk Company, Inc.
1000 Washington Street San Carlos, Ca. 94070

Subcontractor: California Woodworking Cont. Lic. #646408
4550 E. Pine Ave. Fresno, Ca. 93703

This Addendum to the Subcontract Agreement between **Gonsalves and Stronk Company, Inc.** ('Contractor') and **California Woodworking** ('Subcontractor') for work provided on the **San Jose Fire Station No. 34** project shall be attached to and become fully part of the Subcontract Agreement between those parties and this Addendum will modify the Subcontract Agreement through changes noted herein. The modifications made to the Subcontract Agreement within this Addendum will take precedence over any conflicting language or agreements within the Subcontract Agreement. This document shall accompany the Subcontract Agreement, and shall be executed by signature on all pages of this Addendum to signify agreement by both parties. In the event that this Addendum is not executed by signature of both parties on all pages, the Subcontract Agreement between Contractor and Subcontractor for work on the **San Jose Fire Station No. 34** shall immediately become cancelled, shall be deemed 'Non- Executed' and have no legal effect for both parties.

Also attached and part of this Addendum is the California Woodworking Scope Letter of 6/6/2006

The changes to the Subcontract Agreement noted herein shall be referenced by the paragraph numbers on the Subcontract Agreement following with the changes to that paragraph.

4. PAYMENT SCHEDULE:

Progress Payments shall be made in accordance with the terms and conditions as noted in the attached Scope Letter, and clarified as follows: Contractor agrees that Subcontractor shall not be bound by conditions of payment as stated in the Owners General Conditions, and that those conditions shall not be used to deny a timely or regular Progress Payment for shop fabricated work that is properly completed, insured and stored and has not been delivered to the job site. Contractor agrees to pay Subcontractor Progress Payments (less 10% retention and in a timely and regular fashion) for substantially and properly completed work per Subcontractor's Schedule of Values, regardless of payment schedule between Owner and Contractor.
Subcontractor agrees that the Schedule of Values provided by the Subcontractor shall provide monetary values for all portions of the Subcontractor's work in each Section of work in fair and reasonable percentages throughout that Schedule as is typical for the type of work performed. Subcontractor agrees that all shop fabricated work and the progress of our work shall be open to inspection for completeness, correctness, security / safety of storage environment and proper identification of the work at any time during regular business hours.

Contractor

Subcontractor

SJ056

(San Jose Fire Station No. 34- Addendum to the Subcontract Agreement con't)

(4. PAYMENT SCHEDULE CON'T)-

Lack of inspection by the Contractor or Owner of completed work shall not be reason for denial of a Progress Payment. Subcontractor agrees to provide progress photographs of the of all shop fabrication work. Subcontractor agrees that all shop fabricated work that is shown to be incorrect, not substantially complete or not properly insured for property damage (standard property: fire / theft / damage – 100% of replacement costs) may be excluded from the current Progress Payment until it has been properly completed and insured. Subcontractor agrees to maintain and show certification of property insurance until those products are delivered on-site for installation.

In the event that the Contractor does not pay for properly completed work (as stated above) within 35 days of the Progress Payment Invoice date, interest charges may be added to the Past Due Amounts per terms stated in the Scope Letters (2% per month on Past Due Amounts). Further, In the event that Contractor does not pay for properly completed and insured work within 70 days of the Progress Payment Invoice date, Subcontractor may refuse to continue work until payment has been made, and all penalties for that delay shall be the responsibility of the Contractor.

In the event that the Prime Contract between the Owner and the Contractor is terminated for any reason, this Subcontract Agreement is automatically terminated, and the Contractor shall be responsible to immediately pay the Subcontractor in full for all completed work, and for all non-returnable materials purchased for the project. In that event, the Subcontractor will not responsible for any penalties for project delays as a result of that termination of Prime Contract.

6. SPECIAL PROVISIONS:
All work is to be provided per Inclusions and Exclusions of the attached Scope Letter of 6/6/06, and all other 'Section Work' that may be noted the Plans and Specifications or may be noted within other parts of the Subcontract Agreement are excluded from the scope of work under this Subcontract Agreement unless they are addressed within the attached Scope Letter of 6/6/06 from the Subcontractor.

