

SUBCONTRACT AGREEMENT

Date:

Submitted To:
Chance Construction Co.
P. O. Box 1533
Hemphill, TX 75948
409-787-2615 Office
409-787-3448 Fax
0 License Number

Submitted By:

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Office

Fax

License Number

SECTION 1: THE WORK

0 ("SUBCONTRACTOR") shall perform a portion of the work to be performed by Chance Construction Co. ("CHANCE") pursuant to CHANCE's contract with Owner (the "Contract") for the following Project (the "Project"):

Project:

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Location:

0

Job No:

0

PO NO:

0

The portion of the work () to be performed by SUBCONTRACTOR (the "Work") is as follows, including, but not limited to, the work set out in the Scope of Work attached hereto as "Exhibit A" and Bid Proposal attached hereto as Exhibit "B" and Transmittal Letter attached hereto as Exhibit "C" and incorporated by reference:

SUBCONTRACTOR shall furnish all supervision, labor, services, tools, equipment, materials, supplies, barricades, and, if applicable, submittals, shop drawings, shoring and demolition, necessary to perform the Work in strict accordance with, and reasonably inferable from, the Contract plans, specifications, and requirements. SUBCONTRACTOR agrees to be bound to CHANCE for the performance of the Work to the same extent as CHANCE is obligated to Owner. In the event of a conflict between the Contract and this Subcontract, the requirement for the greater quantity or higher quality of Work shall control. The Work shall be performed in accordance with all local, State, and governing Building Codes. SUBCONTRACTOR shall pay all sales and other taxes associated with the Work, and shall obtain necessary permits and inspections, unless otherwise noted. SUBCONTRACTOR shall deliver to CHANCE a copy of any license required to perform the Work, and shall maintain such license in effect throughout the duration of this subcontract.

SUBCONTRACTOR shall comply with all applicable federal and state law, including but not limited to employment and immigration laws. SUBCONTRACTOR shall, upon CHANCE's written request provide proof of such compliance. Failure to provide proof of compliance to the satisfaction of Chance shall be grounds for immediate termination of this subcontract. CHANCE shall have the sole right to determine whether SUBCONTRACTOR has provided satisfactory proof of compliance and the determination shall not be subject to judicial review.

SUBCONTRACTOR agrees to comply with all applicable immigration laws of the United States, including the Immigration Reform and Control Act of 1986, as amended, the Immigration and Nationality Act of 1996, as amended, and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended, and any successor statutes, laws, and regulations.

SUBCONTRACTOR shall not place any employee of **SUBCONTRACTOR** at the Project worksite, nor shall **SUBCONTRACTOR** permit any **SUBCONTRACTOR** employee, or other sub-subcontractor or contractor, to place any employee at the Project worksite, nor shall **SUBCONTRACTOR** permit any employee, nor any contractor or sub-subcontractor, to perform any work at the Project worksite, without first verifying and ensuring said employee's eligibility to lawfully work in the United States.

SUBCONTRACTOR agrees to comply with any and all Project access control procedures required while performing work under this Subcontract, including but not limited to. **SUBCONTRACTOR** agrees to provide copies of I-9 forms and employment eligibility and identification documents on all **SUBCONTRACTOR** employees and those of any and all **SUB-SUBCONTRACTOR** employees. **SUBCONTRACTOR** further agrees to comply with the Project site badging system and to require its **SUB-SUBCONTRACTORS** to comply with such Project site badging system. **SUBCONTRACTOR** agrees to provide Contractor with the necessary information to complete the Contractor Certification Form (Exhibit L to Owner Contract). **SUBCONTRACTOR** agrees to contractually require any of its **SUB-SUBCONTRACTORS** to timely provide this information, and **SUBCONTRACTOR** will remove any **SUB-SUBCONTRACTOR** and its employees from the Project should the Certification Form information not be received prior to commencing work.

SUBCONTRACTOR, agrees, and warrants: (a) that **SUBCONTRACTOR** maintains and follows an established policy to verify the employment eligibility of its employees at the time of hire by **SUBCONTRACTOR** and to ensure continued compliance for the duration of employment, (b) that **SUBCONTRACTOR** maintains and follows an established policy to ensure the employment eligibility of any and all **SUBCONTRACTOR** and sub-subcontractor employees that may perform work on the Project and to ensure continued compliance for the duration of the Project; and (c) that **SUBCONTRACTOR** has verified the identity and employment eligibility of all employees, in compliance with all applicable laws, (d) that **SUBCONTRACTOR** has established internal safeguards and policies requiring its employees to report any suspected violations of employment eligibility policies, immigration policies, or immigration law promptly to **SUBCONTRACTOR**'s senior management, and that **SUBCONTRACTOR**'s senior management will report any findings of employee ineligibility to **CHANCE** immediately; and (e) that **SUBCONTRACTOR** is without knowledge of any fact that would render any employee, subcontractor, or contractor of **SUBCONTRACTOR** ineligible to legally work in the United States.

SUBCONTRACTOR shall respond at all times during the term of this Subcontract, in a timely fashion to any and all inspection requests related to such I-9 forms and supporting documents by the Department of Homeland Security or by an auditor chosen by **CHANCE** or OWNER and shall fully cooperate with such requests. **SUBCONTRACTOR** shall maintain photocopies of all supporting employment eligibility and identity documentation for all employees who are hired by **SUBCONTRACTOR** after the award of the work. **SUBCONTRACTOR** shall require its **SUB-SUBCONTRACTORS** to comply with this requirement for all employees hired by them after they have been awarded work on the Project.

If **CHANCE** becomes aware of evidence of an ineligible **SUBCONTRACTOR** or **SUB-SUBCONTRACTOR** employee performing work on or associated with the Project, then the auditor chosen by **CHANCE** will conduct an audit of the Form I-9s and supporting documentation as required to be kept pursuant to this Subcontract. The costs of the audit will be paid solely by **SUBCONTRACTOR** and shall be completed within four days after **CHANCE**'s request for such audit. All such audits shall be conducted in accordance with the minimum standards set for in Owner's Contract, Section 19.1(d)(iv) and (d)(v) (Exhibit N to Owner's Contract).

