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Attorney for Plaintiff,
 RAYMOND-NORTHERN CALIFORNIA, INC.

FILED
 ALAMEDA COUNTY

JUN 7 - 2019

CLERK OF THE SUPERIOR COURT
 By [Signature] Deputy

Filed By Fox

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF ALAMEDA

RAYMOND-NORTHERN CALIFORNIA,
 INC., a California corporation

Plaintiff

vs.

XL CONSTRUCTION CORPORATION, a
 California corporation; KAISER
 FOUNDATION HEALTH PLAN, INC., a
 California corporation; and DOES 1 through
 500, inclusive.

Defendants.

Case No.:

RG 19022096

COMPLAINT FOR

1. BREACH OF WRITTEN CONTRACT;
2. WORK, LABOR AND SERVICES,
3. ACCOUNT STATED;
4. QUANTUM MERUIT;
5. MONEY HAD AND RECEIVED;
6. MONEY PAID;
7. FORECLOSURE OF MECHANICS' LIEN; AND
8. MECHANICS' LIEN RELEASE BOND.

COMPLAINT AMOUNT: \$107,730.40

Plaintiff RAYMOND-NORTHERN CALIFORNIA, INC., a California Corporation

alleges:

FIRST CAUSE OF ACTION

(Breach of Written Contract Against Defendants XL and DOES 1 through 50, inclusive,)

1. Plaintiff, RAYMOND-NORTHERN CALIFORNIA, INC., a California

1 Corporation, (hereinafter referred to as "RAYMOND" or "Plaintiff") is a corporation duly
2 organized and existing under and by virtue of the laws of the State of California. At all times
3 mentioned herein, Plaintiff was duly licensed as a contractor by the State of California to perform
4 the services hereinafter alleged.

5 2. At all times mentioned herein, Plaintiff is informed and believes that Defendant XL
6 CONSTRUCTION CORPORATION, a California corporation (hereinafter referred to as "XL")
7 was and is a corporation duly organized and existing under and by virtue of the laws of the State
8 of California.

9 3. At all times mentioned herein, Plaintiff is informed and believes that Defendant
10 KAISER FOUNDATION HEALTH PLAN, INC., a California corporation (hereinafter referred
11 to as "KAISER") was and is a corporation duly organized and existing under and by virtue of the
12 laws of the State of California. Plaintiff is informed and believes that KAISER is the owner of the
13 property where the subject construction project occurred at 380 W. MacArthur Blvd., Oakland,
14 California 94609 (hereinafter referred to as "PROJECT").

15 4. The true names and capacities of Defendants named herein as DOES 1 to 500,
16 (hereinafter collectively referred to as "Defendants"), whether individual, corporate, partnership,
17 associate, agent or otherwise are not known to plaintiff at this time. Plaintiff will seek leave of
18 court to amend this Complaint when the true names and capacities of said DOE Defendants have
19 been ascertained.

20 5. Plaintiff is informed and believes, and upon such information and belief alleges
21 each defendant was and is responsible in some manner for the events and occurrences complained
22 of herein, and each defendant was and is acting as the agent, servant or employee of the other
23 Defendants in combination or conspiracy therewith, and are, were and will continue to act within
24 the scope and course of said agency and employment, and said combination or conspiracy.

25 6. On or about January 25, 2018, Plaintiff entered into a written subcontract for
26 drywall with Defendants XL and DOES 1 through 50, inclusive, for the PROJECT.

27 7. On or about February 1, 2018, Plaintiff entered into a written subcontract for
28 acoustical ceilings with Defendants XL and DOES 1 through 50, inclusive, for the PROJECT.

1 8. Plaintiff was to furnish and install all materials, labor, equipment and supervision,
2 as agreed in the subcontracts pursuant to the plans, specifications, and local and governing codes
3 to the PROJECT. In consideration of the performance of the work, Plaintiff was to provide on the
4 PROJECT, said Defendants agreed to pay Plaintiff the sum \$221,223.00, in accordance with the
5 written contract dated January 28, 2018, between Plaintiff and said Defendants. Defendants also
6 agreed to pay Plaintiff the sum of \$161,982.00, in accordance with the written contract dated
7 February 1, 2018, between Plaintiff and said Defendants. Defendants agreed to pay Plaintiff the
8 total sum \$383,205.00, in accordance with the written contracts between Plaintiff and said
9 Defendants. A true and correct copy of said written contract dated January 28, 2018, is attached
10 hereto as Exhibit "1" and incorporated herein by this reference. A true and correct copy of said
11 written contract dated February 1, 2018, is attached hereto as Exhibit "2" and incorporated herein
12 by this reference.

13 9. During the course of construction, various additive and deductive written change
14 orders and written field change orders were executed or agreed upon by XL and DOES 1 through
15 500, inclusive, with respect to which Plaintiff has fully performed and said defendants have
16 accepted the benefits thereof. The total sum agreed upon for the above referenced change orders
17 and pending change orders is the sum of \$263,585.76. The total contract price including change
18 orders and pending change orders is the sum of \$646,790.76, of said sum \$539,060.36 has been
19 paid, leaving a balance due Plaintiff of \$107,730.40. Attached hereto as Exhibit "3" and
20 incorporated herein as though set forth in full is Plaintiff's recap of the balance due from
21 Defendants XL and DOES 1 through 50, inclusive.

