

Arizona License ROC070961 A GEN ENG ROC067542 B GEN ENG ROC075851 B-01 GEN COM ROC023057 B-04 GEN RES ENG



**ADDENDUM A
MASTER SUBCONTRACT AGREEMENT**

**SUBCONTRACTOR:
VENDOR CODE:
LICENSE TYPE:
LICENSE NUMBER:
AZ TPT NUMBER:
ADDRESS:**

CONTRACTOR: HUNTER CONTRACTING CO
ADDRESS: 701 N COOPER RD
 GILBERT, AZ 85233
TELEPHONE: (480) 892-0521
FAX: (480) 892-4932

**TELEPHONE:
FAX:**

Addendum Number:
 Date of the Addendum:
 HCC Job Number:
 Project Name:
 Prime Contract Number:
 Location of Project:
 Address:
 City: State: Zip Code:

Each section referenced in this Addendum refers to the corresponding section in the Master Subcontract Agreement. This document is an extension of the Master Subcontract Agreement and all Sections as stated in the Master Subcontract Agreement are binding unless otherwise noted in this document.

SECTION 1: STATEMENT OF WORK: The Subcontractor agrees to furnish all labor, supervision, materials, tools, equipment and supplies necessary to perform, and to perform all work set forth in Section 2 hereof in the construction of TBD and as described in this Addendum for the provisions of the Prime Contract No. TBD between the Owner () and the Contractor, dated , including all the General and Special Conditions, Provisions, Drawings, Specifications, Addenda Number, and all other Documents and Revisions to date, forming or by reference made a part of the Prime Contract between the Contractor and Owner, and with particular reference to the below listed Technical and/or other Sections or parts of the Contract Documents, all of which shall be considered part of this Addendum by reference thereto and they are as fully a part of this Addendum Agreement as if hereto attached or herein repeated, and the Subcontractor agrees to bind and obligate himself, in the performance of this Addendum, to the Contractor by the same terms, conditions, undertakings and obligations that the Contractor is bound and obligated to the Owner by the Prime Contract insofar as the terms thereof shall not be in conflict with the terms hereof. Copies of said Prime Contract as outlined in the Addendum are on file in the office of the Contractor.

SECTION 2: SCOPE OF WORK: The Subcontractor agrees to furnish all labor, supervision, materials, tools, equipment and supplies necessary to perform, and to perform the following work in strict compliance with the requirements of this Addendum, the Master Subcontract Agreement and of the Prime Contract as outlined below:

<u>Revenue Code</u>	<u>Phase Code</u>	<u>Description</u>	<u>Estimated Quantity</u>	<u>Units</u>	<u>Unit Price</u>	<u>Estimated Amount</u>
00001						
TOTAL						

Inclusions/Clarifications to Scope of Work:

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Exclusions from Scope of Work:

Modifications to the Master Subcontract Agreement:

Subcontractor will execute Exhibit A, Subcontractor's Affidavit Regarding Settlement of Claims, upon completion of the Scope of Work.

SECTION 3: SUBMITTALS: 1 required electronic copy of complete drawings, detailed shop drawings, lists and brochures for Architect and/or Engineer shall be submitted through Contractor's office within 1 days of the date of this agreement, as well as required material samples and color selections.

SECTION 5: PAYMENTS: The Contractor agrees to pay the Subcontractor for completed items on unit base price basis of work performed based on Section 2. If the unit is designated as "LS" or Lump Sum, then the amount paid will not exceed that amount. The amount paid under Section 2 above will be subject to additions and deductions for changes as may be agreed upon or determined pursuant to the contract. The aforementioned amounts paid include all taxes of any nature whatsoever that may be assessed against or incurred by the Subcontractor in performance of this work. In no event shall payments under this subcontract exceed that maximum amount unless a modification is issued to raise the maximum sum.

Partial Payments less a retained percentage of 10% will be made within 7 days of receipt of each progress payment from the Owner to the Subcontractor, provided the Subcontractor has submitted his Payment Request to the Contractor on or before the 25th day of each month, at the unit prices set forth in Section 2 above for work and materials incorporated into the construction and/or materials delivered to the site of the work as estimated by the Owner's Architect or Engineer, less the aggregate of previous payments, providing payment for such work and materials has been approved by the Owner and received from the Owner by the Contractor.

Any reduction of retention by the Owner to the contractor shall result in a corresponding reduction to the Subcontractor provided the Subcontractor has performed satisfactory work. Contractor shall pay the Subcontractor the reduced retention within 14 days of the payment of the reduction on the retention to the Contractor.