SUBCONTRACTOR shall immediately, and in any event within 30 (thirty) minutes, notify **CHANCE** in writing and by telephone (not voice mail) of any and all governmental, immigration, Department of Homeland Security, or any agency or authority related to environmental, immigration or employee-safety inquiries, inspections, visits or audits.

Additionally, prior to start of work on the Project, **SUBCONTRACTOR** will provide **CHANCE** a notarized statement by company executive or principal with proper authority representing that all **SUBCONTRACTOR** any and sub-subcontractor employees are legally eligible to work within the United States and that **SUBCONTRACTOR** has properly verified each Form I-9 and supporting Form I-9 documentation. Additionally, supporting Form I-9s should accompany notarized statement to **CHANCE**.

SUBCONTRACTOR, agrees, covenants, warrants and represents it will, at all times during the performance of the work on this Project, strictly comply with all Storm Water laws, rules, regulations, and requirements.

SECTION 2: THE SCHEDULE

Time is of the essence of the agreement. The Work shall commence on [REDACTED] and be completed on or before [REDACTED]. **SUBCONTRACTOR** shall prosecute the Work in a prompt and diligent manner whenever such Work or any part of it becomes available, and shall perform and complete the Work in accordance with the Project Schedule, a copy of which is attached hereto as Exhibit "D" and made a part hereof. The Project Schedule may be revised by **CHANCE** as the Project progresses. In addition to the Project Schedule, **CHANCE** may establish daily or other interim Milestone Completion Dates for portions of the Work. **SUBCONTRACTOR** shall meet any and all Milestone Completion Dates, or shall be in default of this Subcontract. If Contractor fails to maintain the schedule, they shall provide additional labor and/or provide overtime needed to complete the task on the scheduled completion date. If required, **SUBCONTRACTOR** shall submit all submittals and/or shop drawings to **CHANCE** within 7 days of the Subcontract Date, unless otherwise agreed. **SUBCONTRACTOR** shall not be allowed to commence the Work until all required submittals and/or shop drawings are delivered to **CHANCE**.

SUBCONTRACTOR acknowledges that **CHANCE** may employ other subcontractors to work on the Project site, and that **SUBCONTRACTOR** shall have the duty to coordinate its Work with that of such other subcontractors. **SUBCONTRACTOR** shall not delay, hinder or otherwise interfere with **CHANCE'S** prosecution of the Contract work, or the work of any other subcontractor. **SUBCONTRACTOR** shall be liable to **CHANCE** for any and all liquidated or actual damages that **CHANCE** may incur by reason of **SUBCONTRACTOR'S** failure to perform in accordance with these schedule requirements. **CHANCE** may deduct such damages from the unpaid balance of the Subcontract price, or in the event the unpaid balance is insufficient to cover such damages, **SUBCONTRACTOR** shall reimburse **CHANCE** for such damages upon demand. The payment of such damages shall not release the **SUBCONTRACTOR** from the obligation to otherwise fully perform this Subcontract. Upon written request by **CHANCE** may require relating to the **SUBCONTRACTOR'S** ability to fully perform this Subcontract in the manner and within the time specified.

SECTION 3: PAYMENT

CHANCE shall pay to **SUBCONTRACTOR** the sum of [REDACTED] (the "Subcontract Price"). **CHANCE** shall make periodic progress payments to **SUBCONTRACTOR** for the work properly performed, based upon the percentage of completion of the Work, as determined by **CHANCE**. A 10% Retainage will be withheld from each progress payment until the Work has been completed and accepted, and **CHANCE** has received an original, executed and acknowledged, final release of lien, from **SUBCONTRACTOR** and

each of its subcontractors and suppliers, as well as all required warranties and other close-out documents. All billings shall be originals and on **CHANCE's** Pay Application form, a copy of which is attached hereto as Exhibit "E", and shall be mailed to **CHANCE's** home office in Hemphill, Texas. Each Pay Application must be accompanied by a partial release of lien for the work included therein, executed and acknowledged by **SUBCONTRACTOR**, as well as an executed and acknowledged partial release of lien from each of its subcontractors and suppliers, for the work performed in the previous pay period.

No payment shall be made for more than 50% of the contract sum and/or change orders on any pay request without partial releases of lien from the **SUBCONTRACTOR** and their suppliers and/or subcontractors accompanying the pay request for that period. Billings submitted in any other form or manner (other than original), including but not limited to billings which are faxed, or submitted to the Project Superintendent, shall be returned unpaid. (All Change Order work must be billed on separate Pay Applications.) No payment shall be made for changes in the Work unless and until such time as a Change Order has been approved and executed by both **CHANCE's** Project Superintendent and Project Manager. No payments shall be made unless and until such time as **SUBCONTRACTOR's** Certificate of Insurance, Hazardous Communication Program, Safety Policy, and Supplier List have been delivered to **CHANCE**. Payment shall be made by **CHANCE** on the 10th day of the month, or the next business day if the 10th is on a weekend or holiday, for approved Pay Applications received on or before the 10th of the previous month. No payment shall be made for more than 50% of the contract sum and/or change orders on any pay request without partial releases of lien from the **SUBCONTRACTOR** and their suppliers and/or subcontractor(s) accompanying the pay request for that period. If no Certificate of Insurance is provided, **CHANCE** reserves the right to deduct 10% from the contract total. Payments to **SUBCONTRACTOR** are agreed not to constitute acceptance by **CHANCE** of any portion of the Work. Final payment does not release **SUBCONTRACTOR** from its warranty obligation, indemnity obligation, or any other continuing obligations contained in this Agreement. In the event **Chance** disputes the amount or content of any invoice, **CHANCE** shall not be responsible for payment of the disputed portion until the dispute is resolved. If subcontractor fails to submit final Pay Application and/or any Change Proposal within 30 days from completion of the Work (or to make timely request for a reasonable extension of such deadline), such failure shall constitute a waiver and release of any and all claims for compensation arising out of or related to the work.