22 10. Defendants XL and DOES 1 through 50, inclusive, have breached their written
23 contracts with Plaintiff by failing and refusing to pay Plaintiff the total sum of \$107,730.40.
24 Plaintiff prays for interest at the rate of two percent (2%) per month pursuant to *Business and*
25 *Professions Code* §7108.5 and for interest at the rate of two (2%) per month and for attorney's
26 fees pursuant to said code section and unpaid interest and attorney's fees on retention pursuant to
27 *California Civil Code* §8814. Alternatively, Plaintiff prays for ten percent (10%) interest
28 according to proof.

1 11. Plaintiff is unaware if the prime contract requires arbitration of this dispute.
2 Plaintiff does not intend to waive its rights to arbitrate its claims under the subcontracts, Exhibits
3 1 and 2, hereto. Plaintiff intends to move within thirty (30) days after service of summons and
4 complaint, for an order to stay further proceedings in this action.

5 **SECOND CAUSE OF ACTION**

6 (Work, Labor and Services Against Defendants

7 XL and DOES 1 through 50, inclusive)

8 12. Plaintiff realleges and incorporates herein by this reference as though set forth in
9 full each and every allegation contained in Paragraphs 1 through 5, inclusive, of the First Cause of
10 Action.

11 13. Within the last two years, at Martinez, California, Defendants XL and DOES 1
12 through 50, inclusive, and each of them, became indebted to Plaintiff in the sum of \$646,790.76 for
13 work, labor, services done and materials delivered by Plaintiff for said Defendants at the special
14 instance and request of defendant and for services provided in connection with the work, labor,
15 services and materials which sum said defendant(s) agreed to pay Plaintiff.

16 14. \$539,060.36 of said sum has been paid although demand therefore has been made,
17 and there is now due, owing, and unpaid the total sum of \$107,730.40. Plaintiff prays for interest at
18 the rate of two percent (2%) per month pursuant to *Business and Professions Code* §7108.5 and for
19 interest at the rate of two percent (2%) per month and for attorney's fees pursuant to said code section
20 and unpaid interest and attorney's fees on retention pursuant to *California Civil Code* §8814.
21 Alternatively, Plaintiff prays for ten percent (10%) interest according to proof.

22 **THIRD CAUSE OF ACTION**

23 (Account Stated Against Defendant XL and DOES 1 through 50, inclusive,)

24 15. Plaintiff realleges and incorporates herein by this reference as though set forth in
25 full each and every allegation contained in Paragraphs 1 through 5, inclusive, of the First Cause of
26 Action.

27 16. Within the last two years, at Martinez, California, an account was stated by and
28 between Plaintiff and the XL and DOES 1 through 50 Defendants upon a balance due Plaintiff for

1 the furnish and install all materials, labor, equipment and supervision, as agreed in the subcontracts
2 pursuant to the plans, specifications, and local and governing codes to the PROJECT rendered to
3 the XL and DOES 1 through 50 Defendants and upon such statement of account the sum of
4 \$646,790.76 was found to be due, owing and unpaid from the XL and DOES 1 through 50
5 Defendants to Plaintiff, and the XL and DOES 1 through 50 Defendants, and each of them, then
6 and there promised to pay Plaintiff for same.

7 17. \$539,060.36 of said sum has been paid, and there is now due, owing, and unpaid
8 the total sum of \$107,730.40. Plaintiff prays for interest at the rate of two percent (2%) per month
9 pursuant to *Business and Professions Code* §7108.5 and for interest at the rate of two percent (2%)
10 per month and for attorney's fees pursuant to said code section and unpaid interest and attorney's
11 fees on retention pursuant to *California Civil Code* §8814. Alternatively, Plaintiff prays for ten
12 percent (10%) interest according to proof.

13 FOURTH CAUSE OF ACTION

14 (Quantum Meruit Against Defendant XL, KAISER, and
15 DOES 1 through 500, inclusive,)

16 18. Plaintiff realleges and incorporates herein by this reference as though set forth in
17 full each and every allegation contained in Paragraphs 1 through 5, inclusive, of the First Cause of
18 Action.

19 19. Within the last two years, at Martinez, California, Plaintiff provided materials and
20 services to defendants XL, KAISER, and DOES 1 through 500, inclusive, and said defendants then
21 promised to pay to Plaintiff the reasonable value of such materials and services.

22 20. At all times mentioned herein, the reasonable value of the materials and services
23 provided by Plaintiff to defendant was and is in the sum of \$646,790.76.

24 21. \$539,060.36 of said sum has been paid, and there is now due, owing, and unpaid
25 the total sum of \$107,730.40. Plaintiff prays for interest at the rate of two percent (2%) per month
26 pursuant to *Business and Professions Code* §7108.5 and for interest at the rate of two percent (2%)
27 per month and for attorney's fees pursuant to said code section and unpaid interest and attorney's
28

1 fees on retention pursuant to *California Civil Code* §8814. Alternatively, Plaintiff prays for ten
2 percent (10%) interest according to proof.

