

SUB-CONTRACT AGREEMENT

This agreement is by and between:

NAME: BOBO CONSTRUCTION, INC

ADDRESS: 9722 KENT ST

ELK GROVE, CA 95624

PHONE (916) 383-7777/FAX (916) 383-1681

NAME: SAMPLE SUBCONTRACTOR

ADDRESS:

PHONE

FAX

hereinafter called the Contractor, and Warrens Equipment hereinafter called the Sub-Contractor, for the work on:

SAMPLE PROJECT NAME

Project per contract with:

NAME: SAMPLE Owner, (and) in accordance with certain plans and specifications prepared by: SAMPLE ARCHITECT dated SAMPLE DATE, including addenda SAMPLE.

Sub-Contractor having thoroughly informed himself of the conditions surrounding the work by through examination and comparison of all plans and specifications insofar as they relate in any way to the work to be undertaken herein, agrees to furnish all material, labor, supervision, tools, appliances and certificates necessary to construct and complete in a workmanlike manner, in strict accordance with said plans and specifications including the general and special conditions and details illustrative thereof, as approved by the Contractor. The Work shall include all work of such type and trade classification for the Project, and is to be performed in strict compliance with this Subcontract and the Contract Documents (as defined below) and all addenda, amendments and changes thereto, whether or not stipulated in the Contract Documents, and shall include all work ordinarily and usually performed, and the supply of all facilities ordinarily and usually provided as a part of the Work covered by this Subcontract or ordinarily and usually performed by a subcontractor doing work of such trade classification. Subcontractor, to the entire satisfaction and approval of Contractor (or its authorized representatives and/or assigns) and all governing agencies, agrees to furnish all required and reasonably inferred labor, materials, tools, equipment and services, both timely and in sufficient quantity, and to properly perform the Work, free from defects, in a sound workmanlike and substantial manner. The Contract Documents comprising this Subcontract are this Subcontract Agreement and the Agreement between Owner and Contractor (and all terms and conditions and all exhibits thereto and all documents incorporated or referenced therein) (collectively the Prime Contract). To the extent there are any conflicts or inconsistencies between this Subcontract and the Prime Contract, the agreement requiring the most stringent requirements shall control, and in the event of an impasse as to conflicting provisions, the Prime Contract shall take precedence. In all instances the terms and conditions of the Contract Documents, as amended, between the Contractor and Owner, are expressly incorporated herein, as though set forth in full, and this includes, without limitation, the disputes clause, the insurance clause and the indemnity clause.

(SAMPLE) FURNISH AND INSTALL SHELVING AS PER PLANS AND SPECIFICATIONS, INCLUDING OFF HAUL OF YOUR OWN DEBRIS AND DIVISION 1.

For the sum of _____ ***Dollars. (*)**
Including all taxes and fees, which may now or hereafter be levied.

In performance of the described above the parties agree as follows:

A. Time is the essence of this contract. The Sub-Contractor shall commence the work promptly as directed by the Contractor, and prosecute same energetically and expeditiously, in full cooperation with the Contractor, other Sub-Contractors, and in accord with the requirements of the general construction as determined by the Contractor until fully completed and accepted; taking into account acts of God, strikes, lockouts, and similar action beyond the control of the Sub-Contractor. He shall comply with all State and Federal health, safety and environmental laws, ordinances, coded and regulations of all governmental authorities relating to said work or workmen, employ labor under conditions satisfactory to the Contractor and discontinue the employment on this contract of any employees unsatisfactory to the Contractor; furnish and maintain all insurance policies hereafter required; insure his own risk in or about the building project, including all his temporary material, structures, tools and equipment used by him or his Sub-Contractors; remove and replace promptly all his defective or non-conforming work or material; report in writing any errors, inconsistencies, or omissions relating to his work; and deliver to the contractor written applications for progress payments by the TBD day of each calendar month, except the final application which shall be delivered to the Contractor on completion and acceptance of the Sub-Contractor's work. He shall not assign or sublet this contract as a whole nor any moneys due or to become due him hereunder, without previous written consent of the Contractor; and not to deviate from said plans, specifications and details, except on written order of the Contractor.