SECTION 4: CHANGE ORDERS

All Change Orders shall describe changes, modifications, alterations, deviations or additions to the Work or Contract documents and the adjustment, if any, to the Contract Sum resulting therefrom, and shall only be effective upon the execution of the Change Order form by Project Manager of **CHANCE**.

Should extra work arise under this contract, you are required to perform the approved work that is within reasonable and fair cost.

If Change Orders are initiated by CCD, SCD or RFI **SUBCONTRACTOR** has (5) five days to get the preliminary cost submitted to **CHANCE**. A maximum mark-up of 10% will be allowed on all material, equipment and labor only, overhead or administration fees must be included in the 10%.

When the change order results in a deduct the **SUBCONTRACTOR** must give back a minimum of 3%.

SUBCONTRACTOR has (14) fourteen days to submit final cost breakdown document back-up. **CHANCE** may accept or reject a Change Order in its sole discretion, and each Change Order must be approved and executed by **CHANCE** prior to **SUBCONTRACTOR** commencing performance of the obligations set forth in the Change Order. The failure to obtain advance written approval by **CHANCE** in the form of a Change Order before starting performance of the additional or changed work may result in non-payment. Payment on any approved Change Order(s) is contingent upon evaluated amount and approval from **OWNER** for the proposed pricing..

SUBCONTRACTOR shall have no direct communications with the Owner or Owner's representative related to the Project. If Owner requests work related to the Project directly from **SUBCONTRACTOR**, such as

extras, subcontractor shall refer Owner to **CHANCE**. Any agreement between **SUBCONTRACTOR** and Owner for work related to this Project shall constitute a material breach of this subcontract.

SECTION 5: CORRECTION OF THE WORK

Upon written request from **CHANCE**, **SUBCONTRACTOR** shall promptly correct, within no more than forty-eight (48) hours, any work rejected by the Project Superintendent or Project Managers for failing to conform to the requirements of the Contract, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. **SUBCONTRACTOR** shall bear all costs of correcting such rejected work, including any additional testing and inspections, compensation for the Superintendent's and Project Manager's and any of their consultants' services, costs of repairing or replacing work of other trades effected thereby, and all other expenses made necessary thereby.

If the **SUBCONTRACTOR** fails to correct nonconforming work within forty-eight (48) hours, **CHANCE** may correct the deficiencies. In such an appropriate Change Order shall be issued deducting from any payments due or to become due the cost of correcting such deficiencies, as well as the associated costs and expenses set out above. If payments then or thereafter due to subcontractor are not sufficient to cover such amounts, **SUBCONTRACTOR** shall pay the difference to **CHANCE**.

SECTION 6: CLEAN-UP

SUBCONTRACTOR agrees to keep the premises clean at all times and to remove from the jobsite all rubbish, debris, packing material, scrap and waste materials resulting from the Work on an end of shift basis, or as otherwise directed by the Project Superintendent. **SUBCONTRACTOR** further agrees to clean and remove, to the satisfaction of **CHANCE**, all dirt, grease, marks, stains, etc., from all finished work and property throughout the Project, resulting from the execution of the work. **SUBCONTRACTOR** shall cover or otherwise protect the work of others from damage or soilage due to the performance of the Work, and **SUBCONTRACTOR** shall promptly clean, restore, replace or pay for the restoration or replacement of any such work damaged or soiled by **SUBCONTRACTOR**. If **SUBCONTRACTOR** refuses or fails, in the manner and time foresaid, to properly perform such cleaning, restoration or replacement, **CHANCE** may perform same, and deduct the cost thereof plus 15%, to cover **CHANCE's** supervision insurance, tax, and overhead, from monies due or to become due **SUBCONTRACTOR** under this Subcontract, or if such sums are insufficient, **SUBCONTRACTOR** shall pay such charges to **CHANCE**.

Any existing improvements or materials dismantled or removed by **SUBCONTRACTOR** shall be the property of **CHANCE**, and shall not be removed from the jobsite without prior written permission from **CHANCE**.

In addition, should **CHANCE** participate in a "Recycle Program" it will be the **SUBCONTRACTORS** responsibility to see that demolished materials are placed in proper dumpsters. Any cross contamination of recyclable materials by **SUBCONTRACTORS** or it's affiliates will be the responsibility of the **SUBCONTRACTOR** to either remove and replace the materials in the proper dumpster or pay to have the dumpster hauled to the landfill.

SECTION 7: SAFETY

SUBCONTRACTOR shall take all safety precaution pertaining to its Work and the conduct thereof, for the safety of its employees, the of others, and the general public. Without limiting the generality of the foregoing, **SUBCONTRACTOR** shall comply with all applicable laws, codes, ordinances, rules, regulations and orders in effect at the jobsite relating to occupational safety and health, including but not limited to Federal Occupational Safety and Health Act. **SUBCONTRACTOR** shall indemnify, hold harmless and defend **CHANCE** and/or Owner against any and all liability, claims demands, costs or judgments caused or contributed to, in whole or in part, by failure of **SUBCONTRACTOR** or its agents or subcontractors to comply with such laws, codes, ordinances, rules, regulations and orders, including without limitation all fines, civil and criminal penalties, expenses of correction, consequential damages, court costs and attorney's fees. Prior to commencing work, **SUBCONTRACTOR** shall deliver to **CHANCE** a copy of **SUBCONTRACTOR's** Hazcom Program and Safety Policy, including, if applicable, a Fall Protection, Ladder Training and Scaffolding Program. **SUBCONTRACTOR** shall provide **CHANCE** with Material Safety Data Sheets for products and materials on the job site, and shall maintain appropriate Hazcom and

Safety records and logs. In addition, **SUBCONTRACTOR** shall adhere to and enforce **CHANCE's** Site Safety Rules, a copy of which are attached hereto as Exhibit "F" and incorporated herein, and any safety regulations reasonably required by Owner. These requirements are minimum guidelines only, and nothing contained herein shall limit or relive **SUBCONTRACTOR** of its responsibility for establishing, monitoring and enforcing safety policies and procedures in the performance of its Work.