3 FIFTH CAUSE OF ACTION

4 (Money Had and Received Against Defendants

5 XL and DOES 1 through 50, inclusive,)

6 22. Plaintiff realleges and incorporates herein by this reference as though set forth in
7 full each and every allegation contained in Paragraphs 1 through 5, inclusive, of the First Cause of
8 Action.

9 23. Within the last three years, at Martinez, California, Defendants XL and DOES 1
10 through 500, inclusive, became indebted to Plaintiff in the sum of \$646,790.76 for money had and
11 received by defendant for the use and benefit of Plaintiff.

12 24. \$539,060.36 of said sum has been paid, and there is now due, owing, and unpaid
13 the total sum of \$107,730.40. Plaintiff prays for interest at the rate of two percent (2%) per month
14 pursuant to *Business and Professions Code* §7108.5 and for interest at the rate of two percent (2%)
15 per month and for attorney's fees pursuant to said code section and unpaid interest and attorney's
16 fees on retention pursuant to *California Civil Code* §8814. Alternatively, Plaintiff prays for ten
17 percent (10%) interest according to proof.

18 SIXTH CAUSE OF ACTION

19 (Money Paid Against Defendants XL and DOES 1 through 50, inclusive,)

20 25. Plaintiff realleges and incorporates herein by this reference as though set forth in
21 full each and every allegation contained in Paragraphs 1 through 5, inclusive, of the First Cause of
22 Action.

23 26. Within the last three years, at Martinez, California, Defendants XL and DOES 1
24 through 500, inclusive, became indebted to Plaintiff in the sum of \$646,790.76 for money paid,
25 laid out, and expended for said Defendants at their instance and request.

26 27. \$539,060.36 of said sum has been paid, and there is now due, owing, and unpaid
27 the total sum of \$107,730.40. Plaintiff prays for interest at the rate of two percent (2%) per month
28 pursuant to *Business and Professions Code* §7108.5 and for interest at the rate of two percent (2%)

1 per month and for attorney's fees pursuant to said code section and unpaid interest and attorney's
2 fees on retention pursuant to *California Civil Code* §8814. Alternatively, Plaintiff prays for ten
3 percent (10%) interest according to proof.

4 SEVENTH CAUSE OF ACTION

5 (Foreclosure of Mechanics' Lien Against Defendants XL, KAISER, and
6 DOES 1 through 500, inclusive,)

7 28. Plaintiff re-alleges and incorporates herein by this reference as if set forth in full
8 each and every allegation contained in the First through Sixth Causes of Action, inclusive.

9 29. Defendants, XL, KAISER, and DOES 1 through 500, inclusive, were at all times
10 herein mentioned, and now are, the owners or reputed owners or claim some interest in that certain
11 real property located at 380 W. MacArthur Blvd., Oakland, California 94609.

12 30. Within the time specified by law, Plaintiff served a Preliminary Notice in
13 substantial compliance with *California Civil Code* §9300. Said notice entitled Plaintiff to assert a
14 claim against a payment bond for any materials furnished within twenty days prior to the service
15 of such notice, and at any such time thereafter. Attached hereto as Exhibit "4" and incorporated
16 herein as though set forth in full is a true and correct copy of this Preliminary Notice.

17 31. Plaintiff is informed and believes, and on the basis of such information and belief
18 alleges, no Notice of Non-Responsibility or Notice of Completion has been recorded with respect to
19 the work of improvement at the PROJECT.

20 32. The agreed-upon price and reasonable value of the labor and materials supplied by
21 Plaintiff to said Defendants, and each of them, and the materials furnished by Plaintiff to
22 Defendants, as aforesaid, was the sum of \$107,730.40, after deducting all just credits and offsets.
23 Said sum, plus interest at the legal rate of 10% per annum and the same has not been paid.

24 33. On March 12, 2019, Plaintiff duly recorded a verified Claim of Mechanics Lien
25 totaling \$161,788.00 in the official records of the Alameda County Recorder's Office, a copy of
26 which is attached hereto and incorporated herein as Exhibit "5", where the PROJECT is located,
27 after Plaintiff completed its contract and before the expiration of ninety (90) days after completion
28 of the work of improvement, no notice of completion or cessation having been recorded. The amount

1 stated in the mechanics' lien, said, Exhibit "5", is the sum of \$161,788.00. Since the recordation of
2 Exhibit "5" hereto, Plaintiff has been paid the sum of \$48,557.36. Concurrent with the filing of this
3 lawsuit, Plaintiff will record in the County of Alameda, a partial release of mechanics' lien for the
4 partial payment received.

5 34. Plaintiff has further incurred indebtedness in the sum of \$105.00, the necessary costs
6 of recording and verifying the Claim of Mechanics Lien.

7 35. Defendants, XL, KAISER and DOES 51 through 500, inclusive, and each of them,
8 have or claim to have some right, title or interest in the above described real property, the exact
9 nature of which claims is unknown to Plaintiff, but which claims are subject and subordinate to the
10 claim of lien of Plaintiff.

11 EIGHTH CAUSE OF ACTION

12 (Mechanics' Lien Release Bond Against Defendants

13 XL, KAISER, and DOES 1 through 500, inclusive,)

14 36. Plaintiff re-alleges and incorporates herein by this reference as if set forth in full each
15 and every allegation contained in the First through Seventh Causes of Action, inclusive.