Upon complete performance of this agreement and approval and acceptance of the Subcontractor's materials and work by the Architect or Engineer, the Contractor shall make final payment to the Subcontractor of the balance due him, within 7 days after final payment has been received by the Contractor. No payment on account shall be considered as an approval and/or acceptance of work done or materials furnished, or any part thereof. Regardless of the reason for any delay in the receipt by Contractor of payment from Owner for the work and materials furnished by Subcontractor, receipt by Contractor of payment from Owner for such work and materials is an express condition precedent to the obligation of the Contractor to make the payments to Subcontractor specified above.

Regardless of the reason for any non-payment from Owner for the work and materials furnished by Subcontractor, receipt by Contractor of payment from Owner for such work and materials is an express condition precedent to the obligation of the Contractor to make the payments to Subcontractor specified above. Subcontractor understands that the only source of payment for Subcontractor's work and materials are the payments Contractor is to receive from Owner, and Subcontractor specifically assumes the risk of non-payment for its work and materials associated with any delay, failure or refusal of Owner to pay Contractor for Subcontractor's work.

Subcontractors must provide Conditional waivers of lien with each payment request. After payment to the subcontractor, an Unconditional waiver of lien will be required and submitted as each payment is received. Subcontractor shall cause material suppliers and subcontractors to the Subcontractor to execute Conditional and Unconditional waivers and submit them on a monthly basis.

As a service to our Subcontractors, a request for early payment will be considered for all progress payments provided the Subcontractor has performed satisfactorily. Such early payments for progress payments will be paid with an appropriate discount and must be approved by the Project Manager. Early, full or partial retention release may also be requested provided the Subcontractor has performed satisfactorily. Such early retention release will also be subject to an appropriate discount and must be approved by the Project Manager and the Division Manager. All prepayments and discounts must also be approved by the Cash Manager or CFO of Hunter Contracting Co.

Final Pay Apps or invoices must be submitted within 60 days to Hunter Contracting Co. after completion of work on the project, along with all necessary waivers by Subcontractor. Pay Apps or invoices received more than 60 days after the completion of performance will not be paid.

SECTION 6: LIQUIDATED DAMAGES: The Prime Contract contains a liquidated damages clause in the amount of \$TBD per calendar day. Should the Subcontractor default in the proper performance of his work, thereby causing a delay to the Prime Contract, he shall be liable for any and all loss and damages including liquidated damages sustained by the Contractor. The Subcontractor shall not be liable under this

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paragraph if such delays are caused by strikes, lockouts, or acts of God, however, notice of occurrence of same shall be given in writing within forty-eight (48) hours by Subcontractor to Contractor pursuant to Section 8.

SECTION 7: SCHEDULES: The Job Progress Schedule is a Critical Path Method (CPM) or similar type Schedule. Upon request by the Contractor, the Subcontractor shall furnish the Contractor in writing a CPM schedule covering the work to be performed under this Addendum. This schedule will show in detail the procurement, shop drawing, fabrication, delivery and installation activities of all the major components of work and the Subcontractor agrees to meet and keep this schedule and to apprise the Contractor monthly of his progress through submission of an updated CPM schedule.

SECTION 15: CROSS-DEFAULT AND OFFSET: Subcontractor and Contractor acknowledge and agree that Contractor's continued confidence in the ability of Subcontractor to properly and expeditiously perform the Work is a substantial and material concern to Contractor. Consequently, if Contractor (and/or any affiliate of Contractor) and Subcontractor (and/or any affiliate of Subcontractor) enter into or have entered into any other agreements and Subcontractor (and/or any affiliate of Subcontractor) defaults under this Agreement or under any other agreement, Contractor (and/or any affiliate of Contractor) may, at Contractor's election, treat that default as a default of all agreements between Contractor (and/or any affiliate of Contractor) and Subcontractor (and/or any affiliate of Subcontractor) and may terminate any or all such agreements and/or Change Order entered into in connection therewith for cause pursuant to Section 14 of the Master Subcontract Agreement. In the event of any such default, Contractor (and/or any affiliate of Contractor) may offset from amounts owing to Subcontractor (and/or any affiliate of Subcontractor) under this Agreement and/or any other agreement between Contractor (and/or any affiliate of Contractor) and Subcontractor (and/or any affiliate of Subcontractor) any losses, damages, costs and expenses incurred by Contractor arising from such default.

