



Project: **PROJECT NAME, PROJECT ADDRESS**

Diede Construction, Inc. Job #XXXXX. Project is a PREVAILING WAGE job.

This Agreement is made this February 7, 2019 between:

Diede Construction, Inc.
P.O. Box 1007
Woodbridge, CA 95258
(209) 369-8255
(209) 368-0600

SUBCONTRACTOR NAME
ADDRESS
ADDRESS
PHONE NUMBER
FAX NUMBER

The work described in sections below shall be performed in accordance with the prime contract dated XX-XX-XXXX between Diede Construction, Inc. (Contractor) and OWNER NAME (Owner) and in accordance with all Drawings, Specs and 0 addenda(ums).

Section 1. Scope of Work.

This Agreement includes, but is not limited to, the following:

- a. Furnish and install all labor, materials and equipment necessary to perform SCOPE OF WORK work per plans, specifications, addendums, and local code/jurisdictions complete as described below:
 - i. **INCLUSIONS LISTED**
 - ii. **0**
 - iii. **0**
- b. Submit within ten (10) days after issuance of this contract (or upon receipt of authorization to proceed, whichever is first) your OSHA-required MSDS Sheets, Injury and Illness Prevention Plan and site-specific safety plan. Access to the site will not be allowed unless all required documents are onsite with your company foreman and have been submitted to DDC's office. If DDC incurs any fines / delays associated with this requirement any and all related costs will be back-charged to your contract.
- c. Submit within ten (10) days after issuance of this contract (or upon receipt of authorization to proceed, whichever is first) all shop drawings, submittals, warranties and manufacturers' manual for review and approval prior to installation of product.
- d. Review and maintain the project schedule and sequencing, supply the site with all necessary materials and adequate manpower so as not to delay the project at any time, and complete all work within the timeframes provided by the Contractor.
- e. Subcontractor shall also secure and submit to Contractor all warranties/guarantees/O & M Manuals and any other documentation required by the specifications from manufacturers of all products supplied to the site within ten (10) days of completion of Subcontractor's scope of work.
- f. City License is required on the above listed job.
- g. Daily clean up and removal from site of own debris.
- h. Protect existing conditions.

Specifically excluded are the following:

EXCLUSIONS LISTED

SECTION 2. Price. Contractor agrees to pay Subcontractor for the strict performance of his work the sum of:

No Dollars and No Cents..... \$0.00

Subject to adjustments for changes in the work as may be directed in writing by Contractor. Payment shall be made in monthly progress payments of ninety-five percent (95%) of labor and material which have been incorporated into the work of improvement. Progress payments to Subcontractor shall be made only with sums received by Contractor from Owner for work performed by Subcontractor as reflected in Contractor's applications for payment. Final payment of the balance owed to Subcontractor shall be due seven days after receipt by Contractor of final payment from owner for Subcontractor's work. Subcontractor agrees to furnish, if and when required by Contractor, payroll affidavits, receipts vouchers, releases of claims for labor, material and from his subcontractors, in form satisfactory to Contractor. Diede Construction, Inc. will issue checks made jointly to Subcontractors and it's lower tier subcontractors and/or vendors in the appropriate amounts and in accordance with the terms of this Subcontract agreement, and will issue checks made singly to Subcontractor for the remaining amount. In no event will Subcontractor's total payment, including any payments made jointly to Subcontractor and/or its subcontractor or vendors, exceed the approved amount of the Pay Application after it has been reviewed by the Owner, Architect and Diede Construction, Inc.

Diiede Construction, Inc. shall determine, in its sole discretion, when and if payments are to be made jointly. This Joint Check clause is not intended to and shall not be construed as (a) conferring any benefits upon any of Subcontractor's lower tier subcontractors or vendors; (b) creating any contractual relationship between Diiede Construction, Inc. and any of the Subcontractor's lower tier subcontractors or vendors; or (c) guaranteeing any obligation of Subcontractor to its subcontractors or vendors, including, without limitation, any payment obligation. Subcontractor agrees to provide lien releases from its lower tier subcontractors and/or suppliers at Diiede Construction, Inc.'s request prior to payment.

SECTION 3. Entire Agreement. This Agreement represents the entire agreement between Contractor and the Subcontractor and supersedes any prior written or oral representations. Subcontractor and his subcontractors are bound by the prime contract and any contract documents incorporated therein insofar as they relate in any way, directly or indirectly to the work covered by this Agreement.