B. The Sub-Contractor certifies that he is an independent Contractor within the scope of all federal, state, and local codes, acts and ordinances and is solely responsible under all such codes, acts and ordinances for all payroll taxes, deductions, withholdings, and contributions. Sub-Contractor shall protect and fully indemnify the Owner, Contractor and Surety against all liability for claims and liens for labor, materials, equipment and suppliers, including attorneys fees, resulting therefrom which may accrue from labor employed by, or materials, equipment and supplies ordered by the Sub-Contractor. Nothing herein shall be construed as affecting the Sub-Contractor's rights to protect himself through claims or liens on his own behalf. Sub-Contractor shall indemnify the Contractor and owner against and save them harmless from any and all claims, suits or liability for injuries to property, injuries to persons, including death, and from any other claims, suits of liability, on account of any act or omission of the Sub-Contractor, or any of his officers, agents, employees or servants. The Sub-Contractor shall maintain Workmen's Compensation Insurance and Public Liability Insurance for Bodily Injury and Property Damage in an amount acceptable to the Contractor, the Sub-Contractor shall procure for the Contractor from the insuring company a certificate of insurance, evidencing the types of insurance and limits carried. Policies shall have a cancellation clause making it mandatory that ten days written notice be given the Contractor before any reduction or cancellation in coverage.

C. **INDEMNIFICATION:** Subcontractor shall indemnify, defend and hold harmless Contractor and Owner, including their subsidiaries or affiliated companies, its employees, other subcontractors, sureties, stockholders, officers and directors, and their respective heirs, executors, administrators, successors

and assigns, the Owner, the Project surety and the Project lender (hereinafter collectively referred to as the "Indemnified Parties"), from and against all claims, damages, suits, proceedings, actions, liability, losses and expenses, including loss of profits or prospective advantage, and including attorney and consultant fees (hereinafter "claims") arising out of or resulting from Subcontractor's: (i) presence at the Project site, (ii) performance under this Agreement and/or the Contract Documents; or (iii) failure of performance under this Agreement and/or of the Contract Documents, including failure to comply with the requirements of this indemnity provision. The obligations to an Indemnified Party shall not extend to the portion of any claim or claims that arise from the sole negligence or willful misconduct of that Indemnified Party, or to any other act to which rights of indemnification are prohibited by law, but shall extend fully to claims arising out of the Indemnified Parties' contributory negligence, whether active or passive. Further, Subcontractor hereby expressly waives any rights of implied or equitable indemnity it might have against the Indemnified Parties.

SUBCONTRACTOR BONDING: Concurrently with the execution of this Agreement, Subcontractor shall, if required by Contractor, execute a labor and material bond and performance bond, in an amount equal to one hundred percent (100%) of contract price. Said bonds shall be executed by a corporate surety acceptable to Contractor and shall be in a form satisfactory to Contractor. Contractor shall pay the premium on said bonds unless otherwise provide herein or in the Contract Documents.

SUBCONTRACTOR INSURANCE: Workers Compensation and Employers Liability Insurance shall be provided in amounts not less than: \$1,000,000.00 for each accident for bodily injury by accident, \$1,000,000.00 policy limits for bodily injury by disease. \$1,000,000.00 each employee for bodily injury by disease. General Liability Insurance, Subcontractor shall carry primary and non-contributing Commercial General Liability insurance covering all operation by or on behalf of Subcontractor providing insurance for bodily injury and property damage liability including but not limited to coverage for: (1) Premises and operations (2) products and completed operations (3) contractual liability insuring tort obligations assumed by Subcontractor in this Contract (4) Broad form property damage (including completed operations) (5) Explosion, collapse and underground hazards (including subsidence) (6) personal injury liability. The limits of liability shall but not less than the amounts required of Subcontractor under Contract Documents, but in no event less than: \$1,000,000.00 each occurrence, \$1,000,000.00. Personal injury liability \$2,000,000.00. Aggregate for products-completed operations, \$2,000,000. General aggregate. The general aggregate limit shall apply separately to subcontractor's work under this Contract, and shall be provided subject to those limits identified above or those limits specified in prime contract, whatever is greater. Contractor, its officers directors and employees, and Owner shall be named as Additional Insureds under the Commercial General Liability policy provided by Subcontractor using CG2010 11/85 edition or an equivalent form. *Automobile Liability Insurance*, Subcontractor shall carry automobile insurance, including coverage for all owned hired and non-owned automobiles. The limits of liability shall not be less than \$1,000,000. Combined single limit each accident for bodily injury and property damage. *Waiver of Subrogation*. Contractor and Subcontractor waive all rights such rights against each other and against all other subcontractors and Owner for loss or damage to the extent reimbursed by any insurance applicable to the work except such rights as they may have the proceeds of such insurance. *Builders Risk*. If Builders Risk insurance purchased by the Owner or Contractor provides coverage for Subcontractor for loss or damage to Subcontractor's work, Subcontractor shall be responsible for the insurance policy deductible amount applicable to damage to Subcontractor's work and/damage to other work caused by Subcontractor. If not covered under the Builders Risk policy, or any other insurance required by the Contract Documents, Subcontractor shall procure and maintain at its own expense insurance for portions of Subcontractor's work stored off site or in transit.