Delete the Sentence #1 , and ADD the following in place of:
"1. Product data submittals, coordination and or shop drawings are due within 30 calendar days of receipt by California Woodworking of a fully executed Subcontract Agreement, contingent upon timely response to all relevant RFI or submittal related questions. Subcontractor shall not be responsible for any penalties for not adhering to any "Milestone Date" requirements for the completion of submittals or other coordination activities related to the submittal process.

Delete the Sentence #2 , and ADD the following in place of:
Contractor shall maintain and pay all fees for a garbage bin / waste bin at the project site that is of a size large enough to receive all construction debris generated by the Subcontractor, his employees or agents during the course of their work. Contractor agrees to provide water, utilities (power), heat, toilet facilities etc. per Contract Documents. The Subcontractor agrees to clean his work site of his debris and place all debris within that waste bin daily and weekly to the satisfaction of the Contractor, towards the end goal of a continuously clean and safe work place for all persons. This includes a 'broom clean' of his work area upon completion of his work. Subcontractor accepts 'non-deleted' portions of Article Q / General Subcontract Provisions.

In the event that Subcontractor does not comply with the above requirements for a clean and safe work environment, the Contractor shall have the right to affect that condition and immediately 'back-charge' the Subcontractor for all labor costs to reach that condition.

Contractor

Subcontractor

(San Jose Fire Station No. 34- Addendum to the Subcontract Agreement con't)

(6. SPECIAL PROVISIONS CON'T)-

Delete Sentence #4

Delete Sentence #6, and ADD in place of:

6. Cabinet locks as stated in Scope Letter of 6/6/06

9. TIME:

ADD to section as follows:

Under no circumstances shall Contractor prepare, plan, or accelerate the Schedule so as to require that the Subcontractor provide work in an "Overtime" rate of employee pay without 1) written agreement by the Subcontractor that such work will be provided, and 2) compensating the Subcontractor for all costs associated with that requirement. Further, Contractor agrees that Subcontractor shall not be responsible to 'make-up' lost schedule time through re-scheduling and a subsequent reduction of the reasonable allotted time for Subcontractor to complete his work.

Contractor agrees to provide Subcontractor complete schedule, communication and project progress information within 48 hrs. of written request at all times during the course of the project. This information may include, but not be limited to: Main Project Schedule, Weekly Updated Schedules, Progress Schedules and other information so Subcontractor can assess and understand the progress of the project in relation to any potential claims.

Subcontractor shall not be responsible for penalties of any kind (liquidated damages or otherwise) with regards to Project Milestone dates that relate to the completion of the submittal or planning process. Further, Subcontractor shall not be responsible for work completion delay penalties of any kind (liquidated damages or otherwise), unless 1) those penalties are assessed by Owner upon Contractor and 2) that delay can be directly attributed to actions (inactions) by Subcontractor.

Should substantial project delays (more than 45 calendar days, outside of control of Subcontractor and caused by others) cause conflict with the ability of the Subcontractor to provide services for other customers, Subcontractor agrees to inform Contractor in good faith and with purpose to resolve as early as possible to the possibility of that event. In the event that the substantial project delays do affect the ability of the Subcontractor to provide services under this agreement and that the Subcontractor has informed the Contractor in good faith and with purpose to resolve, Subcontractor shall provide available resources of labor personnel, shop time and materials in order to complete the project and minimize conflict with the completion of work for other customers and shall not be responsible for work completion delay penalties of any kind (liquidated damages or otherwise), unless 1) those penalties are assessed by Owner upon Contractor and 2) that delay can be directly attributed to actions (inactions) by Subcontractor, and not as a result of substantial project delays causing conflict with other customers of the Subcontractor.

Contractor

Subcontractor

ADDENDUM "A" TO SUBCONTRACT
SUBCONTRACT INSURANCE REQUIREMENTS

General Liability Insurance:

General Liability Insurance shall be provided in the amounts and coverage language as provided in the basic coverage package of the Subcontractor only. See attached sample form.

Automobile Liability Insurance:

Automobile Liability Insurance shall be provided in the amounts and coverage language as provided in the basic coverage package of the Subcontractor only. $1,000,000.00 See attached sample form.