SECTION 8: INSURANCE AND INDEMNITY

Prior to commencing the Work, **SUBCONTRACTOR** shall procure, and shall provide **CHANCE** with a Certificate of Insurance as evidence of, Workers' Compensation Insurance and Employer's Liability Insurance in full compliance with the laws of the State in which the Work is performed, Commercial General Liability Insurance with contractual coverage, and Automobile Liability Insurance, including owned, and hired automobile coverage, and such other insurance as may be required by the Contract for **SUBCONTRACTOR's** Work. **SUBCONTRACTOR shall not be allowed to commence the Work until said Certificate of Insurance is delivered to CHANCE.** **SUBCONTRACTOR** shall maintain the foregoing insurance in full force and effect throughout the duration of the Subcontract, and each policy and certificate shall be endorsed to provide that there shall be no cancellation, material change or non-renewal of coverage until after at least 30 days prior written notice to **CHANCE**. Except as to Worker's Compensation Insurance, policies issued for **SUBCONTRACTOR** shall be endorsed to name **CHANCE** and Owner as an additional insured, as each of their respective interests may appear. Workers Compensation insurance shall include an endorsement to provide a waiver of subrogation in favor of **CHANCE**.

Each **SUBCONTRACTOR** and Sub-subcontractor(s) shall carry insurance coverage as specified below for not less than the following limits, unless a greater amount is required by law:

- (a) Workers Compensation insurance with statutory limits or, if no statutory limits exist, with minimum limits of \$500,000 per occurrence.
- (b) Employers Liability insurance with minimum limits of \$500,000 for each employee for bodily injury by accident and for each employee for bodily injury by disease.
- (c) Commercial General Liability Insurance, including liability for Personal and Advertising Injury, Products-Completed Operations, Medical Payments, Bodily Injury, and Property Damage with minimum limits of \$1,000,000 per occurrence and \$2,000,000 in the general aggregate and completed operations aggregate, \$500,000 personal and advertising injury per occurrence, and \$5,000 medical expense.
- (d) Business Automobile Liability Insurance with minimum combined single limits of \$500,000

TO THE FULLEST EXTENT PERMITTED BY LAW, SUBCONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS CHANCE AND THE OWNER, THEIR RESPECTIVE OFFICES, DIRECTORS, AGENTS, AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, AND LIABILITIES OF EVERY KIND, INCLUDING BUT NOT LIMITED TO COURT COSTS AND ATTORNEYS FEES, FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY, INCLUDING THE LOSS OF USE RESULTING THEREFROM, ARISING OUT OF OR IN CONNECTION WITH OR INCIDENTAL TO SUBCONTRACTOR'S PERFORMANCE OR FAILURE TO PERFORM UNDER THIS SUBCONTRACT, EXCEPT FOR SUCH INJURIES, DEATHS OR DAMAGES CAUSED BY THE SOLE NEGLIGENCE OF CHANCE OR OWNER. IT IS AGREED AND UNDERSTOOD THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH IS INTENDED BY SUBCONTRACTOR TO INDEMNIFY AND PROTECT CHANCE AND THE OWNER FROM THE CONSEQUENCES OF CHANCE'S OR THE OWNER'S OWN NEGLIGENCE, IF SUCH NEGLIGENCE IS MERELY A CONCURRING CAUSE OF THE INJURY, DEATH OR DAMAGE.

With respect to any claim by an employee of **SUBCONTRACTOR**, anyone directly or indirectly employed by it, or anyone for whose acts it may be liable, the foregoing indemnification obligation shall not be limited in any way by any limitation on the amount or type damages, compensation, or benefits payable by or for

SUBCONTRACTOR under Worker's Compensation acts, disability benefit acts, or other employee benefit acts.

SECTION 9: SUBCONTRACTS

SUBCONTRACTOR shall not subcontract or assign any portion of the Work, or any rights under or interest in this Subcontract, without the prior written consent of **CHANCE**. Prior to commencing work, **SUBCONTRACTOR** shall provide **CHANCE** with a list of subcontractors and suppliers to be utilized for the Work. **SUBCONTRACTOR** shall be fully responsible for the acts or omissions of any supplier or subcontractor of any tier, and of all persons employed by them. Neither the consent by **CHANCE**, or any act or omission of **CHANCE**, nor anything contained herein, shall be deemed to create any contractual relationship between such subcontractors and **CHANCE**. **CHANCE** shall have no duty or obligation to pay or ensure payment of any such subcontractors or suppliers.

SUBCONTRACTOR shall, at **CHANCE's** option and upon its request, execute and deliver to **CHANCE** an Agreement for Joint check procedure, authorizing **CHANCE** to make payments to **SUBCONTRACTOR** hereunder by joint check to **SUBCONTRACTOR** and its subcontractors or suppliers, at **CHANCE's** discretion. If **SUBCONTRACTOR** fails to make payments to its subcontractor and/ or suppliers in the performance of the Work, **CHANCE** shall have the right to withhold from payments due or to become due **SUBCONTRACTOR**, reasonable amounts to pay such subcontractors and/or suppliers, or to protect **CHANCE** from any and all loss, damage and expenses (including attorney's fees) arising out of or related to a claim or lien by a subcontractor and/or supplier, until such time as the claim or lien has been satisfied by **SUBCONTRACTOR**. In addition, upon request from **CHANCE**, **SUBCONTRACTOR** shall furnish at its own expenses such bond or security as will release or discharge any lien against the Project filed by any subcontractor or supplier of **SUBCONTRACTOR**. **SUBCONTRACTOR** agrees to indemnify, defend and hold harmless **CHANCE** and the Owner of the Project from any and all claims, liens, damages, causes of action costs and expenses, including but not limited to attorneys fees, arising out of or related to **SUBCONTRACTOR's** alleged failure to pay any subcontractor or supplier of **SUBCONTRACTOR**. Should **CHANCE** settle a payment dispute between **SUBCONTRACTOR** and **SUB-CONTRACTOR** and/or vendor, **CHANCE** reserves the right to settle the claim/dispute at **CHANCE's** discretion, releasing both **CHANCE** and the Owner from further obligation.