D. The Contractor shall pay or cause to be paid to the Sub-Contractor, on or before 10 days after receipt of monies from owner of each month 95% of the approved value of the materials supplied and work performed during the preceding month. If the retention withheld from the Contractor by the Owner is reduced, the retention withheld under this Agreement shall be reduced as applicable to work satisfactorily performed. Sub-Contractor shall furnish, if and when required by Contractor, payroll affidavits, receipts, vouchers, releases or claims of labor, material, men, and Sub-Contractors performing work or furnishing major items of materials under this Agreement, and it is agreed that no payment hereunder shall be made, except at Contractor's option, until and unless such releases are furnished. When the work is fully performed, accepted, and required guarantees furnished the Contractor, the entire amount retained shall be paid the Sub-Contractor not later than five days prior to the expiration date of the Sub-Contractor's "Mechanic Lien" period or 30 days from the date his work was completed and accepted whichever is first. All payments to the Sub-Contractor are subject to further conditions shown in this contract.

E. If the Contractor does not pay the Sub-Contractor through no fault of the Sub-Contractor, within seven days from the time payment should be made, the Sub-Contractor may, without prejudice to any other remedy he may have, upon seven additional days written notice to the Contractor, stop his work until payment of the amount owing has been received.

F. The Contractor reserves the rights to retain out of the moneys due or to become due to the Sub-Contractor, an amount sufficient to indemnify the Contractor against loss by reason of lien or claim against the Sub-Contractor, including reasonable cost of litigation thereunder, if the Contractor might be held directly or indirectly liable for such lien or claim, until such liability shall cease to exist; to require as a prerequisite to making any payment to the Sub-Contractor, satisfactory evidence that the Sub-Contractor has paid or made arrangements to pay which are satisfactory to the Contractor, satisfactory evidence that the Sub-Contractor has paid or made arrangements to pay which are satisfactory to the Contractor, at least 95 per cent of the cost of the total work (labor, materials, taxes, etc.) for which much payment is to be made.

G. The Contractor has the right, to make written changes in the plans, specification and details. The Sub-Contractor shall be governed by such changes on presentation to him. Price allowances for extra work or deductions for reduced work caused by such changes shall be mutually agreed upon in writing. Such agreements shall be subject to arbitration as hereinafter provided.

H. CLAIMS RESOLUTION

1. In the case of a dispute between Contractor and Subcontractor which involves the Owner and/or Architect, and which arises from or relates to this Agreement, any claims resolution procedure incorporated in the Prime Contract shall be deemed incorporated in this Agreement, and shall apply to any disputes arising hereunder. In the absence of a claims resolution procedure in the Prime Contract, the parties hereto shall not be obligated to utilize arbitration or any other non-judicial method of dispute resolution. Subcontractor consents to be joined, at Contractor's option, in any arbitration, mediation or other dispute resolution proceeding that involves its Work.

2. If, and only if, the Contract Documents between Owner and Contractor call for arbitration, and an arbitration concerning or related to the Subcontractor's Work is commenced between the Owner and the Contractor, Subcontractor shall, upon demand of Contractor, become a party to such arbitration proceedings and shall submit to the jurisdiction and authority of the arbitrator, as well as to any award which may be rendered therein, which shall be binding as to Subcontractor. To the extent not prohibited by their contracts with others, the claims and disputes of Owner, Contractor, Subcontractor and other subcontractors involving a common question of fact or law shall be heard by the same arbitrators in a single proceeding. In this event, it shall be the responsibility of Subcontractor to prepare and present Contractor's case, to the extent the proceedings are related to this Subcontract.

3. This Section shall not be deemed a limitation of any rights or remedies which Subcontractor may have under any Federal or State Mechanics' Lien laws or under any applicable labor and material payment bonds unless such rights or remedies are expressly waived by him.

4. If Contractor or Subcontractor shall bring any legal action or proceeding against the other that does not involve the Owner and/or Architect, it is hereby agreed that such action shall only be brought in a State or Federal Court located within the County of Sacramento, state of California, the location of Contractor's principal office, which Contractor and Subcontractor hereby agrees is the place at which this Subcontract was entered into and which shall be the only proper Venue for any such action.