SECTION 4. Schedule. Time is of the essence of this Agreement. Subcontractor shall provide Contractor with scheduling information in a form acceptable to Contractor and shall conform to Contractor's progress schedules, including any changes made by Contractor in the scheduling of work. Subcontractor shall coordinate its work with that of all other contractors, subcontractors and suppliers so as not to delay or damage their performance.

SECTION 5. Delay. In the event that Subcontractor's work is delayed for any reason, including acts of the Contractor, Subcontractor's sole remedy shall be an extension of time equal to the period of delay, provided Subcontractor has given Contractor written notice of the commencement of delay within (48) hours of its occurrence. In the event that Contractor, in its sole discretion, should seek compensation from the Owner as a result of any delay, Subcontractor shall be entitled to an equitable portion of any amount recovered by Contractor, minus an aliquot share of the cost of pursuing said claim. This provision shall not be construed to require Contractor to pursue any delay claim against the Owner or any other party.

SECTION 6. Changes in Work. Subcontractor shall make no changes in the work covered by this Agreement without written direction from Contractor. Subcontractor shall not be compensated for any change which is made without such written direction. No changes in the work covered by this Agreement shall exonerate any surety or any bond given in connection with this Agreement.

SECTION 7. Claims. If any dispute shall arise between Contractor and Subcontractor regarding performance of the work, or any alleged change in the work, Subcontractor shall timely perform the disputed work and shall give written notice to Contractor of a claim for additional compensation for the work within ten (10) days after commencement of the disputed work. Subcontractor's failure to give written notice within the ten (10)-day period constitutes an agreement by Subcontractor that it will receive no extra compensation for the disputed work.

SECTION 8. Inspection and Protection of Work. Subcontractor shall make its work done pursuant to the herein subcontract accessible at all reasonable times for inspection by Contractor. Subcontractor shall, at the first opportunity, inspect all material and equipment delivered to the jobsite by others to be used or incorporated in Subcontractor's work and give prompt notice of any defect therein to Contractor within two (business) days. Subcontractor shall effectually secure and protect its work done hereunder and assumes full responsibility for the condition thereof until final acceptance by Architect, Owner and Contractor. Subcontractor further agrees to take such measures and provide such protection as is necessary to protect the work and the workmen of Contractor, Owner and other subcontractors from its operations. Subcontractor shall be liable for any loss or damage to any work in place or to any equipment and materials on the job site caused by it or its agents, employees or guests.

SECTION 9. Labor Relations. Subcontractor shall maintain labor relations policies in conformity with the directions of the contractor and shall comply with all of the terms and conditions, including trust fund contributions, required by those labor agreements applicable to work performed under this Agreement to which the Contractor is bound. The specific agreements to which the Contractor is bound are listed in Section 17.

SECTION 10. Termination. (i) Should Subcontractor fail to rectify any contractual deficiencies, including failure to pay its creditors, within three (3) working days from receipt of Contractor's written notice, Contractor shall have the right to take whatever steps it deems necessary to correct said deficiencies and charge the cost thereof to Subcontractor, who shall be liable for the full cost of Contractor's corrective action, including reasonable overhead, profit and attorneys' fees. (ii) Contractor may at any time and for any reason terminate Subcontractor's services hereunder at Contractor's convenience. In the event of termination for convenience, Subcontractor shall recover only the actual work completed to the date of termination plus fifteen (15%) percent of the actual cost of the work for overhead and profit. Subcontractor shall not be entitled to any claim or lien against Contractor or Owner for any additional compensation or damages in the event of such termination.

SECTION 11. Assignment and Delegation. Neither party shall voluntarily, by operation of law, or otherwise assign any of its rights or delegate any of its duties, hypothecate, give, transfer, mortgage, sublet, license, or otherwise transfer or encumber all or part of its rights, duties, or other interests in this Agreement or the proceeds thereof without the other party's written consent. Any attempt to make an assignment or delegation in violation of this provision shall be a material default under this Agreement and any assignment or delegation in violation of this provision shall be null and void.