16 37. Plaintiff is informed and believes and based upon such information and belief alleges
17 that, at some point in time after the recording of the Claim of Mechanics Lien on March 12, 2019,
18 Document No. 2019044825, Defendants DOES 51 through 60, inclusive, (the "Surety Defendants"),
19 as well as Defendants XL, KAISER, and DOES 1 through 90, inclusive, as principals, executed and
20 recorded in the official records of the Alameda County Recorder's Office a Mechanics Lien Release
21 Bond which was made, issued and executed in accordance with the provisions of *California Civil*
22 *Code* §8424.

23 38. Plaintiff is informed and believes and based upon such information and belief alleges
24 that said Mechanics Lien Release Bond so given and recorded released the Premises from Plaintiff's
25 Claim of Mechanics Lien and from this action brought to foreclose upon said lien.

26 39. Plaintiff is informed and believes and based upon such information and belief alleges
27 that such Mechanics Lien Release Bond inures to the benefit of Plaintiff.

28 40. Plaintiff seeks to recover against defendant and surety in the amount of \$107,730.40

1 due for services rendered on the subject property. Plaintiff prays for interest at the legal rate of 10%
2 per annum according to proof at the time of trial.

3 WHEREFORE, Plaintiff prays for judgment as follows:

4 AS TO THE FIRST CAUSE OF ACTION:

- 5 1. For the sum of \$107,730.40 on the First Cause of Action; and
- 6 2. For the interest and attorney's fees as alleged.

7 AS TO THE SECOND THROUGH SIXTH CAUSES OF ACTION:

- 8 1. For judgment in the sum of \$107,730.40; and
- 9 2. For interest and attorney's fees as alleged.

10 AS TO THE SEVENTH CAUSES OF ACTION:

- 11 1. For judgment in the sum of \$107,730.40, together with interest at the rate of ten
12 percent (10%) per annum from March 12, 2019, until paid, plus the sum of \$105.00
13 paid for verification and recording of said Mechanics' Lien;
- 14 2. That the above sums be found due to Plaintiff on its causes of action and be
15 adjudged a lien upon the PROJECT, including any improvements thereon;
- 16 3. That the PROJECT and improvements, or as much thereof as may be necessary, be
17 sold according to law and the practices of this Court, and the proceeds of the sale
18 be applied toward the payment of the sums found due to Plaintiff;
- 19 4. That Plaintiff may have execution against Defendants XL, KAISER, and DOES 1
20 through 500 inclusive, and each of them, for any deficiency remaining after sale
21 and the application of the proceeds thereof toward the payment of Plaintiff's claim
22 with all costs and expenses of sale; and.
- 23 5. That Defendants, and each of them, be decreed to be subsequent and junior to
24 Plaintiff's lien, and be barred and foreclosed of all right, title and interest in and to
25 every part of said land, premises and improvements stated in the Complaint herein

26 AS TO THE EIGHTH CAUSE OF ACTION:

- 27 1. \$107,730.40 due for services rendered on the subject property; and
- 28 2. For interest as set forth herein.

1 AS TO ALL CAUSES OF ACTION:

- 2 1. For costs of suit;
- 3 2. For expert witness fees and costs according to proof; and
- 4 3. For such other and further relief as the court deems just and proper.

5 Dated: June 6, 2019

Fields Law Group, LLP

6

7 By: 

8 C. Kerry Fields
9 Attorneys for Plaintiff
10 RAYMOND-NORTHERN CALIFORNIA,
11 INC., a California corporation
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CONSTRUCTION.

SUBCONTRACT

This Contract is entered into on 01/25/2018 by and between the parties identified below.

1. **PARTIES:**

Subcontractor Raymond - Northern California, Inc. 4589 Pacheco Blvd. Martinez, CA 94553 925/680-8300	Contractor XL Construction Corporation 851 Buckeye Court Milpitas, CA 95035 (408) 240-6000
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2. **PROJECT and OWNER:**

Client: Kaiser Foundation Health Plan- Herein after referred to as "Owner"

Project Name: Kaiser OAK CDRP Service Relocation

Project Location: 380 W. MacArthur Blvd., Oakland, CA 94609

Project Number: 4392.

Subcontract: 4392.003
3. **THE WORK:**

Subcontractor agrees to perform and complete, in a good, workmanlike and substantial manner all Gypsum Board Assemblies work more particularly described below (hereinafter called "The Work"). Subcontractor shall furnish all labor, materials, equipment, tools and services necessary to properly perform and complete such Work. The Work specifically includes, but is not limited to: **Per attached Exhibit C.**
4. **CONTRACT PRICE:**

Contractor shall pay Subcontractor for the performance of the Work, subject to additions and deductions as herein provided, **Two Hundred Twenty-One Thousand Two Hundred Twenty-Three And 00/100 (\$ 221,223.00)** which price includes all federal, state, county, municipal and other taxes imposed on the labor and/or materials to be furnished by Subcontractor.
5. **EXHIBITS:**

The following Exhibits attached hereto are incorporated herein:

EXHIBIT A. It is agreed that the Contract Documents set forth in Exhibit 'A' are incorporated in and made a part of this Subcontract. Subcontractor agrees to be bound to Contractor in the same manner and to the same extent as Contractor is bound to Owner under the contract documents including, but not limited to, administrative provisions. Where, in the Contract Documents, reference is made to Contractor, and the work or specification therein pertain in any way, directly or indirectly, to Subcontractor's trade, craft or type of work: 1) such work or specifications shall be interpreted to apply to Subcontractor instead of Contractor and 2) Subcontractor shall be deemed to have made all representations, warrants, guarantees and covenants to Contractor and Owner which Contractor has made Owner or Architect. If anything in this Agreement is inconsistent with the Contract Documents, this Agreement will govern.