Certificates of Insurance:

Certificates of Insurance shall be furnished by the Subcontractor before any work is commenced hereunder by the Subcontractor. The Certificates of Insurance shall provide that there will be no cancellation or reduction of coverage without thirty days written notice to Contractor (to such effect and degree as offered in language of certification form of Subcontractor's basic coverage only). In the event that Subcontractor does not comply with the requirements of this section as agreed herein, Contractor at its option, may provide insurance coverage as agreed herein and charge the Subcontractor for the cost of that insurance or terminate the Agreement. Any acceptance of insurance certificates by the Contractor shall in no way limit or relieve the Subcontractor of the duties and responsibilities assumed by the Subcontractor in this Contract. Copies of policies shall be furnished upon request.

14. Additional Insured Endorsement:

Subcontractor will provide Additional Insured Endorsement in the form and language as offered by our carrier in our basic coverage package only. Additional Insured Endorsement is offered to Gonsalves and Stronk Construction Company, Inc. and the City of San Jose only, and shall read as follows / for both parties: "....Trustees, Officers, Employees and Authorized Agents...".

Additional Insured Endorsement shall include Primary Wording with the language and to the extent that it is offered by the carrier as part of the basic coverage package only.

By signature below, this Addendum to the Subcontract Agreement shall become attached to and fully part of the Subcontract Agreement, and shall make the Subcontract Agreement whole and complete.

Contractor	Date	Subcontractor	11/25/06 Date

END OF ADDENDUM

SCOPE LETTER

6/6/2006
Prepared By: Ray Gorman

Woodworking

FRESNO, CA. 93703 ph: (559) 252-5568 fax: (559) 252-5579
W.I.C. MEMBER SINCE 1997

SAN JOSE FIRE STATION NO. 34

1034 Las Pumas Ave. San Jose, CA.
RRM DESIGN GROUP

1, 2 and 3 ONLY.

06200 – Finish Carpentry
06410 – Custom Cabinets

- Plastic Laminate Countertops- WI Premium Grade:
  - Cabinet Locks furnished at Dorm Lockers ONLY
  - Toe Kicks (Sub-Base) to be 2 x 3/4" (1-1/2") Plywood ONLY
- Plastic Laminate Countertops- WI Custom Grade
- Dorm Lockers- WI Premium Grade:
  - Cabinet Locks furnished at Dorm Lockers ONLY
    - Locks to be National 8173 or Olympus 100 series
  - 4 x 4 Metal Doors Vents to be on One Side ONLY
  - Wall Cabinetry above lockers is "one-sided" / inside Dorm room ONLY
- 2 x 10 Birch Cap at Stair Pony Wall

- Furnished and Installed – Tax Included

- NOTE: This project requires Woodwork Institute Certification. Certification Fees will be listed within our Schedule of Values and billed as a separate line item.

RG 6/6/2006

RG 11/25/05

3060

[illegible] San Jose Fire Station No. 34 / con't)

[illegible]:

- Exterior Work
- Lumber Core @ Plywood (Composition Core or Veneer Core ONLY)
- PVC "T-Molding".
  - All Edge banding to be 3MM PVC / applied with Automatic Edge Bander
- Finish Carpentry other than Pony Wall Cap @ Stairs
- Solid Polymer / Solid Surface Fabrications or Installations
- Paint / Stain / Finishing
- Steel Brackets and Braces / Stainless Steel Products / Metal or Steel Countertops
  - Metal Cap Cover at Pony Wall / Stairs
  - Sagatsune BTK-480 Support Brackets- Unless Specifically Noted in Plans
- Rough Carpentry / Blocking / Backing
- Electrical / Plumbing – Rough / Finish

Six Rlo

[illegible]: $ **106,420.00** (One Hundred ~~Seven~~ Thousand Four Hundred Twenty) **Total Installed**

[illegible] Alternate # 2- **Platform Bed Casework: DEDUCT $17,400.00 Total Installed**
[illegible]: Delete Platform Bed Casework (20 Units) per Det. 11/A9.7

[illegible]ing is a non-union shop. This proposal specifically excludes payment of prevailing wages for any [illegible] General Contractor shall be responsible for providing and maintaining building temperature and [illegible] specifications.