5 If either party becomes involved in litigation and/or arbitration arising out of this Agreement or the performance thereof, the court and/or arbitrator in such litigation/arbitration, or in a separate suit, shall award reasonable costs and expenses, including attorneys' fees and expert costs, to the prevailing party. In awarding attorneys' fees, the court/arbitrator will not be bound by any court fee schedule, but shall, if it is in the interest of justice to do so, award the full amount of costs, expenses and attorneys' fees paid or incurred in good faith.

I. If Sub-Contractor should neglect to prosecute the work diligently and properly or fail to perform any provisions of this contract, the Contractor, after 48 hours written notice to the Sub-Contractor, may, without prejudice to any other remedy he may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Sub-Contractor, provided, however, that if such action is based upon faulty workmanship, the Architect or Owner shall first have approved such action.

J. During the course of construction, the Sub-Contractor shall remove his waste materials and maintain the premises at all times in a clean and orderly condition. Upon completion of the work under this Agreement, the Sub-Contractor shall remove from the site all temporary structures and debris incident to his operation. If Sub-Contractor fails to clean-up within two days after written notification by the Contractor to do so, the Contractor may proceed with that function as he adjudges necessary and in the manner he may deem expedient, and will deduct the cost thereof from moneys due under this Agreement.

K. Contractor shall not backcharge Sub-Contractor unless Contractor shall have given Sub-Contractor written notice prior to Contractors incurring any cost. Sub-Contractor shall be billed and invoiced within thirty (30) days after the completion of the work for which the backcharge is made.

L. No payment made under this contract, except the final payment, shall be conclusive evidence of the performance of this contract, either in whole or in part, and no payment shall be construed to be an acceptance of defective work or improper materials. In case of loss or destruction of said work by fire, earthquake, or any other cause, and in event that the Contractor is paid any money as payment for such loss or destruction, the Contractor shall pay a just share to the Sub-Contractor. Any riders or special conditions attached hereto shall become a part of this agreement upon the signature of both parties being affixed thereto. In case of default of either party nothing herein shall affect the rights of the injured party to adopt any legal means he may deem necessary to protect his interests and recover damages including reasonable attorney fees from the party in default.

M. If the Contractor fails to make any of the payments provided for herein when due, the Sub-Contractor shall have the right, after seven (7) days written notice delivered to the Contractor's last known address, to demand and receive, in addition to the sum due, interest thereon at the rate of ten (10) per cent per annum, beginning on the day following the above mentioned due date.

N. With the execution of this Agreement, Sub-Contractor shall if required by Contractor, and at Contractor's expense obtain a Labor and Material Bond and Faithful Performance Bond in an amount requested by Contractor. Said bonds shall be secured by a surety company acceptable to the Contractor.

O. Liquidated damages shall not be assessed against the Sub-Contractor unless they have been assessed against the Prime Contractor because of delays caused by the Sub-Contractor.

P. To the best knowledge and belief of the parties this Agreement now contains no provision that is contrary to Federal or State Law or any ruling or regulation of a Federal or State agency. Should, however, any provision of this Agreement, at any time during its term be in conflict with any such law, ruling or regulation, then such provision shall continue in effect only to the extent permitted. In the event any provision of this Agreement is thus held inoperative, the remaining provisions of this Agreement shall, nevertheless, remain in full force and effect.

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, Contractors' State License Board, 9835 Goethe Road, Sacramento, Ca 95827. Mailing address: P. O. Box 26000, Sacramento, Ca 95827.
CONTRACTOR'S STATE LICENSE BOARD, 9835 GOETHE ROAD, SACRAMENTO, CA 95827

IN WITNESS WHEREOF, the parties hereto have executed this Agreement for themselves, their heirs, executors, successors, administrators, and assigns on the day and year first above written.

GENERAL CONTRACTOR

SUB-CONTRACTOR

BOBO CONSTRUCTION, INC.

By: _____

By: _____

DATE: _____

DATE: _____

X Corporation ___ Partnership ___ Proprietorship

___ Corporation ___ Partnership ___ Proprietorship

Contractor's State License No. 183537

Fed. I. D. # _____ or
SS # _____

Expiration date: 9/30/18

Sub-Contractor's State License No. _____

The Contractor's license number and expiration
Date stated herein are made under penalty of perjury.

Expiration date: _____

The Sub-Contractor's license number and expiration
Date stated herein are made under penalty of perjury.