EXHIBIT B. Terms & Conditions

EXHIBIT C. Scope Inclusions & Clarifications

EXHIBIT D. Insurance Requirements

EXHIBIT E. General Requirements

The parties specifically agree that this Agreement, and all Contract Documents including Change Orders, may be executed electronically, and such electronic signature is fully binding as to such party.

RAYMOND - NORTHERN CALIFORNIA, INC.

XL CONSTRUCTION CORPORATION

<p>DocuSigned by: By: <u>Ray Gilbert</u> C623P686070480... Print Title: <u>VP/Area Manager</u> License Number: _____ Fax Number: _____ Name of Safety Director: _____</p>	<p>DocuSigned by: By: <u>PM</u> 3FCB76141130485... Print Title: <u>Patrick McHugh, Sr. Project Manager, 408-240-6037</u> License Number: <u>XL License 647480</u> Fax Number: <u>XL Fax Number (408) 240-6001</u></p>
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Contractors are required by law to be licensed and regulated by the Contractor's State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors State License Board, P.O. Box 26000, Sacramento, CA 95826.

Please Initial ALL "EXHIBITS" listed in Item 5

Subcontract #: 4392.003

EXHIBIT A
Contract Documents

Exhibit "A"

OWNER CONTRACT

- a. The contract and conditions of the contract between XL Construction Corporation and Kaiser Foundation Hospitals for the Kaiser Oakland CDRP Service Relocaiton Project at 380 West MacArthur Blvd. Oakland,CA.

1. ALTERNATES: Refer to Exhibit C
2. ADDENDUMS: Addendum 1 dated 2017/05/05
3. CONSTRUCTION SCHEDULE: Construction Schedule "4392 Kaiser Oakland CDRP DIRT TT_Full Schedule.DD.01-12-18" sent out on 01/24/2018.
4. OTHER DOCUMENTS:
 - a. Bid Documents
 - i. 01 Bid Form 1 Kaiser Oakland CDRP
 - ii. 02 General Requirements
 - iii. 03 ExhibitB_101515
 - iv. 03 ExhibitD_101515
 - v. 04 Kaiser SCP 2014
 - vi. 05 ITBs All Trades
 - vii. 06 Kaiser Oak CDRP_Schedule_RFP_03.29.17_Full
 - viii. 07 380 MacArthurBlvd -Original As-Builts
 - ix. 08 111-708 CDRP - Permit Set 17-0210
 - x. 09 111-708 Stantec 2016-1118 Building Condition Report Attachment 4
 - xi. 10 Working with DIRT TT for General Contractors-Kaiser CDRP-031717
 - xii. 11 111-708 CDRP KPIT Room Ready Check List 7.6.2010
 - xiii. 12 111-708 CDRP - Access Control System Section 28 10 00 Specs 3-23-17
 - xiv. 13 111-708 CDRP - CCTV System Section 28 20 00 Specs 3-23-17
 - xv. 14 17 Kaiser NFS Construction Performance Safety Standards
 - xvi. 15 Diversity Direct Spend Addendum - Copy
 - xvii. 16 111-708 Stantec 2016-1123 Hazardous Materials Survey Attachment 3
 - xviii. 17 KP Exterior Sign Performance Specs June 2013
 - xix. 18 KP Interior Sign Performance Specs June 2013
 - xx. 19 Sign Program Orientation Guide March 31 2012
 - xxi. 20 Current Exterior Signs June 2013
 - xxii. 21 Current Interior Signs June 2013
 - b. Preconstruction RFI's (PRFI's) 1 - 85
 - c. MT.Site Logistics Plan
 - d. Forensic Analytical Survey Report July 17, 2017
 - e. 4392 Kaiser CDRP - Site Specific Safety Plan_01/12/18
 - f. Contractor Quality Control Plan
 - g. Equipment List Updated 2018.01.25.pdf (Uploaded Under "Document's" Tab in Procore)
 - h. Ower Furnished Equipment Cutsheets (Uploaded Under "Document's" Tab in Procore)

5. DRAWINGS & SPECIFICATIONS:

- a. 17.05.05 - Addendum 1
- b. 17.05.11 - PRFI 14 Civil Drawings
- c. 17.05.24 - Change Order 1
- d. 17.06.08 - Change Order 2
- e. 17.07.12 - Change Order 3
- f. 17.07.13 - Change Order 4

Subcontract #: 4392.003

End of Exhibit A

Subcontractor's Initials:

DS
PG

General Contractor's Initials:

DS
/

Courthouse News Service

Subcontract #: 4392.003

EXHIBIT B
Terms & Conditions
Revised: 12/18/2017

Paragraph 1. Payment of Contract Price

- 1.1 Contract Price shall be paid in accordance with the provisions of this Paragraph 1. Subcontractor shall hold as trustee all funds received from Contractor for the individuals or entities whose labor, materials, services, supplies or equipment contributed to the amount claimed in Subcontractor's Applications for Payment, including without limitation, its work-force, lower-tier subcontractors, and suppliers. Nothing herein shall require money to be placed in a separate account of Subcontractor.
- 1.2 On or before the 20th day of each month, but in no event later than 5 days before Contractor is required to submit to Owner, Subcontractor shall submit to Contractor an invoice on the form provided by Contractor showing the value of the Work completed, from which shall be deducted a retention of ten percent (10%), all previous payments, and any items chargeable to Subcontractor, together with such labor and material lien releases, waivers, and proofs of payment (including union benefit trust obligations) as Contractor, in its sole discretion, shall reasonably require.

With its first invoice, Subcontractor shall also submit a detailed schedule showing the breakdown of the Work into its various parts for use only as a basis of checking the Subcontractor's monthly invoices. If requested by Contractor, subcontractor shall also provide to Contractor an affidavit listing the company names and values of all suppliers and subcontractors providing material or services exceeding \$5,000 to Subcontractor on the project.

In the event Subcontractor does not submit such a monthly invoice, schedule or affidavit in a timely manner, then Contractor, at its option, may deem the invoice incomplete and withhold payment until such invoice or documentation is submitted or include in Contractor's monthly estimate to Owner an amount it deems proper for Subcontractor's Work for the month. Subcontractor agrees to accept such estimated amount as Subcontractor's invoiced amount for that month. Subcontractor waives payment for any invoices received by Contractor in excess of six (6) months after completion of Subcontractor's portion of the Work, and Subcontractor shall have no further claim for payment under such invoices.

- 1.3 Upon approval of such monthly invoice and supporting documentation by Contractor and Owner, payment will be made to Subcontractor as reflected in Contractor's applications for payment. Such payment shall be made within 7 days after Contractor receives payment from the Owner. If the contract Documents provide specific terms for early payment, Subcontractor agrees to those payment terms.
- 1.4 The ten percent (10%) retention to be deducted on all invoices as set forth in subparagraph 1.1 above shall be paid to Subcontractor as a final payment as follows:

Provided that the Subcontractor has furnished satisfactory evidence that there are no claims or liens outstanding or unsatisfied for labor or materials furnished in connection with the Work; and Provided further that the work required by the Contract Documents has been delivered to and accepted by the Owner, the final payment for any Work hereunder shall be paid to Subcontractor with funds received by Contractor from Owner in final payment for work under the Prime Contract, within 7 days after Contractor has received such final payment from Owner.

- 1.5 If Owner delays making any payment to Contractor from which payment to Subcontractor is to be made, Contractor 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 it be less than the time required by Contractor and Subcontractor to pursue to conclusion their legal remedies against Owner to obtain payment, including, but not limited to, mechanic's lien remedies.
- 1.6 Any payment made hereunder prior to completion and acceptance of the Work shall not be construed to be an acceptance of defective, faulty or improper work or materials, nor shall it be deemed to release Subcontractor from any of its obligations under this Subcontract.
- 1.7 If Subcontractor has entered into other independent subcontracts with Contractor, and Subcontractor defaults in its performance under any such other subcontracts giving rise to unsatisfied obligations by Subcontractor to Contractor, Contractor may offset such unsatisfied obligations against Contractor's obligation to Subcontractor under this Subcontract.
- 1.8 If it appears to the Contractor that the labor, material or other bills incurred in the performance of Subcontractor's Work are not being currently paid, or reasonable grounds for insecurity exist, or the Contractor has been notified by the Owner or its agent that the Owner intends to assert a backcharge or set-off with respect to Subcontractor's Work, then the Contractor may take such steps as it deems necessary to ensure that the money paid with any progress payment will be utilized to pay such bills, including joint check or direct payment to lower tier subcontractors and suppliers.

Paragraph 2. Changes in Work

Subcontract #: 4392.003

- 2.1 Contractor reserves the right, from time to time, to make such changes, additions and/or deletions in the Work as it may deem necessary, upon written "Subcontract Change Order" (SCO) to Subcontractor. The value of the work to be changed, added or deleted must be stated in the Subcontract Change Order and will be added to or deducted from the Contract Price. Once Subcontractor has received a Subcontract Change Order, it has five business days to reject the value of the work in the Subcontract Change Order or such value shall be deemed accepted. Should Contractor and Subcontractor disagree as to the value of the work to be changed, added or deleted, Subcontractor will nevertheless promptly proceed with the work at Contractor's direction. Subcontractor shall supply Contractor with all documentation necessary to substantiate the amount of the addition to or deduction from the price or time. Once Subcontractor receives Contractor's written direction, Subcontractor is solely responsible for timely performance of the work as changed by the written direction. Payment for changed work shall be made in accordance with Paragraph 1.