[illegible] will provide Additional Insured Endorsements for General Liability and Automobile Liability [illegible] and language offered by our carrier and packaged with our basic coverage only. Additional coverage [illegible] Wording is extra. Waiver of Subrogation is not offered.

[illegible]mitted for completed work on a monthly basis, and will be submitted directly prior to the submittal date [illegible] General Contractor. The completed work may include shop fabrication, and monthly progress payments [illegible]plete, proper and correct shop fabrication will not be denied for any reason. The Owner / Contractor [illegible] our shop at any time to review and inspect the progress of our work.

[illegible] for completed work based upon a Schedule of Values for that project. Progress payments are Past Due if [illegible]ornia Woodworking within 35 calendar days of the date of the invoice. All Past Due invoices are [illegible] charges of 2% per month (24% per year) on past due amounts.

[illegible] and the above terms shall be attached to the Subcontract Agreement, shall become part of that [illegible] terms will take precedence over all other contract language that may affect the implementation of the

END OF PROPOSAL.

Rlo 6/6/2006
Rlo 11/25/06 **SJ061**

WESTMARK PRODUCTS, INC.

$ 117,874

California License 574139

BID PROPOSAL

PROJECT: Fire Station # 34
San Jose, California

SECTION: 6410 Custom Cabinets

DATE: June 6, 2006

QUOTE NO: 16784

BID INCLUDES:
1. Plastic laminate clad cabinets
2. Plastic laminate clad Bunk room lockers, platform beds & countertops
3. Plastic laminate clad countertops at Room 103
4. Plastic laminate clad Transaction tops at Rooms 101 / 106
5. Locks (at Bunk room lockers only)
6. Cord grommets
7. Trash rings
8. Freight
9. Installation
10. Taxes

BID EXCLUDES:
1. In-wall blocking
2. Finish base
3. Stainless steel countertops, metal countertops & metal support brackets at countertops per Section 05500
4. All items of Sections 6200, 6605 & 6620
5. Metal lockers & metal shelving
6. Wainscots or wall coverings
7. Plywood sub-decks for stainless steel or metal countertops
8. Bond
9. Blocking, backing, painting, & priming
10. Off site trash removal & cost of dumpster

BASE BID.....$ 117,874.00 Furnished & Installed

DEDUCT ALT # 2 – Platform Beds.....($ 18,788.00)

ADDENDA NOTED: 1, 2 and 3

COMPLETION DATE: 305 Days

Sincerely,

Laurence Levesque
Estimator

Northern California Sales Representative:
Linda Edmunds
1325 Delmas Ave
San Jose CA 95125
Phone: (408) 297-5533 Fax: (408) 297-1554
Factory: PO Box 44040, Tacoma WA 98444
(800) 755-3470 ~ Fax (253) 536-0156

This proposal for acceptance within 30 days and subject to change without notice. All contracts are subject to credit approval and acceptable payment terms by this office. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by workman's compensation insurance. Our contractor's registration numbers are listed below.

AZ: 085809 CA: 574139 ID: 11835-AA-4(39) OR: 66057 WA: WESTMPI110JD

SJ062

EXHIBIT D V1

GONSALVES & STRONCK
Construction Company, Inc.

1000 Washington Street
San Carlos, CA 94070-5319

CITY OF SAN JOSE
ATTN: PETER TESTA

SJ063

3/6/2007

California Woodworking

4550 E. PINE AVE. FRESNO, CA. 93703 ph: (559) 252-5568 fax: (559) 252-5579
LICENSE NO. 646408 W.I.C. MEMBER SINCE 1997

To: City of San Jose
City Facilities ASD
200 East Santa Clara Street, 6th Floor
San Jose, Ca. 95113
Attn: Ms. Deedee Flauding
Re: Fire Station No. 34-
Subcontractor Substitution Request by Gonsalves and Stronk

Dear Ms. Flauding,

I have received the response letter from Mr. Ken Gendotti of Gonsalves and Stronk (G&S) dated 2/21/07 (date stamped by DPW-CFAS on 3/2/07) and offer the following response for your consideration. I have enclosed a copy of that letter with the paragraphs numbered for your reference.

