

Tilton Pacific Construction, Inc.
SUBCONTRACT

THIS AGREEMENT, Made this ## day of Month, 2005 between Tilton Pacific Construction, Inc., 4150 Citrus Avenue, Rocklin, CA 95677-4000 hereinafter called the Contractor and «SUB_NAME», «ADDRESS», «CITY ST ZIP» hereinafter called the Subcontractor.

WITNESSETH, WHEREAS, the Contractor has heretofore entered into a contract with **Owner** hereinafter called the Owner, to perform certain labor and furnish certain material for the erection and completion of **Job Description** hereinafter referred to as the project as per plans and specifications and addenda prepared by **Architect** as exhibited by the Contractor to the Subcontractor; and

WHEREAS, the subcontractor desires to do a portion of the work on the project as hereinafter more particularly specified; NOW, THEREFORE, in consideration of the premises, the parties agree as follows:

THE SUBCONTRACTOR AGREES:

1. To furnish all labor, material, equipment, scaffolding, skill and Instrumentalities, to secure all field measurements, and to perform all the work necessary or incidentally required for that part of the construction of the aforesaid project, as follows:
Furnish all labor, materials and equipment to complete «Scope of Work» work. All work shall be in accordance with the plans and specifications and the attached schedules "A", "B", "C" & "D".
2. To pay for all materials, skill, labor and Instrumentalities used in, or in connection with, the performance of this contract, when and as bills or claims therefore become due, and to save and protect the premises, the Owner, and the Contractor from all claims of mechanics' liens on account thereof, and to furnish satisfactory evidence to the Contractor when and if required, that he has complied with the above requirements.
3. To begin work as soon as said project is ready for such work or within 2 calendar days after being notified in writing by the Contractor to do so, and to complete the several portions of the whole thereof within the time following, namely: As scheduled by the Contractor and/or the Project Schedule; and to complete said work as rapidly as possible, and in all events so that it will not delay or impede the progress of the project.
4. That, in case the Subcontractor shall fail to correct, replace and/or re-execute faulty or defective work done and/or materials furnished under this contract, when and as required by the Contractor, or shall fail to complete or diligently proceed with this contract within the time herein provided for, or if the Contractor or any other Subcontractor shall be unable to proceed with the work because of any action by one or more employees of the Subcontractor or by a person or labor organization purporting or attempting to represent any employee of the Subcontractor, the Contractor upon two days' notice to the Subcontractor shall have the right to correct, replace and/or re-execute such faulty or defective work, or to take over this contract and complete same, and to charge the cost thereof to the Subcontractor, together with any liquidated damages caused by a delay in the performance of this subcontract.
5. That in case of default on the part of the Subcontractor under the terms of this agreement, the material and equipment of the Subcontractor shall be left on the job for the use of the Contractor in completing the work covered by the terms of this agreement.

THE CONTRACTOR AGREES:

To pay the Subcontractor, in partial payments, the sum of
Type the long form of dollars and 00/100.

«AMOUNT»

for said materials and work, said amount being paid as follows: 90% of all labor and material which has been placed in position by said Subcontractor, to be paid on or about the 25th of the following month, except the final payment, which the said Contractor shall pay to the said Subcontractor within 30 days after the acceptance of the work by the owner and receipt of final payment from the Owner. Subcontractor shall submit application for payment by the 22nd of each month to enable the Contractor to apply for payment on the General Contract.

THE CONTRACTOR AND SUBCONTRACTOR AGREE:

To comply with, abide by and be bound by all of the other provisions contained in the remainder of this agreement (Schedules "A", "B", "C" & "D"), reference to which is hereby made, and which is made a part hereof by reference as fully as though the same were set forth at length.

IN WITNESS WHEREOF, the Contractor and Subcontractor have hereunto set their hands and seals in duplicate the day and year first above written.

«SUB_NAME»
Cal Lic # «LICENSE» Exp. «EXP»

TILTON PACIFIC CONSTRUCTION, INC.
Cal Lic # B - 488531

By _____
Job #: 0000 Phase: «CSI»
Phone: «PHONE» Fax: «FAX»

By _____
Phone (916) 630-7200 Fax (916) 630-3999

Tilton Pacific Construction, Inc.

SCHEDULE "A"

For the **subcontract** agreement between «SUB NAME», «ADDRESS», «CITY ST ZIP» and Tilton Pacific Construction, Inc. dated April 9, 2010

- 1.1 Subcontractor shall be bound to the terms of Contractor's contract with Owner, general conditions, special conditions and specifications and addenda, and shall conform to and comply with the drawings and specifications and addenda, and shall furnish such shop drawings or samples as may be required, and shall assume toward Contractor all the obligations and responsibilities that Contractor assumes in and by the aforesaid documents toward Owner, insofar as they are applicable to this particular subcontract. Subcontractor warrants and represents that he has had an opportunity to inspect and review all Contract Documents, including Contractor's contract with Owner, and acknowledges that copies of these documents will be made available to the Subcontractor upon his written request.
- 1.2.1 Subcontractor agrees that where in the Contract Documents (in the contract between Contractor and Owner) reference is made to Contractor, and the work or specifications therein pertain to Subcontractor's trade, craft or type of work, then such work or specification shall be interpreted to apply to Subcontractor instead of Contractor.
- 1.2.2 Subcontractor shall be bound to the terms of Contractor's contract with Owner relating to changes, changed conditions, extra work, additional work or any other dispute as a result of work required or caused by Owner, and shall give to Contractor immediate written notice of any such claims or disputes as a result of any such work required or caused by Owner, so that Contractor may timely comply with any notice requirements of Contractor's contract with Owner. Subcontractor shall make no claim against Contractor for compensation, damages or otherwise for such extra work or claims except to the extent such claims are allowed to Contractor by Owner.
- 1.3 Subcontractor shall be bound to Contractor to abide by any dispute resolution or arbitration provision in Contractor's contract with Owner in the same manner and method as Contractor is bound to Owner. It is expressly understood that the sole fund from which claims for compensation or damages, of any kind, for any claims required or caused by Owner shall be that created by Owner's payment to Subcontractor for any such claims.
- 1.4 This agreement constitutes the entire understanding of the parties and supersedes any prior proposals or agreements.
- 2.1 Subcontractor shall be required to perform all work required to complete work under this Agreement including all necessary elements of construction in accordance with the project drawings, specifications or addenda and as per recognized industry standard for this subcontractor trade.
- 2.2 Subcontractor shall provide all layout, equipment, cranes, hoisting, traffic control, tools, scaffolding, safety devices, and materials necessary to complete installation of work under this Agreement. In addition, Subcontractor shall provide all intermediate structural supports and elements necessary to support and affix work under this Agreement.
- 2.3 In the event of any dispute between Contractor and Subcontractor over the scope of Subcontractor's work under the Contract Documents, Subcontractor will not stop work but will prosecute the work diligently to completion, the dispute to be submitted for resolution in accordance with Section 17 below.
- 2.4 In agreeing to the Contract Sum and the Contract Time, Subcontractor has taken into account the level of completeness of the Contract Documents (see Schedule B) and has exercised the best skill and efforts of Subcontractor to make:
 - i) Appropriate judgments and inferences in connection with the requirements of the Contract Documents.
 - ii) All inquires of Owner, Architect, Contractor and/or Construction Manager to clarify the Contract Documents as necessary to calculate and establish the Contract Sum and the Contract Time.
- 3.1 Price includes all applicable taxes. Contractor shall not otherwise have any financial obligation to pay any taxes, permit fees, licenses or other fees of any kind to any governmental or quasi-governmental agency necessary and / or related to the performance of Subcontractor's work.
- 4.0 PAYMENT
- 4.1 Prior to beginning any work, Subcontractor shall submit, for Contractor's approval, a detailed cost breakdown on the STANDARD BILLING FORM AND SUBCONTRACT COST BREAKDOWN attached hereto. This form will be used as the basis to determine monthly progress payments to Subcontractor.
- 4.2 All applications for payment must be in the office of Contractor on or before the **twenty-second (22nd)** day of the month of billing. **The following forms must be submitted with the application for payment. These forms will be provided by Contractor (attached).
- 4.2.1 Tilton Pacific Construction, Inc., "Standard Billing Form, Subcontractor Cost Breakdown."