If a dispute arises between Contractor and Subcontractor about whether particular work is a change in the Work described in the Subcontractor Agreement, or if Contractor and Subcontractor are unable to agree on an appropriate adjustment for changed work, Subcontractor shall timely perform the disputed work upon receiving written direction from Contractor. If Subcontractor intends to submit a claim for the disputed work, it shall give prompt written notice to Contractor before proceeding with the work. In addition, Subcontractor shall submit its written claim for additional compensation for that work within ten (10) days after such work is performed in sufficient detail for Contractor to make an evaluation of the merits of the claim. Subcontractor's failure either to give the written notice before proceeding with the work or to submit the written claim within the ten (10) days constitutes an agreement by it that it will not be paid for the disputed work.

- 2.2 Subcontractor shall not be entitled to any additional compensation for any extras unless the extras have been ordered by written authorization.

To assist in the documentation of any claim the Subcontractor may have, Contractor authorizes its Project Superintendent to sign extra work orders, Extra Work Authorizations (EWAs), or similar documentation relating to said claims provided, however, that notwithstanding any language contained in the Subcontractor's extra work orders or similar documentation to the contrary, such signature by Contractor's Project Superintendent shall only represent the following:

- (a) To the best of Contractor's knowledge at the time its Superintendent signed Subcontractor's documentation, the hours and/or materials represented therein appeared to have been worked and/or used on the Project;
- (b) By signing Subcontractor's documentation, Contractor does not waive or release any right to dispute or object to the Subcontractor's claim that it is entitled to additional compensation, an extension of time, or that the hours worked and/or materials used were reasonable for the work performed therein; and Subcontractor acknowledges and agrees that Contractor's Superintendent does not have authority to waive any of the terms, conditions or requirements set forth in this Subcontract. Only the Contractor's Project Manager shall have authority to modify the terms of the subcontract by Agreement Change Order.

Any extras furnished by Subcontractor except in accordance with the forgoing will be done so at Subcontractor's sole expense. Contractor shall be entitled to delete such portions of the work as Contractor may see fit by instructions in writing to the Subcontractor and shall be entitled to deduct the reasonable value of such work deleted from the Contract Price.

- 2.3 If the Subcontractor asserts a claim which involves, in whole or in part, acts or omissions which are the responsibility of the Owner or another party, including but not limited to claims for failure to pay, an extension of time, delay damages, or extra work, Contractor may present the Subcontractor's claim to the Owner or other responsible party, provided that Contractor determines that such claim has been submitted in good faith and does not violate any laws relating to false claims. If Contractor submits such claim by Subcontractor, Subcontractor is solely responsible should such claim be deemed a "false claim," and Subcontractor agrees to indemnify, defend and hold harmless Contractor for all losses and damages associated therewith. The Subcontractor shall cooperate fully with the Contractor in all steps taken in connection with prosecuting such a claim and shall hold harmless and reimburse the Contractor for all expense, including legal expense, incurred by Contractor which arise out of Contractor's submission of Subcontractor's claim to Owner or other responsible party. Subcontractor shall be bound by any adjudication or award in any action or proceeding resolving such a claim.
- 2.4 Subcontractor agrees at no additional cost to Contractor to make any changes, additions, or modifications, ordered by Contractor, which do not involve extra cost to Subcontractor.

Paragraph 3. Commencement and Completion of Work

- 3.1 Subcontractor agrees to commence the Work within forty-eight (48) hours after notice by Contractor to do so.
- 3.2 Subcontractor shall provide adequate supervision and keep sufficient workmen, supplies, material, tools and equipment on the job to prosecute the Work diligently to completion, and cooperate with and not hinder or delay the other trades in the performance of their work.
- 3.3 Subcontractor shall provide Contractor with scheduling information and a proposed schedule for performance of its Work in a form acceptable to Contractor. The Contractor shall not be bound to use Subcontractor's scheduling information, but may rely upon the same.

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Subcontractor shall conform to the Contractor's progress schedule and all revisions or changes made thereto. Subcontractor acknowledges that revisions may be made in such schedule and agrees to make no claim for acceleration, inefficiency or delay by reason of such revision(s) as long as Contractor has not acted in an arbitrary or capricious manner in making the revision(s).

- 3.4 Contractor shall have the right to decide the time and order in which the various portions of the work shall be installed and the relative priority of the Work of Subcontractor and the other Subcontractors, and, in general, all other matters pertaining to the timely, orderly, and safe conduct of the Work of the Subcontractor on the premises. Contractor shall have the right to suspend Work for a reasonable time without payment of additional compensation.

Where Subcontractor has failed to perform its Work in a timely manner or maintain its part of the Contractor's schedule, Contractor may require Subcontractor, without additional compensation, to accelerate the Work as Contractor may direct until Subcontractor's Work is in accordance with Contractor's schedule.

No claims for additional compensation or damages for delays, including but not limited to inefficiencies or loss of productivity, whether caused in whole or in part by any conduct on the part of Contractor, delays by other subcontractors or Owner, shall be recoverable from Contractor, and an extension of time for completion of its Work 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.