Paragraph 3-

G&S has stated that they received our bid on 6/6/06 (project bid day) at 1:46 p.m. I take no exception to this fact. However, I wish to add that California Woodworking faxed the same scope letter (excluding the price) to G&S on 6/5/05 for their consideration, as we have not done business with them before and wanted them to have the opportunity to review it.

Paragraph 4-

Whether or not our bid was the lowest is irrelevant. G&S has stated "G&S relied on that bid....".

It is more correct to say that G&S, through the action of listing CWW, recognized and accepted our scope letter as a whole in that potion of their bid to the City for the project.

Paragraph 5, 6 and 7-

G&S has not offered specific arguments or examples that will show that the agreement they offered CWW is in general compliance with 2-1.15B in that it was based upon the general terms, condition, plans and specifications of the project, as well as the terms of our written bid. I did modify the agreement offered by them, but that does not validate the request for substitution.

If the original agreement does not comply with 2-1.15B requirements, I do have the right (without penalty or substitution) to modify that agreement towards that compliance. If G&S does not accept our modifications, then they still must comply with 2-1.15B and make effort to create a document that satisfies the city specifications, and the Calif. Public Contract Code. We were not contacted by G&S in any way regarding our modifications to the original agreement offered.

3/6/07 SJ064

Paragraph 8 and 9-

G&S subsequently contacted Westmark Products regarding this project. Please see previous letter of 1/19/07 to you in this regard. However, the inclusion of Westmark Products or the stated cost effects thereof does not serve to respond to the specifics compliance with 2-1.15B, and therefore the statements are also irrelevant.

G&S has requested a substitution, and they have exhibited subcontract agreement documents to the city, yet they have not stepped forward to detail any specifics behind the request. G&S has referenced several areas of their original agreement to us (see paragraph 7 of their letter), yet they have not offered any specifics as relates to those areas of the agreement.

I believe that review of the documents by the city will show that G&S has not yet offered CWW an agreement that is based upon the general terms, plans and specifications of the project, nor has an agreement included any recognition of the specific Inclusions, Exclusions and Terms as stated in our Scope Letter of 6/6/06. Since G&S has not yet complied with 2-1.15B requirements for an agreement, I respectfully request that the city reject the request by G&S to substitute CWW.

Thank You,
Ray Gorman / California Woodworking

RG 3/6/07

SJ065

GONSALVES & STRONCK
Construction Company, Inc.

RECEIVED
MAR 2 2007
DPW-CFAS

February 21, 2007

City of San Jose
City Facilities Architectural Services Division
200 East Santa Clara Street, 6th Floor
San Jose, Calif. 95113
Attention: Deedee Flauding

Re: San Jose Fire Station 34 – Custom Cabinet Subcontractor Substitution

Dear Ms. Flauding,

1 We offer the following explanation, and attached documents in support of our request for substitution of Westmark Products, for the listed custom cabinet subcontractor; California Woodworking on the Fire Station 34 Project.

2 The Fire Station 34 Project bid on June 6, 2006. Gonsalves and Stronck was one of four general contractors who submitted bids to the City of San Jose for the project. Gonsalves and Stronck's base bid was the lowest of the four general contractor bids.

3 Prior to the bid date, Gonsalves and Stronck had not worked with, nor heard of California Woodworking. On bid day, Gonsalves and Stronck received California Woodworking's bid for specification section 06200 – Finish Carpentry and 06410- Custom Cabinets, and at 1:49pm via fax, California Woodworking confirmed their base bid amount of $106,420. (See Exhibit A – attached)

4 Gonsalves and Stronck received four other subcontractor's cabinet bids on bid day. California Woodworking's bid of $106,420 was the lowest. Gonsalves and Stronck relied on that bid and in turn listed California Woodworking as the intended custom cabinet subcontractor.