SECTION 10: WARRANTY

SUBCONTRACTOR warrants that all material shall be new and as specified, and all work is guaranteed to be performed in a good and workmanlike manner, in accordance with approved practices and standards of **CHANCE**, and all material and Work shall be free from defects and shall conform to the Contract plans, specifications, and requirements. In the event that defects in the material or Work are discovered by **CHANCE** or **OWNER** within 365 days of the date of completion of the Project, then upon receipt of written notice from **CHANCE**, Subcontractor shall have 7 days to cure the defects at its own expense. IF **SUBCONTRACTOR** fails to cure satisfactorily within the time specified, **CHANCE** shall have the right to cure the defects, and **SUBCONTRACTOR** shall reimburse **CHANCE** for any or all costs and expenses incurred therein.

SECTION 11: TERMINATION

If **SUBCONTRACTOR** shall fail to supply a sufficient number of properly skilled workmen, or materials or equipment of the proper quality and quantity, or fail to prosecute the Work with promptness and diligence, or cause stoppage or interference with the work of **CHANCE** or any other subcontractor, or fail or be unable to meet its debts as they mature, or fail in the performance of any of the obligations contained herein, **CHANCE** may, at its option, after giving **SUBCONTRACTOR** written notice of its default and **SUBCONTRACTOR'S** failure to cure such default within 48 hours of its first default, or within 12 hours of its receipt of notice of any subsequent default, terminating **SUBCONTRACTOR's** employment for the Work or any part thereof by delivering written notice of termination to **SUBCONTRACTOR**. Additionally, **CHANCE** may terminate **SUBCONTRACTOR'S** work immediately if **SUBCONTRACTOR** fails to cooperate with any **CHANCE** immigration policies and procedures, fails to fully cooperate by immediate provision and supply of documentation and information in the event of an immigration or other audit by **OWNER**, an independent auditor, or any governmental entity. Further, if **SUBCONTRACTOR** fails to cooperate with immigration policies and procedures, fails to cooperate in such audit, fails the audit, or its employees or sub-contractors directly or indirectly cause **CHANCE** damages, **SUBCONTRACTOR** agrees to indemnify and hold harmless **CHANCE** for any and all penalties, losses, claims, and expenses, including but not limited to, court costs and attorney fees. Thereafter, **CHANCE** May take Possession of subcontractor's Work, materials, tools, equipment, supplies and drawings at the jobsite, and for such purpose.

This Subcontract shall be deemed an assignment by **SUBCONTRACTOR** to **CHANCE** of all subcontracts, purchase orders and agreements and all rights in and to say materials, tools equipment, supplies and drawings. **CHANCE** may complete or arrange for the completion of the Work or the applicable portion thereof by whatever method **CHANCE** deems reasonable, and shall charge all costs and expenses of completion to **SUBCONTRACTOR**. Upon termination, **SUBCONTRACTOR** shall not be entitled to any further payments under the Subcontract until the Work has been completed and accepted by Owner. If the unpaid balance of the Subcontract Price exceeds **CHANCE's** costs of completion, the difference shall be paid to **SUBCONTRACTOR**. If the costs of completion exceed the unpaid balance of the subcontractor price, **SUBCONTRACTOR** shall promptly pay the difference to **CHANCE**.

CHANCE, at its convenience, may terminate this Subcontract or any part hereof, without cause. Upon receipt of notice of such termination, **SUBCONTRACTOR** shall immediately stop work hereunder. In the event of such termination for convenience, **CHANCE** shall pay **SUBCONTRACTOR** for all of the Work in place conforming to the Contract requirements, based upon the percentage of completion and the Subcontract Price, and for any reasonable and unavoidable costs or expenses incurred prior to the date of termination and directly related to **SUBCONTRACTOR's** performance of the Subcontract. **SUBCONTRACTOR** shall not be entitled to any other costs, expenses or damages in connection with the Subcontract, any anticipated profits, or any consequential damages arising out of or related to such termination for convenience.

In the event an arbitration or court proceeding determines that **SUBCONTRACTOR** was not in default of this Subcontract, any termination for default shall be deemed a termination for convenience, and **SUBCONTRACTOR's** sole and exclusive remedy shall be the compensation provided for above in the event of a termination for convenience.

SECTION 12: DISPUTE RESOLUTION

SUBCONTRACTOR agrees that all claims, disputes, and other matters in controversy arising out of or related to this Subcontract or the breach thereof may be submitted to and decided by arbitration Rules of the American Arbitration Association, at **CHANCE's** option and within its sole discretion. The venue for any arbitration proceeding shall be Houston, Harris County, Texas, unless this agreement establishing venue in Houston, Harris County, Texas is found to be void or unenforceable, in which case the venue for any arbitration proceeding or litigation shall be the capitol of the State where the Project is located. This agreement to arbitrate shall be specifically enforceable. The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance applicable law in any court having jurisdiction.

Should **CHANCE** enter into arbitration with Owner or others regarding matters relating to this Subcontract, **SUBCONTRACTOR** shall, if requested by **CHANCE**, fully cooperate with **CHANCE** and assist **CHANCE's** claims or defense to the extent related to this Subcontract, including but not limited to the furnishing of relevant documents, information and witnesses. If requested by **CHANCE**, **SUBCONTRACTOR** agrees to join or consolidate any arbitration proceedings regarding matters related to this Subcontract, or **SUBCONTRACTOR's** performance of same.

SUBCONTRACTOR shall proceed with the Work and maintain its progress during any dispute and/or litigation or arbitration proceedings. This Subcontract shall be governed by the laws of the State of Texas. **CHANCE** reserves the right to use any funds owed to **SUBCONTRACTOR** to resolve dispute/claim issues.