SECTION 16 INSURANCE: Prior to commencing work as outlined in the Addendum, Subcontractor shall provide and maintain for the duration of the applicable statute of repose, insurance with the minimum limits and coverage as shown below, or if higher, the requirements set for in the Prime Contract Documents. The insurance company or companies must be lawfully authorized to do business in the State where the project is located and must have an AM Best rating of A-VIII or better:

1. **Commercial General Liability:** Commercial General Liability is on an occurrence form using ISO CG0001 10 01 or its equivalent, insuring Bodily Injury and Property Damage against the hazards of Premises and Operations, Products and Completed Operations, Independent Contractors, Contractual Liability and Personal and Advertising Injury and the following minimum limits of liability:
 - i. 2,000,000 Products/Completed Operations Aggregate
 - ii. 2,000,000 General Aggregate
 - iii. 1,000,000 Per Project Aggregate
 - iv. 1,000,000 Any One Occurrence
 - v. 1,000,000 Personal and Advertising Injury
2. **Automobile Liability (Comprehensive Coverage):** Automobile Liability for Bodily Injury and Property Damage claims, including owned, hired and non-owned automobiles with the following limits:
 - i. 1,000,000 Each Accident
3. **Commercial Excess Liability ("Umbrella"):** Limits of insurance not less than:
 - i. 1,000,000 General Aggregate
 - ii. 1,000,000 Any One Occurrence
4. **Worker's Compensation and Employers Liability (Coverage "B" on the Workers Compensation Policy):** As required by the laws of the State in which the work is to be performed, including *Waiver of Subrogation endorsement* in favor of the Contractor. The minimum Employer's liability limit shall be:
 - i. 1,000,000 Each Accident
 - ii. 1,000,000 Each Employee for Injury by Disease
 - iii. 1,000,000 Aggregate for Injury by Disease

CERTIFICATES OF INSURANCE (Liability, Automobile and Workman's compensation) in the amounts stipulated by project specifications and Section 16 of the Master Agreement (In addition, Hunter Contracting Co and TBD must be listed as **"ADDITIONAL INSURED"** in the description section on the certificate.) **NO WORK OR PAYMENTS WILL BE ISSUED UNTIL THE CERTIFICATES OF INSURANCE AND A COPY OF THE SERVICE PROVIDERS LICENSE HAS BEEN RECEIVED BY**

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THE CONTRACTOR.

If marked, these requirements, also apply:

I am self-employed and do not have any other employees, therefore, workmen's compensation insurance is not applicable. I refuse to obtain workmen's compensation for myself from SCF of Arizona. I will not hold Hunter Contracting Co. liable if I should get hurt while working on this job.

All Professionals must carry at a minimum at least \$2,000,000.00 in Professional liability insurance.

Subcontractor shall furnish to Contractor, at least five (5) days prior to scheduled commencement of the work, satisfactory certificates of insurance which shall certify that such policies are then in full force and effect, the expiration date thereof and that such policies shall not be canceled without thirty (30) days prior written notice to Contractor. In the event such cancellation and/or lapse is threatened by reason of Subcontractor's nonpayment of premiums, Contractor may pay the same on Subcontractor's behalf and charge Subcontractor accordingly, including charge by offset against any monies due to Subcontractor. All policies shall name the Contractor and Owner and any lender providing financing for the project as additional insured. Coverage of the Subcontractor shall be primary and any insurance coverage provided by an additional insured shall be treated as excess or non-contributory for claims arising out of Subcontractor's work. Subcontractor's umbrella policy shall be primary to Contractor's general liability policy. Policies provided hereunder shall in no way limit Subcontractor's liability for claims or damages which exceed the amount of insurance. Subcontractor and Contractor waive all rights of subrogation against the other and any of their sub-subcontractors, their agents, employees and the Owner and any lender providing funding for the project, their agents and employees, under each and every insurance policy required to be maintained hereunder, but only to the extent that Subcontractor's insurance policies permit such waiver and only to the extent of the coverage provided by such policies.

Subcontractor represents and warrants that the insurance policies provided hereunder permit such waiver and that it has given notice to its carrier(s) of the foregoing waiver of subrogation and has obtained any special endorsement if required by its insurer to evidence compliance with the waiver.