- 4.2.2 A "California Conditional Waiver and Release Upon Progress Payment" for the net amount due for current billing period.
- 4.2.3 A "California Unconditional Waiver and Release Upon Progress Payment" for the amount received from the previous month's billing.
- 4.3 Prior to the release of final payment (retention), Subcontractor shall provide the following:
- 4.3.1 A "California Conditional Waiver and Release Upon Final Payment" from Subcontractor stating the amount of retention owing.
- 4.3.2 A "California Unconditional Waiver and Release Upon Final Payment" from all suppliers who have filed a 20-day Preliminary Notice.
- 4.3.3 If supplier has not been paid in full, a "California Conditional Release Upon Final Payment" must be submitted stating amount still owing. A joint check will be issued to all parties submitting this document.
- 4.4 Upon Receipt of Final Payment, Subcontractor shall provide to Contractor a "California Unconditional Waiver and Release Upon Final Payment" from all parties described above including equipment suppliers, laborers or any parties with lien rights.
- 4.5 With respect to progress payments and final payment to Subcontractor, it is agreed that if owner or other party delays making payment to Contractor from which payment to which Subcontractor is to be made, Contractor and its sureties shall have a reasonable time to make payment to Subcontractor. "Reasonable time" shall be determined according to the relevant circumstances, but in no event shall be less than the time Contractor, Contractor's sureties, and Subcontractor require to pursue to conclusion their legal remedies against Owner or other responsible party to obtain payment, including, but not limited to, mechanics' lien remedies.
- 4.6 Subcontractor shall provide Contractor with 15 days written notice of any intent to suspend performance due to nonpayment by Contractor.
- 5.0 TIME
- 5.1 Time is of the essence of this Agreement. Subcontractor shall provide Contractor with scheduling information and a proposed schedule for performance of his work in a form acceptable to Contractor. Subcontractor shall conform to Contractor's progress schedule and all revisions or changes made thereto. Subcontractor shall prosecute his work in a prompt and diligent manner in accordance with Contractor's progress schedule without delaying or hindering Contractor's work or the work of other contractors or subcontractors.
- 5.2 Subcontractor agrees to keep themselves advised as to the progress of the work and to adequately and timely man the job to maintain contractor's project schedule to avoid delays in the work.
- 5.2.1 Subcontractor shall coordinate the work covered by this Agreement with that of all other contractors, subcontractors, and of Contractor, in a manner that will facilitate the efficient completion of the entire work.
- 5.2.2 Subcontractor shall have a representative attend weekly project meetings just prior to and during time Subcontractor is performing work on the project.
- 5.3 In the event Subcontractor fails to maintain his part of the Contractor's schedule, he shall, without additional compensation, accelerate the work as Contractor may direct until Subcontractor's work is in accordance with such schedule.
- 5.4 Subcontractor agrees that it will timely perform all needed work under this Agreement in accordance with Contractor's schedule, without delay from any strike, slowdown, picketing or dispute of any nature by any subcontractors or persons. If Contractor determines that such a delay exists, Contractor may, without prejudice to any other rights it has, after two days' (48 Hr) notice to Subcontractor, take over the subcontract work and may engage another performance, all at the expense of Subcontractor who shall pay to Contractor any amount in excess of the subcontract price reasonably expended to perform the subcontract work, including direct and indirect expenses such as administrative costs and attorneys' fees incurred by Contractor.
- 5.5 Contractor shall have complete control of the premises on which the work is to be performed and shall have the right to decide the time and order in which various portions of the work shall be installed and the relative priority of the work of Subcontractor and other subcontractors, and, in general, all other matters pertaining to the timely and orderly conduct of the work of Subcontractor on the premises.

- 5.6 Should Subcontractor be delayed in the prosecution or completion of the work by the act, neglect or default of Owner, Architect or Contractor, or should Subcontractor be delayed in waiting for materials, if required by this contract to be furnished by Owner or Contractor, or by damage caused by fire or other casualty for which Subcontractor is not responsible, or by the combined action of the workmen, in no way caused by or resulting from fault or collusion on the part of Subcontractor, or in the event of a lock-out by Contractor, then the time herein fixed for the completion of the work shall be extended the number of days that Subcontractor has thus been delayed, but no allowance or extension shall be made unless a claim therefore is presented in writing to Contractor within forty-eight (48) hours of the commencement of such delay, and under no circumstances shall the time of completion be extended to a date which will prevent Contractor from completing the entire project within the time allowed Contractor by Owner for such completion.

No claims for additional compensation or damages for delays, whether caused in whole or in part by any conduct on the part of Contractor, including, but not limited to, conduct amounting to a breach of this Agreement, or delays by other subcontractors or Owner, shall be recoverable from Contractor, and the above mentioned extension of time for completion shall be the sole remedy of Subcontractor; provided, however, that in the event Contractor obtains additional compensation from Owner on account of such delays, Subcontractor shall be entitled to such portion of the additional compensation so received by Contractor from Owner as is equitable under all of the circumstances. In the event that Contractor prosecutes a claim against Owner for additional compensation for any delay, Subcontractor shall cooperate fully with Contractor in the prosecution thereof and shall pay costs and expenses incurred in connection therewith, including actual attorneys' fees, to the extent that said claim is made by Contractor at the request of Subcontractor.

- 5.7 Subcontractor shall prepare and obtain approval as required by the Contract Documents for all shop drawings, details, samples, and do all other things necessary and incidental to the prosecution of his work in conformance with the Contractor's progress schedule. Subcontractor agrees to submit all submittals within five (5) days of receipt of this Agreement.
- 5.8 Any review by Contractor of Subcontractor's submittals is undertaken solely to satisfy Contractor's obligations, if any, to Owner and does not relieve Subcontractor from his obligation to fully perform all subcontract requirements, nor shall such review give rise to any right of action or suit in favor of Subcontractor or third persons against Contractor or Owner.
- 5.9 Subcontractor shall maintain a current set of "as-built" drawings showing the final location of all work. Prepare and submit "as-built" drawings, manuals and warranties to Contractor in accordance with close-out requirements in project specifications. Work under this Agreement will not be considered complete until all "as-built" drawings, manuals and warranties are received by Contractor and have been approved by Owner.

6.0 CHANGES IN THE WORK

- 6.1 Subcontractor shall make any and all changes in the work described in the Contract Documents and this Agreement as directed by Contractor in writing. Such change or written direction shall not invalidate this Agreement.
- 6.1.1 The allowance for overhead and profit with respect to changes in the work shall be a flat 10% for overhead and profit or as allowed by Owner.
- 6.1.2 When Subcontractor becomes aware of errors, omissions or discrepancies in the Plans, Specifications or other Contract Documents, Subcontractor must, within five (5) days after such discovery, notify Contractor in writing of the errors, omissions or discrepancies; and if Subcontractor shall fail to do so, he shall thereby waive any right to seek compensation for additional or different work that is necessary or required as a result of such errors, omissions or discrepancies.
- 6.2 If necessary, the contract price and the time for Subcontractor's performance shall be adjusted by appropriate additions or deductions mutually agreed upon before Subcontractor performs the changed work. Subcontractor shall supply Contractor with all documentation necessary to substantiate the amount of the addition to or deduction from the price or time. If Contractor and Subcontractor cannot agree on the amount of the addition or deletion, or if documentation to substantiate additional cost is not supplied by Subcontractor before performing changed work, Subcontractor shall nonetheless timely perform the work as changed by Contractor's written direction. Once Subcontractor receives Contractor's written direction, Subcontractor is solely responsible for timely performance of the work, and timely submission of any claim for additional compensation, as changed by written direction. In the absence of a mutually agreed upon price prior to the performance of any changed work, Subcontractor shall provide Contractor with a daily additional work tag that describes in detail, the additional work performed. The additional work tag shall include a detailed description of the work performed including, at a minimum, the location of the work, the reason for the work, materials and equipment used and a summary of man/crew hours expended to complete the work. Subcontractor agrees that the "daily" additional work tags will be presented to the Project Superintendent for acknowledgement of work performed prior to leaving the jobsite on the day the work was performed, or, at a minimum, within 24 hours of performing the work. If Subcontractor fails to comply with this requirement, Subcontractor agrees

that work was performed at no additional cost. Any claim for additional compensation must be submitted with all supporting documentation (including daily additional work tags) within fifteen (15) days after such work is performed, provided that 15 days will satisfy any and all timely notice provisions of the Owner-Contractor Agreement. Subcontractor's failure to submit additional work claims within fifteen (15) days constitutes an agreement by him that changed work was performed at no additional cost to the Contractor or Owner.