SECTION 12. Indemnification. To the fullest extent permitted by law, Subcontractor shall indemnify and hold harmless Owner and Contractor and their agents and employees from claims, demands, causes of action and liabilities of every kind and nature whatsoever arising out of or in connection with Subcontractor's operations performed under this Agreement. This indemnification shall extend to claims occurring after this Agreement is terminated as well as while it is in force. The indemnity shall apply regardless of any active and/or passive negligent act or omission of Owner or Contractor, or their agents or employees, but Subcontractor shall not be obligated to indemnify any party for claims arising from the sole negligence or willful misconduct of Owner or Contractor or their agents or employees or caused solely by the designs provided by such parties. The indemnity set forth in this section shall not be limited by insurance requirements or by any other provision of this Agreement. All work covered by this Agreement done at the site or in preparing or delivering materials or equipment to the site shall be at the sole risk of Subcontractor until the completed work is accepted by Owner, Architect and Contractor.

SECTION 13. Insurance. Subcontractor shall, at its expense, procure and maintain insurance on all of its operations, with carriers acceptable to Contractor, in amounts acceptable to Contractor, and as required by the prime contract, and per the attachment titled "Subcontractor Insurance Requirements".

SECTION 14. Claims Resolution. Any claims resolution procedure incorporated in the prime contract shall be deemed incorporated in this Agreement and shall apply to any disputes arising hereunder. In the absence of a claims resolution procedure in the prime contract, the parties hereto shall not be obligated to utilize arbitration or any other non-judicial method of dispute resolution. In any dispute resolution proceeding between the parties to this Subcontract the prevailing party shall be entitled to recover its attorneys' fees.

SECTION 15. Warranty. Subcontractor warrants to Owner, Architect and Contractor that all materials and equipment furnished shall be new, free from faults and defects and of good quality. Subcontractor hereby warrants its work against all deficiencies and defects for the period required by the prime contract or the longest period permitted by the laws of this State, whichever is less.

SECTION 16. Special Provisions.

- a. Contractor reserves the right to demand performance and material bonds from Subcontractor at Contractor's expense.
- b. Any and all insurance requirements of the Owner will also be required from the Subcontractor.
- c. A written three (3)-day notice will be sent to Subcontractor for any non-compliance of contractual obligations.

SECTION 17. Prevailing Wage. When the Project is a public works project, Subcontractor is hereby notified that pursuant to Sections 1771, 1775, 1776, 1777.5, 1813 and 1815 of the Public Contract Code and Labor Code of the Statutes of the State of California (see Attachment "B"), the general prevailing rate of per diem has been determined by the Director of the State Department of Industrial Relations, and it shall be mandatory upon each subcontractor to pay not less than the specified rates to all laborers, workmen and mechanics employed. Prior to making final payment, Contractor must receive from the Subcontractor an affidavit signed under penalty of perjury that the proper prevailing wages were paid. Subcontractor shall provide all certified payroll documents required by law on a weekly basis to the Diede Construction, Inc.

Certified Payroll shall include a "Statement of Compliance" signed "under penalty of perjury", Fringe Benefit Statement within 10 days of contracting for each trade and a revised copy to be issued for every increase, Copy of your DAS 140 within 10 days of contracting, Proof of request for Apprentices, Proof of Train Fund Contributions Monthly, Daily Work Order Upon request.

SECTION 18. Labor Agreements. The Contractor is signatory to the following labor agreements covering work on this project: See Section 17 above.

SECTION 19. Examination of Plans and Specifications. Subcontractor has determined the full extent of his trade and/or related trades to that he is able to perform his work to the highest quality generally recognized in his profession. If the Subcontractor is aware of conditions, field or written, which conflict, it is his responsibility to bring said conditions to the attention of Diede Construction, Inc. before proceeding with the work.

SECTION 20. Attachments to this Agreement. The following documents are attached to this Agreement and made a part hereof.
Exhibit 'A' Scope of Work, Attachment B Prevailing Wage Sections 1771, 1775, 1776, 1777.5, 1813 and 1815, Attachment C Subcontractor Insurance Requirements.

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:

Contractor's State License Board
Post Office Box 26000
Sacramento, California 95826

PROJECT NAME
DDC Job # XXXXX

BY SIGNING BELOW, YOU ARE CERTIFYING THAT YOU HAVE READ AND UNDERSTAND THE CONDITIONS OF THIS SUBCONTRACT.

CONTRACTOR
Diede Construction, Inc.

SUBCONTRACTOR NAME

By: _____
Jessica Ramirez

By: _____
Name:

Dated: _____

Dated: _____

Contractor's License No.: 632667

Contractor's License No.: _____

NOTE: This document has important legal consequences. Consultation with an attorney prior to execution of this document is encouraged. Some construction prime contracts may require the use of specialized provisions not included in this form.