SECTION 29: SAFETY: Compliance with Hunter Contracting Co.'s Safety Policy and Program must be maintained at all times. Included in our Safety Program is our program for compliance with the OSHA Hazard Communications Standard for Construction. Safety Data Sheets (SDS) for every project listed under related Addenda are available for you and your employees to review at our Gilbert, Arizona office. You must provide us with SDS on any products you will use or store on projects listed on related Addenda. In the event that Subcontractor fails to comply with any OSHA, Arizona, County, Local City or Town ordinance and/or United States requirements, and such, results in a fine to Contractor, Subcontractor agrees to pay the amount of such fine to Contractor immediately upon notification that such fine has been charged. Subcontractor further agrees that, should it fail to comply with any safety requirements after notification of such failure to Subcontractor, its agents, employees, or subcontractors, and then Subcontractor shall pay to Contractor the sum of \$250.00 for each failure. Subcontractor authorizes Contractor to back charge Subcontractor, and deduct from any sums due to Subcontractor from Contractor hereunder and in the related Addenda, the amount of any charges due hereunder and in the related Addenda. Subcontractor further agrees that, should the amount due Contractor by Subcontractor under this provision exceed the funds due from Contractor to Subcontractor, Subcontractor shall immediately pay such difference, which shall bear interest at the rate of eighteen percent (18%) per annum from the date due until paid. Subcontractor further agrees to have a representative, superintendent or higher level present at all weekly job meetings called by Contractor. Subcontractor agrees to pay Contractor a \$250.00 fine for each meeting missed and/or such violation of Contractor's Safety Program.

Subcontractor shall: (a) comply fully with all laws, citations, rules, regulations, standards and other statues with respect to occupational health and safety, accident prevention, safety equipment and practices prescribed by Owner, Contractor, Federal, County, City and any other agency or body having jurisdiction or cognizance over the work being performed; (b) indemnify, defend and save harmless Contractor, its officers, agents and employees from claims, penalties, damages, liability, loss, costs, and expenses, including attorney's fees, arising from any alleged violation or infraction of the foregoing by Subcontractor, its agents, employees or third parties.

Subcontractor agrees to furnish all required personal protective equipment (PPE) necessary to satisfy any pertinent policies for Subcontractor's employees. Any employee of Subcontractor not in possession of the required PPE shall be provided such equipment by the

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Contractor and subcontractor shall be back charged 250% of the cost to the Contractor for such equipment.

1. The subcontractor is required to maintain a safety policy, which includes applicable safety requirements as required by OSHA for the scope of work they are performing.
2. The subcontractor is to maintain documentation of training provided to its employees for tasks they will be required to perform. This documentation will be made available to Contractor upon request.
3. The subcontractor must have and enforce a pre-employment and post incident drug testing policy.
4. The subcontractor must perform and document a minimum of one safety inspection each month. This documentation will be made available to Contractor upon request.
5. The subcontractor will conduct or participate in a daily stretch and flex warm up and safety huddle.
6. The subcontractor will conduct or participate in a weekly tool box talk.
7. All employees of the subcontractor or second tier contractors must participate in the job site safety orientation conducted by a member of the Contractor's staff.
8. All incidents, injuries or illness, auto accidents, property damage, utility damage, thefts, vandalism or equipment damage, must be reported to the Contractor as soon as possible and within 24 hours a copy of the incident report submitted.
9. The subcontractor will complete a task hazard analysis (THA) for each work activity. The THA shall be read and signed by all employees working on the activity, prior to the start of the work. The THA shall remain accessible on the project site for viewing by all site personnel and will be included as part of training and new hires orientation during the phases of work.
10. The subcontractor must complete or update their Pre-qualification Safety Questionnaire annually.

SECTION 37: DISPUTE RESOLUTION: If a dispute arises out of or relates to this agreement or related Addendum, the parties shall endeavor to settle the dispute first through direct discussion between corporation officers of the contractor and subcontractor. If the dispute cannot be resolved through direct discussion, the parties agree to participate in binding arbitration before a single arbitrator. By mutual agreement, all claims, disputes, controversy or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof shall be subject to and decided by binding arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect unless the parties mutually agree otherwise. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The Arbitrator has the authority to award the prevailing party attorney fees, costs, and arbitration fees. Demand for arbitration shall be filed in writing with other party to this agreement and parties to be joined and with the American Arbitration Association. A demand for arbitration shall be made within a reasonable time after the claim; dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statutes of limitations. Arbitration arising out of or relating to this Agreement shall include by consolidation, joinder, or otherwise any additional person or entity not a party to this agreement to the extent necessary to the final resolution of the matter in controversy between the parties. If this Agreement or any term or provision hereof becomes the subject of litigation, the prevailing party in such litigation shall be entitled to recover from the non-prevailing part court costs and reasonable attorney's fee.

SECTION 39: SUPPORT FOR TAX EXEMPT SERVICES: Subcontractor acknowledges that there may be portions of the job that are tax exempt as identified by the Contractor. Subcontractor agrees to supply appropriate documentation to support work being performed that is tax exempt. The documentation includes billings segregated into tax exempt work and nontax exempt work. Tax exempt work will be billed showing Exempt Labor and Exempt Material on two separate lines at Subcontractor's cost. Material will be billed at acquisition costs only - without markup. The acquisition cost of the Exempt Material will be supported by copies of supplier invoices.

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