SECTION 13: SUBMITTALS

All submittals and shop drawings as required as per the Specification Book shall be received by **CHANCE** within 7 days of the contract date. All submittals have to be submitted before any work can commence. If submittals are not received by **CHANCE** this contract becomes null and void.

If Structural Steel submittals and shop drawings are not submitted within 15 days from date of contract, the subcontractor agrees to pay **CHANCE** the sum of three hundred dollars and no/100's (\$300.00) per day as liquidated damages and not as a penalty.

All work performed will comply to Local, State, and National Fire Protection codes. Fire Protection submittals, but not limited to Hydraulic Calculations, Water Flow Test Data, Catalog Cuts on materials used and 6 sets of drawings. Submittals to governing authorities and **CHANCE** will be made within 7 days after award of contract.

If subcontractor fails to provide submittal package in the above allotted time frame the subcontractor agrees to pay **CHANCE** the sum of three hundred dollars and no/100's (\$300.00) per day as liquidated damages and not as a penalty.

SECTION 14: MISCELLANEOUS

SUBCONTRACTOR is an independent contractor, responsible for its own means, methods and techniques of performance, and not an agent or employee of **CHANCE**.

Failure by **CHANCE** in any instance to insist upon observance or performance by **SUBCONTRACTOR** of any requirement of this Subcontract shall not be deemed a waiver by **CHANCE** of such requirement or observance or performance thereof. No waiver shall be binding on **CHANCE** unless same is in writing and signed by **CHANCE's** Project Manager, and shall then be effective only for the particular instance referred to in said writing. Waiver of any one breach shall not be deemed a waiver of any other breach. Payment of any sum by **CHANCE** to **SUBCONTRACTOR**, with knowledge of any breach, shall not be deemed a waiver of such breach or any other breach.

This Subcontract constitutes the entire agreement between the parties hereto, and any prior or contemporaneous agreements, understandings, or representations (oral or written) are merged into this Subcontract. This Subcontract may not be modified except in writing signed by the parties hereto.

If any provision of this Subcontract is held to be illegal, invalid or unenforceable, such provision shall be severed, the remaining provisions shall remain in full force and effect, and the Subcontract shall be construed and enforced as if such illegal, invalid or unenforceable provision had never been a part hereof.

SUBCONTRACTOR shall return to **CHANCE**, within 5 days of its receipt of this Subcontract, a fully executed and acknowledged, original Subcontract, without modification or alteration of any kind. In the event **SUBCONTRACTOR** commences the Work after receipt of but prior to returning this Subcontract, such commencement of the Work shall constitute **SUBCONTRACTOR's** acceptance of all terms, conditions, requirements and provisions of this Subcontract, and all of **SUBCONTRACTOR's** obligations hereunder, the same as if **SUBCONTRACTOR** had signed and returned this Subcontract to **CHANCE**. This Subcontract is not binding on **CHANCE** until such time as it has been executed by an officer of **CHANCE**.

SUBCONTRACTOR warrants and represents that the person signing this Subcontract on its behalf is authorized to do so, and shall bind **SUBCONTRACTOR** by his/her execution of this **SUBCONTRACT**.

APPLICATION AND RECEIPT FOR PAYMENT CHANCE CONSTRUCTION CO.

EXHIBIT " E "

(This Certificate is not negotiable. It is payable only to the payee named herein and its issuance, payment and acceptance are without prejudice to any rights of the Owner or Contractor under their Contract.)

Project: Original Contract Purchase Order #:
Change Order Purchase Order #:

SUBCONTRACTOR (PAYEE):

TO : Chance Construction Co.
PO Box 1533
HEMPHILL, TX 75948
409-787-2615 PHONE

PHONE: _____

CONTRACT DATE: _____ APPLICATION DATE: _____

APPLICATION NUMBER: _____ % COMPLETE: _____

Attn: _____

CHANGE ORDER SUMMARY

	ADDITIONS \$	DEDUCTIONS \$
Change Orders approved in previous months by Owner per attached c/o summary	\$ -	\$ -
TOTAL	\$ -	

PERIOD FROM: _____ TO: _____

Application is made for Payment, as shown below, in connection with the Contract.

The present status of the account for this Contract is as follows:

1.	ORIGINAL CONTRACT SUM	
2.	NET CHANGE BY CHANGE ORDER WITH FEE INCLUDED	\$ -
3.	CONTRACT SUM TO DATE	\$ -
4.	TOTAL COMPLETED & STORED TO DATE	
5.	RETAINAGE: 10% OF LINE 4	\$ -
6.	TOTAL EARNED LESS RETAINAGE	\$ -
7.	LESS PREVIOUS PAYMENTS PAID	
8.	CURRENT PAYMENT DUE	\$ -

Change Orders This Application	C/O Fee	C/O Fee
NUMBER	APPROVED (Included below)	(Included below)
	\$ -	
	\$ -	
	\$ -	
TOTALS	\$ -	\$ -
Net change by Change Orders	\$ -	\$ -

CERTIFICATE OF THE CONTRACTOR

I hereby certify that the work performed and the materials stored on the site represents the actual value under the terms of this Contract (including all authorized Change Orders thereto) between the undersigned and Chance Construction Co. relating to the above referenced project.

I also certify that payments, less applicable retention, have been made through the period covered by previous payments received from Chance Construction Co. to (1) all my subcontractors and sub-subcontracts and (2) for all materials and labor used in or in connection with the performance of this Contract. I further certify I have complied with Federal, State and local tax laws, including Social Security Laws and Unemployment Compensation laws insofar as applicable to the performance of this Contract.

Furthermore, in consideration of the payments received, and upon receipt of the amount of this request, the undersigned does hereby waive, release and relinquish all claim or right of lien which the undersigned may now have upon the premises above described except for claim or right of lien for contract and/or change order work performed to the extent that payment is being retained or will subsequently become due.