- 6.3 Subcontractor shall not make any changes in the work or in any way cause or allow that work to deviate from the Contract Documents without written direction from Contractor. If Subcontractor makes any changes in the work without written direction from Contractor, such change constitutes an agreement by Subcontractor that he will not be paid for that changed work, even if he received verbal direction from Contractor or any form of direction, written or otherwise, from Owner or any other person or entity. In addition, Subcontractor shall be liable for any and all losses, costs, expenses, damages, and liability of any nature whatsoever associated with or in any way arising out of any such change he makes without written direction from Contractor.
- 6.4 If a dispute arises between Contractor and Subcontractor about whether particular work is a change in the work, Subcontractor shall timely perform the disputed work and may give written notice of a claim for additional compensation for that work. Such written notice of claim must be given within ten (10) days after such work is performed. Subcontractor's failure to give written notice within the ten (10) days constitutes an agreement by him that he will not be paid for the disputed work.
- 6.5 No change, alteration, or modification to or deviation from this Agreement, the Contract Documents, prime contract, plans or specifications, whether made in the manner provided in this provision or not, shall release or exonerate, in whole or in part, any bond or any surety on any bond given in connection with this Agreement, and no notice is required to be given to such surety of any such change, alteration, modification or deviation.

7.0 DAMAGE CAUSED BY DELAYS

- 7.1 If Subcontractor should default in performance of the work or should otherwise commit any act which causes delay to the prime contract work, Subcontractor shall be liable for all losses, costs, expenses, liabilities and damages, including consequential damages and liquidated damages, sustained by Contractor, or for which Contractor may be liable to Owner or any other party because of Subcontractor's default and the delay damages and / or liquidated damages incurred by Contractor for which Subcontractor shall be liable shall be in addition to any other damages sustained by Contractor as a result of Subcontractor's delay, and furthermore that payment of any delays, damages and / or liquidated damages sustained by Contractor shall not be the exclusive remedy of Contractor against Subcontractor.

8.0 BONDING OF SUBCONTRACTOR

- 8.1 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 the 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 provided herein or in the Contract Documents.

9.0 LIENS

- 9.1 In case suit is brought on any claim or liens for labor performed or materials used on or furnished to the project in connection with the work performed by or on behalf of Subcontractor, Subcontractor shall pay and satisfy any such lien or judgment as may be established by the decision of the court in said suit. Subcontractor agrees within ten (10) days after written demand to cause the effect of any such suit or lien to be removed from the premises, and in the event Subcontractor shall fail to do so, Contractor is authorized to use whatever means in its discretion it may deem appropriate to cause said lien or suit to be removed or dismissed and the cost thereof, together with actual attorneys' fees, shall be immediately due and payable to Contractor by Subcontractor. Subcontractor may litigate any such lien or suit provided he causes the effect thereof to be removed, promptly in advance, from the premises, and shall further do such things as may be necessary to cause Owner not to withhold any monies due to Contractor from Owner by reason of such liens or suits.
- 9.2 It is understood and agreed that the full and faithful performance of this Agreement on the part of Subcontractor (including the payment of obligations due from Subcontractor to Contractor, and any amounts due to labor or materialmen furnishing labor or material for said work) is a condition precedent to Subcontractor's right to receive payment for the work performed, and any monies paid by Contractor to Subcontractor under the terms of this Agreement shall be impressed with a trust in favor of labor and materialmen furnishing labor and material to Subcontractor on the work herein subcontracted.

10.0 PROVISIONS FOR INSPECTION

10.1 Subcontractor shall at all times furnish to Contractor and his representatives safe and ample facilities for inspecting materials at the site of construction, shops, factories or any place of business of Subcontractor and his subcontractors and materialmen where materials under this Agreement may be in the course of preparation or manufacture. Such reports shall show the progress of such preparation and manufacture in such details as may be required by Contractor, including, but not limited to, any plans, drawings or diagrams in the course of preparation.

11.0 MATERIALS AND WORK FURNISHED BY OTHERS

11.1 In the event the scope of work includes installation of materials or equipment furnished by others or work to be performed in areas to be constructed or prepared by others, it shall be the responsibility of Subcontractor to examine and accept, at the time of delivery or first access, the items so provided and thereupon handle, store and install the items with such skill and care as to insure a satisfactory completion of the work. Use of such items or commencement of work by Subcontractor in such areas shall be deemed to constitute acceptance thereof by Subcontractor. Loss or damage due to acts of Subcontractor shall be charged to the account of Subcontractor and deducted from monies otherwise due under this agreement.

12.0 PROTECTION OF WORK

12.1 Subcontractor shall effectually secure and protect the work done hereunder and assume full responsibility for the condition thereof until final acceptance by Architect, Owner and Contractor. Subcontractor further agrees to provide such protection as is necessary to protect the work and workmen of Contractor, Owner and other subcontractors from his operations.

12.2 Subcontractor shall be liable for any loss or damage to any work in place or to any equipment and materials on the job site caused by him or his agents, employees or guests.

12.3 Subcontractor shall be responsible to preserve all temporary construction measures in place during the course of his work. This includes but is not limited to items such as temporary fencing, protective covers, barricades, storm water protection devices, etc. Any such items damaged, disturbed, removed, relocated or otherwise modified by him or his agents, employees or guests in the course of completing work under this agreement, shall be replaced, reinstalled or otherwise returned to an acceptable condition by this subcontractor.

13.0 LABOR RELATIONS

13.1 Subcontractor shall keep a representative at the job site during all times when Subcontractor's work is in progress, and such representative shall be authorized to represent Subcontractor as to all phases of the work. Prior to commencement of the work, Subcontractor shall notify Contractor who Subcontractor's representative is to be, and in the event of any change of representative Subcontractor shall notify Contractor who the new representative is to be and obtain Contractor's written approval prior to such change becoming effective.

13.2 Should there be a picketing on Contractor's job site, and Contractor establishes a reserved gate for Subcontractor's purpose, it shall be the obligation of Subcontractor to continue the proper performance of his work without interruption or delay.

13.3 Subcontractor further promises and agrees that he will bind and require all of his subcontractors and their subcontractors performing job site work of the type covered by any of the labor agreements specified herein to agree to all the foregoing promises and undertakings, to the same effect as herein provided with respect to him.

13.4 Subcontractor shall comply with all equal employment opportunity and affirmative action requirements promulgated by any governmental authority, including, without limitation, the requirements of the Civil Rights Act of 1964.

13.5 Subcontractor shall comply with and agrees to be bound by all applicable Federal, State and local laws and regulations, including, but not limited to, all Fair Standards Act provisions and California Labor Code provisions covering the work. Upon request, Subcontractor agrees to submit certified payroll reports to Contractor no later than three (3) working days after labor has been paid.

14 RECOURSE BY CONTRACTOR

14.1 Failure of Performance

14.1.1 Notice to Cure. If Subcontractor at any time refuses or neglects to supply enough properly skilled workers and proper materials, or fails to properly and diligently prosecute the work covered by this Agreement, or fails to make prompt payment to his workers, sub-subcontractors or suppliers, or becomes delinquent with respect to contributions or payments required to be made to any health and welfare, pension, vacation, apprenticeship or other employee benefit program or trust, or is otherwise guilty of a material breach of a provision of this Agreement, and fails within forty-eight

(48) hours after receipt of written notice to commence and continue satisfactory correction of such default with diligence and promptness, then Contractor, without prejudice to any rights or remedies, shall have the right to any or all of the following remedies:

- (a) supply such number of workers and quantity of materials, equipment and other facilities as Contractor deems necessary for completion of Subcontractor's work, or any part thereof which Subcontractor has failed to complete or perform, and charge the cost thereof to Subcontractor, who shall be liable for the payment of the same including reasonable overhead, profit and actual attorneys' fees incurred as a result of Subcontractor's failure of performance.
- (b) contract with one or more additional contractors to perform such part of Subcontractor's work as Contractor shall determine will provide the most expeditious completion of the total work and charge the cost thereof to Subcontractor; and
- (c) withhold payment of any monies due Subcontractor pending corrective action to the extent required by and to the satisfaction of Contractor.

In the event of an emergency affecting the safety of persons or property, Contractor may proceed as above without notice.