5 On November 16, 2006, Gonsalves and Stronck forwarded Subcontract Agreement / Subcontractor Code No. 06410 to California Woodworking based on California Woodworking's June 6th bid, and the general terms, conditions, plans and specifications for the Fire Station No. 34 Project. (See Exhibit B – attached)

RB 3/6/07

1000 Washington Street, San Carlos, CA 94070-5319 • 650/802-2960 • FAX 650/802-2970 • Lic. 672769
www.gs-construction.com

SJ066

(6) Upon receipt of the subcontract agreement from Gonsalves and Stronck, California Woodworking made numerous modifications to the subcontract agreement body without prior notification, nor consent of Gonsalves & Stronck. In addition to those modifications, California Woodworking created, attached, and returned to Gonsalves and Stronck the modified subcontract agreement with altered terms, and an additional, four page addendum. California Woodworking did not execute the written agreement as presented to them by Gonsalves and Stronck.(See Exhibit C – attached)

(7) Many of the terms added and/or modified by California Woodworking were new terms not addressed in the California Woodworking bid and are not consistent with the terms and conditions of Gonsalves and Stronck's contractual project plans and specifications obligations. (See General Subcontract Provisions; A) Insurance, B) Indemnity Provision, C) Bonding of Subcontractors, D) Time, G) Liens, H) Recourse by Contractor, I) Termination of Agreement, J) Labor Relations, M) Provision for Inspection, Q) Clean-up, Addendum A, Appendix B, and Appendix E, etc.)

(8) Accordingly, Gonsalves and Stronck determined that the extensive, new modified terms and requirements intended to be imposed by California Woodworking were unacceptable. California Woodworking rendered the entire, modified proposed agreement cancelled, void, and "Non-Executed" in it's entirety, with no legal effect for both parties if not signed by Gonsalves and Stronck on all pages by December 25, 2006.

(9) In turn, Gonsalves and Stronck, contacted Westmark Products; the second lowest casework bidder from bid day, to hold their bid day price of $117,874. (See Exhibit D – attached) Westmark has agreed to honor their price, and the general contract terms, conditions, plans and specifications provisions. Therefore, the additional direct cost to Gonsalves and Stronck for the substitution would be $11,454.

(10) As previously noted, Gonsalves and Stronck respectively request that the City of San Jose accept this proposed listing substitution from California Woodworking to Westmark Products, without prejudice to all parties involved.

Sincerely,

Ken Gendotti
Project Manager

Cc: California Woodworking
Westmark Products
File

Rec 3/6/07

SJ067

Schwarzbach, Glenn

From: Flauding, Deedee
Sent: Wednesday, March 07, 2007 2:53 PM
To: Schwarzbach, Glenn
Subject: FW: Fire Station No. 34

Glenn,

Here are responses to your follow up questions to G&S. I am sending a second email with the documents requested.

Deedee

From: Ken Gendotti [mailto:kgendotti@gs-construction.com]
Sent: Wednesday, March 07, 2007 2:19 PM
To: Flauding, Deedee
Subject: RE: Fire Station No. 34

Ms. Flauding,

We offer the following responses;

1. Yes, the subcontract agreement that we sent to California Woodworking is our standard Subcontract Agreement.

A. I've asked Phyllis Chliders to e-mail you a copy of that standard Subcontract Agreement.

2. Yes, Westmark is willing to sign the standard Subcontract Agreement without modifications.

3. Yes, G&S and Westmark have executed an agreement for this project. The prosecution of work per that agreement is
on-hold in obeyance of pending consent by the City to our proposed subcontractor substitution request.

Sincerely,

Ken Gendotti

-----Original Message-----
From: Flauding, Deedee [mailto:Deedee.Flauding@sanjoseca.gov]
Sent: Wednesday, March 07, 2007 12:27 PM
To: Ken Gendotti
Cc: 'Raymond Gorman'
Subject: Fire Station No. 34

Ken Gendotti,

Our attorney has requested a response from G&S for the following questions:

1. Is the Agreement sent to Calif. Woodworking your Standard sub-contractor Agreement?

   A. Please provide the City a copy of standard agreement used by all subs.

2. Is Westmark willing to sign the standard agreement without modifications?
3. Has G&S and Westmark executed any agreement for this project?

Please resubmit to Deedee Flauding at deedee.flauding@sanjoseca.gov

Deedee Flauding
Associate Architect
Department of Public Works
City Facilities Architectural Services
Public Safety Bond Program
City of San Jose
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