Contractor

By _____ Date: _____

Subscribed and sworn to before me this _____ day of _____ 20____

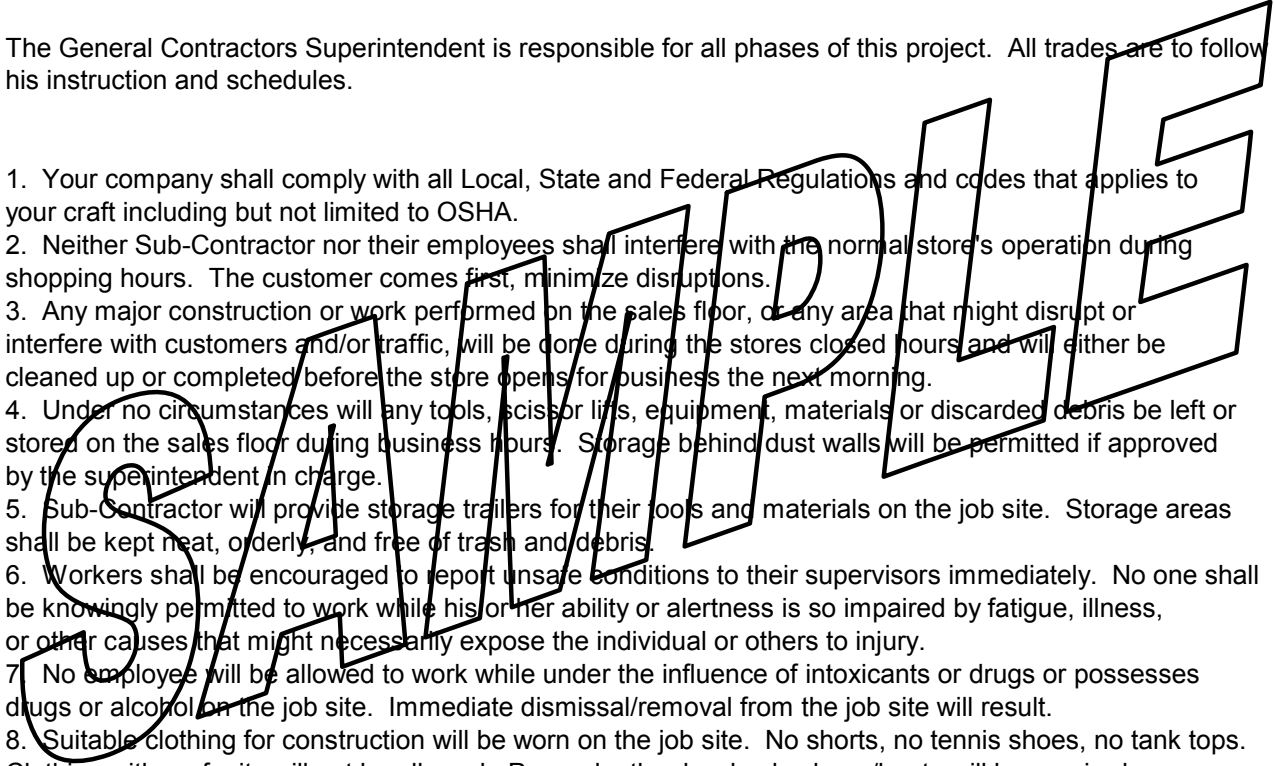
Notary Public

My Commission Expires: _____

"EXHIBIT F"
CHANCE CONSTRUCTION CO.
PROJECT AND SITE SAFETY RULES

The following are site-specific safety and project requirements that are for all contractors on this project. They have been created to insure safety and project standards to minimize confusion during the construction process. Communication is the key to a successful remodel and these rules will outline what is required of each Sub-Contractor and their employees.

The General Contractors Superintendent is responsible for all phases of this project. All trades are to follow his instruction and schedules.

- 
1. Your company shall comply with all Local, State and Federal Regulations and codes that applies to your craft including but not limited to OSHA.
 2. Neither Sub-Contractor nor their employees shall interfere with the normal store's operation during shopping hours. The customer comes first, minimize disruptions.
 3. Any major construction or work performed on the sales floor, or any area that might disrupt or interfere with customers and/or traffic, will be done during the stores closed hours and will either be cleaned up or completed before the store opens for business the next morning.
 4. Under no circumstances will any tools, scissor lifts, equipment, materials or discarded debris be left or stored on the sales floor during business hours. Storage behind dust walls will be permitted if approved by the superintendent in charge.
 5. Sub-Contractor will provide storage trailers for their tools and materials on the job site. Storage areas shall be kept neat, orderly, and free of trash and debris.
 6. Workers shall be encouraged to report unsafe conditions to their supervisors immediately. No one shall be knowingly permitted to work while his or her ability or alertness is so impaired by fatigue, illness, or other causes that might necessarily expose the individual or others to injury.
 7. No employee will be allowed to work while under the influence of intoxicants or drugs or possesses drugs or alcohol on the job site. Immediate dismissal/removal from the job site will result.
 8. Suitable clothing for construction will be worn on the job site. No shorts, no tennis shoes, no tank tops. Clothing with profanity will not be allowed. Proper leather hard sole shoes/boots will be required.
 9. All vehicles (i.e. cranes, forklifts, dozers) are required to have backup alarms.
 10. Persons working in any type of lifts including scissor lifts must use personal fall arrest systems (i.e. harness and lanyard). 100% tie-off is required by our clients. Also, anytime that anyone is working above 6' without handrails or guardrails some type of restraint system is required to keep you from falling. If you have any questions concerning fall protection or places to tie-off get with your immediate supervisor. If a tie-off point cannot be established then get with the Project Superintendent.
 11. All materials stored/staged on the floor slab must be on dunnage or some means to protect the floor.
 12. All equipment will be stored in down position with ignition keys removed from the switch.
 13. All ladders must reach 3 ft. above landing for easy safe access. All extension ladders must be secured. All ladders must rest on stable surface. All ladders must be fiberglass. Must be of a heavy-duty commercial type. May not have missing rungs or side rails. Employees may not stand on the top step of ordinary stepladders. It is prohibited to place ladders on boxes, barrels, or other unstable bases to obtain additional height.
 14. Always arrange work so that you are able to face ladder and use both hands while climbing.
 15. Do not use any scaffolding unless it is equipped with top rail, mid rail, toe board.
 16. All scaffolding must meet the requirements of 29 CFR 1926 Subpart L of the OSHA act.
 17. Scaffold may not be moved with workers on the scaffold.
 18. Scaffold planks shall be properly lapped, cleated or otherwise secured to prevent shifting.
 19. Scaffold that has wheels must have workable locks, and wheels must be locked when scaffold is in use.
 20. Do not use electrical power tools or equipment unless they are equipped with ground fault protection

or be of the double insulated type. GFCI is required for all power use; any frayed or damaged electrical cords to be replaced and all prongs to be intact.