14.1.2 Termination for Default. If Subcontractor fails to commence and satisfactorily continue correction of a default within forty-eight (48) hours after receipt by Subcontractor of the notice issued under Section 14.1.1, then Contractor may terminate Subcontractor's right to perform under this Agreement and use any materials, implements, equipment, appliances or tools furnished by or belonging to Subcontractor to complete Subcontractor's work without any further compensation to Subcontractor for such use. Contractor also may furnish those materials and equipment, and/or employ such workers or subcontractors as Contractor deems necessary to maintain the orderly progress of the work.

In such case, Subcontractor shall be entitled to no further payment until the balance of Subcontractor's work has been completed. At that time, all of the costs incurred by Contractor in performing Subcontractor's work, including a markup of ten percent (10%) for overhead and profit on such expenses, plus actual attorneys' fees as provided above, shall be deducted from any monies due or to become due to Subcontractor. Subcontractor shall be liable for the payment of any amount by which such expenses may exceed the unpaid balance of the Contract Price.

14.1.3 Termination for Convenience. Contractor may at any time and for any reason terminate Subcontractor's services and work at Contractor's convenience. Cancellation shall be by service of written notice to Subcontractor's place of business.

Upon receipt of such notice, Subcontractor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement, and shall, if requested, make every reasonable effort to procure cancellation of all existing orders or contracts upon terms satisfactory to Contractor, or at the option of Contractor, give Contractor the right to assume those obligations directly, including all benefits to be derived therefrom. Subcontractor shall thereafter do only such work as may be necessary to preserve and protect the work already in progress and to protect material and equipment on the job site or in transit thereto.

Upon such termination, Subcontractor shall be entitled to payment only as follows: (1) the actual cost of the work completed in conformity with this Agreement; plus (2) such other costs actually incurred by Subcontractor as are permitted by the prime contract and approved by Owner; plus (3) ten percent (10%) of the cost of the work referred to in subparagraph (1) above for overhead and profit. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to subcontractor prior to the date of the termination of this Agreement. Subcontractor shall not be entitled to any claim or claim of lien against Contractor or Owner for any additional compensation or damages in the event of such termination and payment.

14.1.4 Grounds for Withholding payment. Contractor may withhold, or on account of subsequently discovered evidence, nullify the whole or part of any payment to the extent necessary to protect Contractor from loss, including costs and attorneys' fees, on account of (1) defective work not remedied; (2) claims filed or reasonable evidence indicating probable filing of a claim; (3) failure of Subcontractor to make payments properly to his subcontractors or for material, labor or fringe benefits; (4) a reasonable doubt that this Agreement can be completed for the balance then unpaid; (5) damage to another subcontractor; (6) penalties assessed against Contractor or Subcontractor for failure of subcontractor to comply with State, Federal or local laws and regulations; or (7) any other ground for withholding payment allowed by State or Federal law, or as otherwise provided in this Agreement. When the above matters are rectified, such amounts as then due and owing shall be paid or credited to Subcontractor.

14.2 Bankruptcy

14.2.1 Termination Absent Cure. Upon the appointment of a receiver for Subcontractor or upon Subcontractor making an assignment for the benefit of creditors or if Subcontractor seeks protection under the Bankruptcy Code or commits any other act of insolvency, Contractor may terminate this Agreement upon giving forty-eight (48) hours written notice, by certified mail, to Subcontractor and its surety, if any. If an order for relief is entered under the Bankruptcy Code with respect to Subcontractor, Contractor may terminate this Agreement by giving forty-eight (48) hours written notice, by certified mail, to Subcontractor, its trustee, and its surety, if any, unless Subcontractor, the surety, or the trustee:

- (a) promptly cures all defaults;
- (b) provides adequate assurance of future performance;
- (c) compensates Contractor for actual pecuniary loss resulting from such defaults; and
- (d) assumes the obligations of Subcontractor within the statutory time limits.

14.2.2 Interim Remedies. If Subcontractor is not performing in accordance with the schedule of work at the time of entering an order for relief, or at any subsequent time, Contractor, while awaiting the decision of Subcontractor or its trustee to reject or to accept this Agreement and provide adequate assurance of its ability to perform hereunder, may avail itself of such remedies under this Section as are reasonably necessary to maintain the schedule of work.

Contractor may offset against any sums due or to become due Subcontractor all costs incurred in pursuing any of the remedies provided hereunder, including, but not limited to, reasonable overhead, profit and actual attorneys' fees incurred as a result of Subcontractor's non-performance.

Subcontractor shall be liable for the payment of any amount by which such expense may exceed the unpaid balance of the Contract Price.

15 INDEMNIFICATION

15.1 Subcontractor shall be responsible for insuring that all work conforms to code and shall obtain any and all required inspections, testing, certificates, etc., as required by code and/or the local jurisdiction.

- (a) Coordinate work with Contractor and all related trades. Verify and confirm all interfaces and connections with the work of others. Includes all layout as required.

15.1.1 Subcontractor's Performance. With the exception that this Section shall in no event be construed to require indemnification by Subcontractor to a greater extent than permitted under the public policy of the State of California, Subcontractor shall indemnify and save harmless Owner and Contractor, including their officers, agents, employees, affiliates, parents and subsidiaries, and each of them, of and from any and all claims, demands, causes of action, damages, costs, expenses, actual attorneys' fees, losses or liability, in law or in equity, of every kind and nature whatsoever ("Claims") arising out of or in connection with Subcontractor's operations to be performed under this agreement but not limited to:

- (a) Personal injury, including, but not limited to, bodily injury, emotional injury, sickness or disease, or death to persons, including, but not limited to, any employees and agents of Subcontractor, Owner, Contractor and any other subcontractor and/or damage to property of anyone (including loss thereof), caused or alleged to be caused in whole or in part by any negligent act or omission of Subcontractor and / or anyone directly or indirectly employed by Subcontractor or anyone for whose acts Subcontractor may be liable regardless of whether such personal injury or damage is caused by a party indemnified hereunder.
- (b) Penalties imposed on account of the violation of any law, order, citation, rule regulation, standard, ordinance or statute, caused by the action or inaction of Subcontractor.
- (c) Infringement of any patent rights which may be brought against Contractor or Owner arising out of Subcontractor's work.
- (d) Claims and liens for labor performed or materials used or furnished to be used on the job, including all incidental or consequential damages resulting to Contractor or Owner from such claims or liens.
- (e) Subcontractor's failure to comply with Labor Restrictions requirements. Labor Restriction requirements are as referenced in Paragraph 13.3.
- (f) Failure of Subcontractor to comply with Insurance Requirements. Insurance Requirements are as referenced in Schedule "D".

- (g) Any violation or infraction by Subcontractor of any law, order, citation, rule, regulation, standard, ordinance or statute in any way relating to the occupational health or safety of employees, including, but not limited to, the use of Contractor's or others' equipment, hoist, elevators or scaffolds.

The indemnification provisions of (a) through (g) above shall extend to Claims occurring after this agreement is terminated as well as while it is in force. Such indemnity provisions apply regardless of any active and/or passive negligent act or omission of Owner or Contractor or their agents or employees. Subcontractor, however, shall not be obligated under this Agreement to indemnify Owner or Contractor for Claims arising from the sole negligence or willful misconduct of Owner or Contractor or their agents, employees or independent contractors who are directly responsible to Owner or Contractor, or for defects in design furnished by such persons.

15.1.2 Subcontractor shall:

- (a) At Subcontractor's own cost, expense and risk, defend all Claims as defined in Section 15.1.1 that may be brought or instituted by third persons, including, but not limited to, governmental agencies or employees of Subcontractor, against Contractor or Owner or their agents or employees or any of them. Subcontractor shall defend Contractor and / or Owner on a current basis, meaning Subcontractor shall be responsible for retaining counsel and paying for said party's litigation costs on a current basis, which Subcontractor shall pay as incurred.
- (b) Pay and satisfy any judgment or decree that may be rendered against Contractor or Owner or their agents or employees or any of them, arising out of such a claim; and/or
- (c) Reimburse Contractor or Owner or their agents or employees for any and all legal expense incurred by any of them in connection herewith or in enforcing the indemnity granted in this Section.

15.1.3 Risk of Loss

All work covered by this Agreement done at the site or in preparing or delivering materials or equipment, or any or all of them, to the site shall be at the risk of Subcontractor exclusively until the completed work is accepted by Contractor.

15.1.4 No Limitation of Liability

The indemnities set forth in this Section shall not be limited by the Insurance Requirements. Insurance Requirements are as referenced in Schedule "D".