21. Do not access any electrical panels. Breaker boxes must be covered when energized.
22. Do not use faulty or damaged equipment or tools.
23. Do not use tools that have the guards or protective barriers removed.
24. Cleanup will be performed by each craft at the end of each day and at the end of the job. Keep walkways clear. Maintain a neat and orderly project. Dispose of trash/debris in the dumpster provided by the General Contractor not the stores dumpster.
25. Every one will obey all posted safety signs.
26. Safety glasses and/or face shields are required when hammering, chipping, grinding, drilling, or performing any work where there is a danger of materials getting in the eye.
27. Report all injuries no matter how slight to the project superintendent. Then the superintendent will complete an accident form and fax it to the safety coordinator within 24 hours of the accident. If a doctor's visit is required, a return to work slip will be required.
28. **Fatalities shall be reported immediately !**
29. All employees will conduct themselves in a competent workman like manner at all times. Any form of harassment of the store's personnel or customers will not be tolerated. Harassment, horseplay or disruptive activities of any kind will result in immediate dismissal/removal from the job site.
30. All work areas are to be adequately illuminated.
31. No one will be allowed to move a trailer or any other device for living on site (all living quarters are to be off sight).
32. Safety Meetings will be held by Chance Construction Co. weekly; all crafts will be required to attend.
33. The Superintendent will constantly conduct safety job site inspections.
34. Workers must fully cooperate with OSHA and other designated inspectors when they visit the job site.
35. Unsafe practices must be reported immediately to the project superintendent.
36. If you must work around power shovels, trucks or dozers, make sure the operator can always see you.
37. Never oil, lubricate, or fuel equipment while it is running or in motion.
38. Never enter a manhole, well shaft, tunnel or other confined space, which could possibly contain toxic or flammable gases. Trenches over five feet deep must be shored or sloped are required.
39. Only those individuals who are trained and licensed are permitted to handle asbestos containing materials.
40. Hard hats must be worn in Construction Area at all times by everyone-No Exceptions.
41. Exterior barricades must be of metal, chainlike or plywood partitions.
42. Barricades shall be erected around work areas; barricades must be maintained and to remain closed at all times. A railing or cover shall guard any floor openings or other danger areas. Close gates when finished going through them for any reason.
43. Subs may not use phones other than payphones inside or outside the store.
44. No one will be allowed to use any of the shopping carts, flat carts or buggies for any reason. No Exceptions. Do not use any of the store's equipment for construction purposes.
45. Lift correctly-with legs, not the back. If the load is too heavy, GET HELP!
46. Absolutely No Smoking in the building. When a building is erected and the roof installed then it is considered part of the building.
47. All communications are to be with the project superintendent and not the stores management.
48. Do not use emergency exits to access the work area. Use them for emergencies only.
49. All tool boxes and lunch kits are subject to search.
50. Sub-Contractor will notify the Superintendent (5) five working days prior to needing racks or merchandise relocated for construction purposes.
51. All construction workers shall use the portable toilets provided by the General Contractor, Do not use the stores restroom unless it is an emergency.
52. No gasoline-powered equipment will be allowed inside the store. No flammable liquids are to be stored inside the store.
53. No store personnel can authorize additional work; requests for additional work should be referred to

Chance's superintendent on duty.

54. Construction workers should be courteous to customers and store personnel at all times. Profanity will not be permitted.

55. Any merchandise damaged during the remodel will be purchased by the Sub-Contractor and will be responsible for the damage, NO EXCEPTIONS.

56. All contractors must sign in and out daily. Each employee must have an ID badge before entering building or job site.

57. Equipment and materials are to be stored in designated areas only.

58. Enforce safety where as your company is totally responsible for safety, the owner desires to implement the following procedures to demonstrate his serious concern for safety. This document serves as a verbal/written first warning. Any other incident will result in an automatic five hundred dollar (\$500.00) fine to the Company and/or termination from this job site. These rules are non negotiable.

59. First Aid Kits, Eye Wash Stations and M.S.D.S. sheets are located in the office trailer.

60. Call 911 for emergencies by using the Job Shack Phone or contact the Superintendent or stores personnel. Never move an injured person unless it is absolutely necessary.

61. Provide the job Superintendent with M.S.D.S. sheets for any chemical you bring on the job site before you use them on the project.

It is the responsibility of all contractors to familiarize each of their employees with the above rules. Failure to do so does not relieve them of their obligations.

SAMPLE

ACCEPTANCE OF SUBCONTRACT:

Please check one of the following:

CORP _____ Partnership _____ Sole Proprietorship _____

if checked sole proprietorship please fill in the blank below

Name of Owner _____

Contractor (Name of Company)

By (Signature)

federal Tax ID #

Title

Contractor License Number

This Instrument was acknowledged before me this _____ day of _____, 2009,
by _____, as _____ of _____,
as the act and deed of said corporation/partnership/joint Venture/sole proprietorship, for the
purposes and consideration therein expressed.

(SEAL)

Notary Public

My Commission Expires _____

=====

Chance Construction Co. Signature Only Below This Line

CHANCE CONSTRUCTION CO.

By: _____

Title: _____

Date: _____