- 15.2 To comply with all Federal and State laws, and regulations and all municipal ordinances and regulations effective where the work is to be performed under this contract, and to pay all costs and expenses connected with such compliance, to pay all fees and taxes, including sales and use taxes, and also to pay all taxes imposed by State or Federal law for any employment insurance, pensions, old age retirements funds or any similar purpose and to hold Contractor, each other subcontractor and Owner harmless from any and all loss or damage occasioned by the failure of Subcontractor to comply with the terms of this clause.

- 15.3 To pay all royalties and license fees, and further agrees to defend all suits or claims for infringement of any patent rights involved in the work of Subcontractor under this Agreement, and further agrees to save Contractor harmless from loss, cost or expense on account of such use or infringement by Subcontractor.

16.0 INSURANCE REQUIREMENTS - See Schedule "D"

17.0 CLAIMS RESOLUTION PROCEDURE

17.1 Agreement to Arbitrate

All claims, disputes and matters in question arising out of, or relating to this Agreement or the breach thereof, except for claims which have been waived by the making or acceptance of final payment, shall be decided by the claims procedure, including any arbitration clause, specified in the prime contract between Contractor and Owner. In the absence of an agreement to arbitrate in the prime contract, no claims or disputes shall be arbitrated unless provided for in this Agreement or mutually agreed upon by Contractor and Subcontractor in writing.

17.2 Arbitration Procedures (if applicable)

In the event the prime contract contains an arbitration provision or if arbitration is provided for in this Agreement, the following shall apply:

17.2.1 Notice of Demand

Notice of the demand for arbitration shall be filed in writing with the other party to this Agreement and shall conform to the requirements of the arbitration provision set forth in the prime contract. The demand for arbitration shall be made within a reasonable time after written notice of the claim, dispute or other matter in question has been given, and in no event shall it 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 statute of limitations.

17.2.2 Award

The award rendered by the arbitrator(s) shall be final and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

17.2.3 Work Continuation and Payment

Unless otherwise agreed in writing, Subcontractor shall carry on the work and maintain a schedule of work pending arbitration, and, if so, Contractor shall continue to make payments in accordance with this Agreement.

17.2.4 Consolidated Arbitration Proceedings

To the extent not prohibited by their contracts with others, the claims and disputes of Owner, Contractor and Subcontractor and other subcontractors involving a common question of fact or law shall be heard by the same arbitrator(s) 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 Agreement. Should Contractor enter into arbitration with Owner or others regarding matters relating to this Agreement, Subcontractor shall be bound by the result of the arbitration to the same degree as Contractor.

17.2.5 No Limitation of Rights or Remedies

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.

18.0 SAFETY PRACTICES

Subcontractor shall comply fully with all laws, citations, rules, regulations, standards and statutes with respect to occupational health and safety, the handling and storage of hazardous materials, accident prevention, safety equipment and practices including the accident prevention and safety program of Owner and Contractor. Subcontractor shall conduct inspections to determine that safe working conditions and equipment exist and accepts sole responsibility for providing a safe place to work for its employees and for employees of its subcontractors and suppliers of material and equipment, for adequacy of and required use of all safety equipment and for full compliance with the aforesaid laws, orders, citations, rules, regulations, standards and statutes.

19.0 WARRANTY

Subcontractor warrants to Owner, Architect and Contractor that all materials and equipment furnished shall be new unless otherwise specified and that all work under this Agreement shall be of good quality, free from faults and defects and in conformance with the Contract Documents.

20.0 USE OF CONTRACTOR'S EQUIPMENT

In the event Subcontractor shall use Contractor's equipment, materials, labor, supplies or facilities, Subcontractor shall reimburse Contractor at a predetermined rate, or as otherwise stated herein. Further, Subcontractor assumes all responsibility for physical damage to such equipment, materials, labor, supplies, or facilities used by Subcontractor or his agents, employees or permittees. In the event that Contractor's employees are used by Subcontractor, Subcontractor shall have full responsibility for all acts or omissions of Contractor's employees with regard to Subcontractor's use or employment of them. Subcontractor accepts any and all of Contractor's equipment, materials, labor, supplies or facilities as furnished.

21.0 ASSIGNMENT OF CONTRACT

Subcontractor shall not, without written consent of Contractor, assign, transfer, or sublet any portion or part of the work required by this Agreement, nor assign any payment hereunder to others.

22.0 INDEPENDENT CONTRACTOR

Subcontractor is an independent contractor and shall, at his sole cost and expense, and without increase in the Contract Price, comply with all laws, rules, ordinances and regulations of all governing bodies having jurisdiction over the work; obtain all necessary permits and licenses therefor, pay all manufacturers' taxes, sales taxes, use taxes, processing taxes, and all federal and state taxes, insurance and contributions for social security and unemployment which are measured by wages, salaries, or other remunerations paid to Subcontractor's employees, whether levied under existing or subsequently enacted laws, rules or regulation. Subcontractor, upon request, shall furnish evidence satisfactory to Contractor that any or all of the forgoing obligations have been fulfilled.

23.0 CLEAN-UP

23.1 At all times during the course of construction, Subcontractor shall perform his work so as to maintain the site in a clean, safe and orderly condition. Upon completion of the work under this Agreement, Subcontractor shall remove from the site all hazardous materials, temporary structures, debris and waste incident to his operation and clean all surfaces, fixtures, equipment, etc., relative to the performance of this Agreement.

23.2 Subcontractor shall be responsible for maintaining a clean work area on a daily basis. Subcontractor's work areas, where possible, shall be left in a "broom" clean condition. Contractor's Superintendent shall designate a weekly time during which a thorough clean-up effort shall be performed. If, at the conclusion of the designated clean-up time, the Contractor's Superintendent feels a certain work area has not been sufficiently cleaned, then Contractor shall have the right to perform the required clean-up and charge all clean-up costs incurred back to Subcontractor. Contractor's Superintendent will notify Subcontractor's Supervisor prior to actually performing this work.

23.3 Contractor will not furnish drop boxes for Subcontractor's clean-up purposes. However, if Subcontractor agrees to jointly participate with other subcontractors in covering the cost of drop boxes for their clean-up, then Contractor will order these drop boxes and charge the cost back as agreed. These agreements shall be coordinated through Contractor's Superintendent. If subcontractors cannot jointly agree on participation for the drop boxes prior to ordering them, then Contractor shall have a right to order these boxes and make a determination on how to distribute these costs back to the subcontractors.

24.0 ATTORNEYS' FEES

In the event of litigation or arbitration arising out of this Agreement and / or the performance thereof, the prevailing party shall be fully compensated for his attorneys' fees and costs including any experts' fees. The attorneys' fees and costs awarded shall be such as to fully reimburse all attorneys' fees and costs actually incurred regardless the size of the judgment, it being the intention of the parties to fully compensate for all attorneys' fees and costs, including any experts' fees.

26.0 MISCELLANEOUS

26.1 Subcontractor shall employ no person whose employment on or in connection with this contract may be objectionable to Contractor, and shall discharge any such person when objected to by Contractor.

26.2 All contacts with Owner, Architect or Engineers will be cleared first with Contractor.

26.3 Contractor shall provide a job site telephone for local calls only and Subcontractor shall pay for all long distance calls made by his personnel.

26.4 CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS STATE LICENSE BOARD. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR OF THE BOARD, WHOSE ADDRESS IS:

Contractors State License Board
3132 Bradshaw Road
Post Office Box 26000
Sacramento, California 95826

Tilton Pacific Construction, Inc.

SCHEDULE "B"

For the **subcontract** agreement between «SUB NAME», «ADDRESS», «CITY ST ZIP» and Tilton Pacific Construction, Inc. dated Month DD, 2005.

1. PROJECT PLANS AND SPECIFICATIONS FOR Project Name #, Address, City St Zip.

a) Project drawings consist of:

<u>ITEM</u>	<u>SHEET</u>	<u>DATE</u>	<u>ISSUE</u>	<u>DRAWING TITLE</u>
1	TO.1	7/22/03	BID SET	TITLE SHEET/DRAWING INDEX
2	TO.2	7/22/03	BID SET	ELECTRICAL COMPLIANCE FORMS
3	TO.3	7/22/03	BID SET	MECHANICAL COMPLIANCE FORMS
4	C1.1	7/22/03	BID SET	REFERENCE SITE PLAN
5	C2.4	7/22/03	BID SET	SITE DETAILS

2. ADDITIONAL CONTRACT DOCUMENTS INCLUDED:

- a. Prime contract between Owners and Contractor.
- b. Technical Specifications for Store # as prepared by Name Architects, Inc.
- h. Name Architects, Inc. Bid Addendum "A" dated M/D/YR.
- j. Tilton Pacific Construction, Inc. Project Schedule dated Month DD, Year.

3. SUBCONTRACTOR SHALL PERFORM THE WORK HEREINAFTER LISTED REGARDLESS OF WHETHER WORK IS OUTLINED IN PARAGRAPH ONE OF THE SUBCONTRACT AGREEMENT.

4. WORK INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING:

a) Include all labor, materials, tools, and equipment for a complete installation of _____, _____ and _____ all in accordance with the project plans, contract documents and specifications as follows:

- ◆ Division ____, Specification section _____ – Exact Written Specification Title _____
- ◆ Division ____, Specification section _____ – Exact Written Specification Title _____
- ◆ Division ____, Specification section _____ – Exact Written Specification Title _____
- ◆ Division ____, Specification section _____ – Exact Written Specification Title _____
- ◆ Division ____, Specification section _____ – Exact Written Specification Title _____

b) The intent of this subcontract agreement is for subcontractor to furnish all labor, materials and equipment to complete the _____ scope of work in its entirety and in accordance with the contract documents.

c) Insert Master Scope Sheet information here.

Tilton Pacific Construction, Inc.

SCHEDULE "C"

For the **subcontract** agreement between «SUB NAME», «ADDRESS», «CITY ST ZIP» and Tilton Pacific Construction, Inc. dated April 9, 2010.

SUBCONTRACTOR SAFETY AGREEMENT

As General Contractor, Tilton Pacific Construction, Inc. (TPC) is responsible for the coordination of the work of subcontractors on each of its jobsites. It shall be the sole responsibility of the subcontractor to ensure that their work is performed in compliance with the safety and health requirements prescribed by the Occupational Safety and Health Administration (OSHA) as well as the requirements of state and local authorities having jurisdiction over matters of industrial and construction occupational safety and health.

The Tilton Pacific Jobsite Safety Rules are incorporated into your subcontract (see pages 2-3) for your reference. You are required to review these rules with your employees and ensure they are adhered to. These rules are provided as a guideline and in no way relieve you from providing safety training to your employees as required by OSHA. Subcontractors are obligated by this contract to learn and follow all OSHA standards pertaining to each of their specific operations.

EACH SUBCONTRACTOR IS REQUIRED TO PROVIDE TO THE FOLLOWING TO THE SUPERINTENDENT ON EVERY PROJECT PRIOR TO COMMENCING WORK:

1. **A Copy of your company's Injury and Illness Prevention Program (IIPP), (including your "Code of Safe Practices") must be provided to the Superintendent at the jobsite for each project prior to commencing work.**

California Code of Regulations, Title 8, Section 1509, states that every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (IIPP). A requirement of the IIPP is the adoption of a "Code of Safe Practices". Both these documents are required on all jobsites.

2. **Copies of your Safety Meeting Minutes must be provided at least bi-weekly to the Superintendent at the jobsite for each project.**

California Code of Regulations, Title 8, Section 1509e states that every employer must conduct regular safety training for all employees. One part of this requirement is the jobsite "tailgate" meeting. "Tailgate" Safety Meetings must be conducted at least every 10 working days; however, weekly meetings are recommended. These meeting minutes must state topics covered and are required to be signed by the attendees.

3. **Copies of MSDS sheets for all potentially hazardous materials you will use in conjunction with your work must be provided to the Superintendent at the jobsite for each project prior to any hazardous materials arriving on jobsite.**

California Code of Regulations, Title 8, Section 5194 states every employer whose employees may be exposed to hazardous substances is required to have a Hazard Communication Program. A major component of this program is having readily accessible Material Safety Data Sheets (MSDS). MSDS sheets provide information on how to handle a specific hazardous substance in the event of an accident, spill etc.

4. **Copies of all Safety Permits, and any other requirements of Cal/OSHA or any other Federal, State or local authority, for any given operation, must be provided to the Superintendent at the jobsite for each project** including but not limited to scaffold, trench and height permits, first aid/CPR training, forklift training.
5. **Copies of Accident/Near Miss Reports must be provided to the Superintendent immediately following the incident regardless of severity of injury.**
6. **Any fines, penalties or assessments levied to Tilton Pacific Construction, Inc. due to subcontractor negligence or violation of OSHA Regulations, Labor Codes, other regulatory agencies, or breach of any Federal, State or Local directives shall be paid by the subcontractor.**

JOBSITE SAFETY RULES

1. **HARD HATS MUST BE WORN AT ALL TIMES. NO EXCEPTIONS!**
Subcontractor understands that worker(s) showing up on the jobsite without a hard hat will not be permitted to work.
2. Personal Protective Equipment (PPE) including but not limited to safety glasses, hearing protection, safety vests, leather gloves and respirators must be utilized when required.
3. Boots or shoes which offer proper ankle support, toe protection and puncture resistance are required at all times.
TENNIS SHOES ARE NOT PERMITTED ON THE JOBSITE.
4. Long pants and shirts must be worn at all times while on the jobsite.
SHORTS AND TANK TOPS ARE NOT PERMITTED ON THE JOBSITE.

5. A violation of any of the following rules will result in the automatic and permanent removal from the jobsite:
 - a. Coming to the jobsite while under the influence of, or in the possession of, intoxicating liquor and/or non-prescription drugs.
 - b. Fighting or provoking a fight.
 - c. Horseplay in any form, including scuffling, throwing material at others, etc.
 - d. Harassment of employees of the owner, employees of the general contractor, employees of any subcontractor or any other person on the basis of age, gender, race, or sexual preference.
6. Hand tools shall be inspected for wear and defects prior to commencing work each day.
7. Electrical cords (including extension cords) and all electrical equipment must all be grounded and must not have damage to the outer protective sheath. Electrical extension cords shall not be exposed to damage from vehicles driving over them.
8. Portable electric and pneumatic tools shall not be lowered by means of the power cord or the air hose.
9. Safety Devices on power tools and equipment must be in place and be functional per manufacture specifications. Safety devices include but are not limited to lower guards on saws, safety springs in nail guns, wheel guards on grinders.
10. Compressed air hoses are never to be pointed at other people, and are to be used for the prescribed operations only. Be sure all hoses are connected properly and are secure. All compressors must be equipped with safety pressure relief valves.
11. Damaged tools or equipment shall be removed from service and tag "defective". The source of power must be disconnected prior to performing any repairs.
12. Keep your area clean and picked up. Scrap lumber and other debris shall be kept cleared from all work areas and passageways. The cleaner your work area the safer it is for all.
13. Do not attempt to lift items that are too heavy to be lifted alone. When lifting, use your legs, not your back.
14. Report all injuries, accidents and unsafe conditions to your foreman and the jobsite superintendent immediately.
15. Know where fire extinguishers, telephone and first aid kits are located and how to use them in case of emergency.
16. Material Safety Data Sheets (MSDS) are available in the job trailer, know what they are how to use them in case of an emergency.
17. All fuels such as gas and diesel must be handled or stored in approved safety containers with appropriate labels and warnings
18. Oxygen and Acetylene shall only be handled by qualified and authorized personnel. Cylinders shall be stored and secured in an upright position, at all times.
19. Persons using powder-actuated tools (PAT) such as Hilti or Ramset will be properly trained and are required to carry proof of training. PPE must be utilized at all times while using a PAT, subcontractor shall pick up and remove from job all spent and unspent power loads. A sign must be displayed within 50' of operator stating "Powder-actuated tool in use. See OSHA Standards for more specific requirements.
20. Persons using forklifts, cranes, boom lifts or other regulated equipment must be properly trained and are required to carry proof of training while using said equipment.
21. Riding on the sides of forklifts, backhoes or similar equipment is strictly prohibited. Forklifts, backhoes and similar equipment must have a proper seat and a seat belt must be worn at all times.
22. Never walk in front of, or under, loads on cranes, lifts, etc. Do not allow a load to be lifted or swung over an employee who is unaware of it or can not get clear.
23. Lifting equipment such as cranes, hoists and forklifts may not be operated within 10' of electrical transmission lines.
24. Man baskets used to elevate employees with forklifts must meet OSHA requirements. The man basket must be properly secured to the forks or mast. Access/doorways must be closed or chained prior to lifting. Users must stand only in the basket. Standing on guardrails, planks, ladders, or other means to gain greater heights is strictly prohibited.
25. Users of aerial devices, such as cherry pickers, aerial lifts, articulating lifts, boom lifts etc. are required to wear a fall protection device and must be attached to the boom or basket. Only trained authorized users may operate this equipment

and must carry proof of training while using this equipment. Users must stand only in the basket. Standing on guardrails, planks, ladders, or other means to gain greater heights is strictly prohibited.

26. Users of elevated man baskets (scissor lifts) must stand only in the basket, standing on guardrails, planks, ladders, or other means to gain greater heights is strictly prohibited. The electrical cords used to charge the batteries on these lifts must be properly grounded and the outer sheath must not be worn or damaged.
27. All ladders must be inspected daily. Ladders that are broken, cracked, have excessively worn or inadequate feet or are otherwise unsuitable for use must be removed from jobsite. All ladders must be properly rated for industrial/commercial use.
28. All extension ladders must be tied off at the top must be on firm foundations (preferably blocked) and must extend 36" above the landing. Both hands must be free while climbing or descending a ladder.
29. Step ladders must used according to OSHA requirements. Do not step on the last two steps of the ladder including the top cap. Do not use a step ladder as a lean-to (extension type) ladder.
30. Any wooden ladders constructed on site must be built in accordance with Cal OSHA specifications.
31. Prior to erection of any scaffolding that will exceed 36' in height; subcontractor must obtain a Cal/OSHA permit from the local Cal/OSHA Enforcement Office. A copy of this permit must be provided to the superintendent for posting in the job trailer.
32. Scaffold planking must be of "scaffold grade" and be sound; no warping, end splitting etc. Planks must be no less than 2" X 10" material, adequately overlapped and supported.
33. Guardrails must be in place on all scaffolding more the 7-1/2 feet in height in accordance to OSHA specifications.
34. Never remove guardrails or planking from scaffolding.
35. Toe boards will be provided (by subcontractor) at locations where persons are required to work or pass under scaffolding.
36. Wheels on metal scaffolding must be provided with locks.
37. Prior to any/all underground operations commencing where excavation will exceed 5' in depth; subcontractor must obtain a Cal/OSHA permit from the local Cal/OSHA Enforcement Office. A copy of this permit must be provided to the superintendent. The permit is required to be posted in the job trailer.
38. Subcontractor must contact Underground Service Alert (USA) at least 48 hours before work is planned to have existing utilities properly marked.
39. Trenches more than 5' deep shall be shored, sloped, or another OSHA approved method of protection must be utilized.
40. Excavating equipment shall not be operated near tops of cuts, banks, or steep slopes when employees are working below.
41. Removed material (soil, gravel, etc.) must be stored a minimum of 2 feet from the edge of all excavations regardless of depth. Excavations shall be visually inspected prior to backfilling to ensure it is safe to do so.
42. Trenches more than 4 feet deep shall have a ladder extending 3 feet above the trench and within 25 feet of all workers.
43. Excavations must be covered and adequately identified or barricaded with warning lights.
44. Prior to work commencing on the construction or demolition of any buildings, structures or false work over 36' in height; subcontractor must obtain a Cal/OSHA permit from the local Cal/OSHA Enforcement Office. A copy of this permit must be provided to the superintendent. The permit is required to be posted in the job trailer.
45. Guardrails (top and mid) will be provided (by subcontractor) at locations where employees are exposed to a fall hazard. Toe boards will be provided (by subcontractor) where persons are required to work or pass underneath work above.
46. Other means of OSHA approved fall protection may be utilized when guardrails are impractical or their installation exposes employees to greater risk than work to be performed. Other fall protection includes but is not limited to harnesses with shock absorbing lanyards, retractable (yo-yo type) devices, static lines etc.
47. Openings in floor, roof or ground must either be surrounded by a guard rails and toe boards or covered and properly marked (by subcontractor).

48. OSHA fall protection standards vary depending on level of the hazard, the activity being performed and the specific trade performing the work. All subcontractors are obligated by this contract to learn the standard for each of their operations and adhere to the appropriate fall protection standard.

Tilton Pacific Construction, Inc.

SCHEDULE "D"

For the **subcontract** agreement between «SUB NAME», «ADDRESS», «CITY ST ZIP» and Tilton Pacific Construction, Inc. dated April 9, 2010

SUBCONTRACTOR INSURANCE REQUIREMENTS

1. **INSURANCE COVERAGES:** At no expense to Contractor or Owner, Subcontractor shall procure and maintain in effect for the duration of the Subcontract Agreement the following Insurance against claims for injury to persons or damage to property which may arise from or in connection with the operations or performance of the work by Subcontractor, to agents, representatives, employees or Subcontractors (and shall require the Subcontractors to procure and maintain the same). Insurance requirements shall be in strict compliance with the contract documents or in compliance with the following minimum standards (whichever is greater):

1.1 **Workers' Compensation and Employer's Liability Insurance**

- a) Workers' Compensation Insurance as required by the State of California.
- b) Employer's Liability Insurance with a limit of \$1,000,000 per accident for bodily injury or disease.

1.2 **Commercial General Liability Insurance**

a) Minimum Liability Limits required:

\$2,000,000 General Aggregate
\$2,000,000 Products/Completed Operations Aggregate
\$1,000,000 Personal and Advertising Injury
\$1,000,000 Each Occurrence

b) Coverage shall be at least as broad as ISO form CG 0001 and include the following:

- Premises and Operations;
- Products and Completed Operations; (For duration of subcontract agreement and full statute of limitation period-10 years)
- Blanket Contractual Liability;
- Broad Form Property Damage
- Explosion, Collapse and Underground Hazards, if any.
- Personal and Advertising Injury
- Subsidence (All Site Improvement and Underground Subcontractors)
- EIFS (All Plastering, Stucco and EIFS Subcontractors)

1.3 **Business automobile Insurance**

- a) Minimum limit required: \$1,000,000 Bodily Injury and Property Damaged Combined Each Occurrence.
- b) Coverage shall include all owned, non-owned and hired vehicles.

1.4 **Professional Liability** (Design Build Projects)

- a) Minimum Limit required: \$1,000,000 Each Occurrence
- b) Required for all architects, engineers, consultants and design build subcontractors.

2. **GENERAL REQUIREMENTS**

2.1 **Additional Insured:** At no expense to Contractor or Owner; Contractor, Owner, their directors, officers, employees, agents and representatives shall be named as Additional Insureds (utilizing Form CG 2010 11/85 or an acceptable equivalent) by endorsement to the policies in paragraphs 1.2 and 1.3 above. A CG 2010 11/85 acceptable equivalent is defined as an additional insured endorsement that does not restrict coverage to the named insured's "ongoing" operations and does not contain any form of completed operations exclusion.

2.2 **Waiver of Subrogation:** Excluding Workers Compensation and Auto, each Insurance policy shall provide for a waiver of subrogation as to all Additional Insureds.

2.3 **Deductibles and Self-Insured Retentions:** Any deductible or self-insured retention shall not exceed \$5,000 per occurrence.

2.4 **Policy Cancellation:** Each Insurance policy or coverage shall not be canceled or materially altered without thirty (30) days prior written notice to Contractor and Owner.

2.5 **Miscellaneous:** Each Insurance policy shall:

- a) Be non-contributory and primary in relation to Contractor's and Owner's Insurance;
- b) Be issued by an insurance company licensed to do business in California with a A.M. Best rating of "AV" or better; and
- c) Provide coverage on an occurrence basis. Claims Made or Modified Occurrence Liability coverage will not be accepted.

3. EVIDENCE OF INSURANCE

3.1 Prior to the start of any Work, Subcontractor must provide the following documents to Contractor:

- a) Certificate of Insurance: The attached Certificate of Insurance form or a form substantially similar must be submitted to Contractor to evidence the Insurance policies and coverages required of Subcontractor. If a certificate form other than that attached hereto is used, the wording "...endeavor to..." and "...failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" or any similar language with respect to cancellation shall be deleted. The Certificate of a qualified self-insurer of statutory Workers' Compensation in the State of California may be provided in lieu of the attached form for coverage under 1.1 above. Subcontractors who are qualified Workers' Compensation self-insurer must evidence Employer's Liability Insurance as a part of the liability insurance in paragraph 1.2 above.
 - b) Additional Insured Endorsement: The attached Additional Insured Endorsement (CG 2010 11/85) form or an acceptable equivalent must be submitted to Contractor to evidence the endorsement of Contractor and Owner as Additional Insureds to the policies in Paragraphs 1.2 and 1.3 above. A CG 2010 11/85 acceptable equivalent is defined as an additional insured endorsement that does not restrict coverage to the named insured's "ongoing" operations and does not contain any form of completed operations exclusion.
- 3.2 Review and Approval: Certificates of Insurance and Additional Insured Endorsements must be submitted for review and approval by Contractor and Owner prior to any Work being performed by Subcontractor. Acceptance of Certificates and Endorsements that are not in accordance with these requirements shall not relieve Subcontractor of any of the requirements, nor decrease its liability. Subcontractor shall provide each Insurance policy for review upon request of Contractor or Owner.

Mail all Certificates and Endorsements to:

Tilton Pacific Construction, Inc.
Attn: Project Administrator
4150 Citrus Avenue
Rocklin, CA 95677-4000

Subcontractor: A copy of these Subcontractor Insurance Requirements should be delivered to your broker for correct issuance of Certificates and Endorsements.

INSTRUCTIONS FOR INSURANCE CERTIFICATES AND ADDITIONAL INSURED ENDORSEMENTS

CERTIFICATE OF INSURANCE

1. **NAME OF INSURED**
The name of the Insured / Subcontractor must be the same as that which appears on the Subcontract Agreement.
2. **COMPANIES AFFORDING COVERAGE**
The name of the insurance company should be listed. Best Rating must be "AV" or higher (i.e., A+, VII, VIX, etc.) and the carrier must be licensed (admitted) to do business in the State of California.
3. **CANCELLATION PROVISIONS:** The three important elements are:
 - a) We must have thirty (30) days prior written notice of cancellation or material change;
 - b) No "endeavor to mail" language regarding the mailing of the cancellation notice; and
 - c) No language releasing the insurance company, its agents or representatives from their obligation to provide timely notice of cancellation.
4. **GENERAL LIABILITY**
The two boxes must be checked (as per sample).
5. **POLICY NUMBER**
This column should contain a policy number for each policy identified in the left column.
6. **DATES**
The Effective Date should be prior to the date Certificate is reviewed; the Expiration date should be some time in the future.
7. **LIMITS**
All limits are shown in thousands (000/s omitted) and must match or exceed the amounts shown on the sample.
8. **AUTOMOBILE LIABILITY**
Either "Any Auto" alone or the boxes indicated on the Sample must be checked.
9. **AUTOMOBILE LIMIT**
The combined (bodily injury and property damage) limit is shown on the Sample; or amounts shown in the first two boxes totaling \$1,000,000 is an acceptable alternative.
10. **WORKERS' COMPENSATION**
\$1,000 should appear in all three boxes under Limits.
11. **ADDITIONAL INSURED**
Certificate must specify that certificate holder has been named Additional Insured, utilizing Form CG2010 (1185), and specify coverage is provided on a "primary" basis (see sample attached).
12. **CERTIFICATE HOLDER**
The names of both Contractor and Owner must appear as follows:
Tilton Pacific Construction, Inc. And {Owner}*
13. **SIGNATURE OF AUTHORIZED REPRESENTATIVE**
A signature of an Authorized Representative is required.

ADDITIONAL INSURED ENDORSEMENT

1. The name of the insurance company, policy number and endorsement number must be supplied.
2. The name of the Contractor and Owner, as they appear on the Subcontract Agreement, plus "their directors, officers, employees, agents and representatives" must appear.
3. The signature of the issuing party is required.

ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID PD
TILTO-2
DATE (MM/DD/YYYY)
12/05/07

PRODUCER
InterWest Insurance Services
Capitol Division
P.O. Box 255188
Sacramento CA 95865-5188
Phone: 916-488-3100 Fax: 916-979-7992

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW

INSURED

(Subcontractor)

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: ABC Insurance Co (Best Rating)	
INSURER B: WC Emp Ins Co (Best Rating)	
INSURER C:	
INSURER D:	
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	X	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	ABC-123-45-67	01/01/07	01/01/08	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A		AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	ABC-123-45-67	01/01/07	01/01/08	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	WC 345-6789	01/01/07	01/01/08	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
		OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 RE: (Project Name). Certificate Holder is Additional Insured and coverage is primary and non-contributory per form CG2010(11/85) (or equivalent) attached. Waiver of Subrogation applies to General Liability per CG2404 (or equivalent) attached.

CERTIFICATE HOLDER	CANCELLATION
TOWHOMI Tilton Pacific Const., Inc. & (Project Owner) 4150 Citrus Avenue Rocklin CA 95677	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30* DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE

COMMERCIAL LIABILITY
CGL ENDORSEMENTS

INSURED: (Subcontractor) POLICY
NUMBER: ABC-123-45-67

ABC Insurance Co. COMMERCIAL
GENERAL LIABILITY

This Endorsement changes the policy. Please read it carefully.

**ADDITIONAL INSURED OWNERS, LESSEES OR
CONTRACTORS (FORM B)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Name of Person or Organization Tilton Pacific Construction, Inc. and
(Project Owner), their directors, officers, employees,
agents and representatives.

(IF NO ENTRY APPEARS ABOVE, INFORMATION REQUIRED TO COMPLETE THIS ENDORSEMENT WILL BE SHOWN IN THE DECLARATIONS AS APPLICABLE TO THIS ENDORSEMENT.)

WHO IS AN INSURED (Section II) IS AMENDED TO INCLUDE AS AN INSURED THE PERSON OR ORGANIZATION SHOWN IN THE SCHEDULE. BUT ONLY WITH RESPECT TO LIABILITY ARISING OUT OF "YOUR WORK" FOR THAT INSURED BY OR FOR YOU.

COVERAGE IS PRIMARY AND NO CONTRIBUTION WILL BE SOUGHT FROM THE ADDITIONAL INSURED'S POLICY

30 DAYS WRITTEN NOTICE OF CANCELLATION. NON-RENEWAL OR MATERIAL ALTERATION WILL BE GIVEN TO ADDITIONAL INSURED'S.

POLICY NUMBER:ABC-123-45-67

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER RIGHTS OF RECOVERY

AGAINST OTHERS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization: Tilton Pacific Construction, Inc. and (Project Owner) their directors, officers, employees, agents and representatives

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

We waive any right of recovery we may have against the person or organization shown in the Schedule because of payments we make for injury or damage arising out of "your work" done under a contract with that person or organization. The waiver applies only to the person or organization shown in the Schedule.



RENEWAL

NF

PAGE 1

ENDORSEMENT
AGREEMENT

ALL EFFECTIVE DATES ARE
AT 12:01 AM PACIFIC
STANDARD TIME OR THE
TIME INDICATED AT
PACIFIC STANDARD TIME

ANYTHING IN THIS POLICY TO THE CONTRARY NOTWITHSTANDING, IT IS
AGREED THAT THE STATE COMPENSATION INSURANCE FUND WAIVES ANY
RIGHT OF SUBROGATION AGAINST,

WHICH MIGHT ARISE BY REASON OF ANY PAYMENT UNDER THIS
POLICY IN CONNECTION WITH WORK PERFORMED BY,

IT IS FURTHER AGREED THAT THE INSURED SHALL MAINTAIN
PAYROLL RECORDS ACCURATELY SEGREGATING THE RENUMERATION
OF EMPLOYEES WHILE ENGAGED IN WORK FOR THE ABOVE EMPLOYER.

IT IS FURTHER AGREED THAT PREMIUM ON THE EARNINGS OF SUCH
EMPLOYEES SHALL BE INCREASED BY 03%.

NOTHING IN THIS ENDORSEMENT CONTAINED SHALL BE HELD TO VARY, ALTER, WAIVE
OR EXTEND ANY OF THE TERMS, CONDITIONS, AGREEMENTS, OR LIMITATIONS OF THIS
POLICY OTHER THAN AS STATED. NOTHING ELSEWHERE IN THIS POLICY SHALL BE
HELD TO VARY, ALTER, WAIVE OR LIMIT THE TERMS, CONDITIONS, AGREEMENTS OR
LIMITATIONS OF THIS ENDORSEMENT.

COUNTERSIGNED AND ISSUED AT SAN FRANCISCO:


AUTHORIZED REPRESENTATIVE


PRESIDENT