Paragraph 4. Performance of Work

- 4.1 Whether or not specifically set forth in the Contract Documents, the Work includes the following: Any item of labor, service, equipment and/or material reasonably required by the plans, drawings and specifications or customarily furnished by a Subcontractor performing work of this type; Any item of labor, service, equipment and/or material required to complete the Work in compliance with any applicable law, ordinance, regulation or building codes, or necessary to obtain any inspection approvals being obtained by the Contractor; All plans, drawings, permits, and fees required by law, regulations, ordinance, or building codes; All scaffolding, barricades, shoring, traffic control necessary or required for the performance of the Work; Such as-built plans, specifications and maintenance manuals as may be reasonably required by Contractor.
- 4.2 Unless otherwise specifically provided in the Contract Documents, all workmanship, materials, equipment and articles incorporated in the Work shall be new and the best grade of their respective kinds for the purpose. Subcontractor agrees at its own cost and expense to do all digging, backfilling, cutting, patching, and fitting of every kind necessary to install its Work in a proper and timely manner. Layout of its Work, dimension of materials and field measurements are the responsibility of Subcontractor. Subcontractor is responsible for the accuracy of its Work and any resulting damages or loss to contractor or other subcontractors. Incorrect dimensions or measurements on plans or shop drawings do not relieve Subcontractor of this responsibility. Every part of the Work described herein will be executed in strict accordance with the Contract Documents in the highest sound, workmanlike and professional manner. Any expense incurred by Contractor due to failure of Subcontractor to install its Work in the proper manner may be deducted from monies otherwise due Subcontractor, or will be paid for by Subcontractor, upon demand.
- 4.3 Subcontractor agrees to keep the premises free and clean at all times, including, the removal of all excess material, debris, and equipment. Subcontractor's failure to do so shall give Contractor the option of removing said items at Subcontractor's own risk and expense.
- 4.4 Subcontractor agrees to protect its Work, materials, tools and equipment against loss or damage by fire, theft, or accident, and not to make any claim or demand upon Contractor for any injury, loss or damage to Subcontractor, its agents or employees, on account of any negligent act or omission of any third person or persons.
- 4.5 Subcontractor waives any claim, demand or cause of action against Contractor for the loss, use, misuse, abuse, or conversion of the tools, materials, equipment, plans, permits or diagrams, taken or used by Contractor when Subcontractor is in breach of its obligations in accordance with Paragraph 5 hereof.
- 4.6 Subcontractor's failure to promptly report in writing to Contractor any alleged defects in any work of another person on or in which Subcontractor is to install its work will be deemed an acknowledgement by Subcontractor that such other work is fit and proper to receive Subcontractor's Work.
- 4.7 All materials and workmanship shall be subject to inspection, examination and testing by Contractor at any and all times during manufacture and/or construction. Contractor shall have the right to reject defective material, equipment and workmanship or require its correction without further cost to Contractor. Subcontractor will furnish, without additional charge, all reasonable facilities, labor and materials necessary for safe and convenient testing and inspection as may be required.

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- 4.8 Subcontractor shall pay Contractor for any damage caused by Subcontractor, or its agents, employees, suppliers or material men, to any portion of the Work, or to any property adjacent thereto which Contractor repairs, whether Contractor is legally obligated to do so or not.
- 4.9 Subcontractor acknowledges that it has inspected the site where the Work is to be performed, has examined and understands the plans, drawings and specifications, and all other Contract requirements, is familiar with all the laws, regulations, codes, ordinances, and rules pertinent to its work and agrees to install its work in the location and manner required by any governmental authority, including but not limited to, City, County and State Building Departments and subject to the approval of Contractor and Owner without any additional cost to Contractor.
- 4.10 Time for performance by Subcontractor of each and all of its obligations hereunder is of the essence in the Subcontract. Subcontractor shall be liable to Contractor on account of any delay or breach of contract by Subcontractor, including, but not limited to any liquidated damages for delays or breach sustained by Contractor, or for which Contractor may be liable to Owner or any other party because of Subcontractor's delay and/or breach.

Paragraph 5. Recourse by Contractor

- 5.1 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 Subcontract, or fails to make prompt payment to its 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 Subcontract, 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 same including reasonable 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, who shall be liable for the payment of same including reasonable profit, and actual attorneys' fees incurred as a result of Subcontractor's failure of performance; 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.

- 5.2 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 Paragraph 5.2, then Contractor may terminate Subcontractor's right to perform under this Subcontract 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 fifteen percent (15%) 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 Subcontractor. Subcontractor shall be liable for the payment of any amount by which such expenses may exceed the unpaid balance of the Contract Price, and shall pay Contractor said amount within 30 days of written demand therefore.

- 5.3 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 Subcontract, 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 there from. 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, in accordance with Paragraph 1:

- (a) the actual cost of the work completed in conformity with this Subcontract, plus
- (b) such other costs actually incurred by Subcontractor as a result of the termination as are permitted by the prime contract, plus

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- (c) a mark-up of up to fifteen percent (15%) of the cost of the Work referred to in subpart (1) above for overhead and profit; provided, however, that in no event will the mark-up be greater than Subcontractor would have received if the contract had not been terminated.

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 Subcontract. In no event shall payment due hereunder exceed the amount due for approved units of work or percentage of completion. Subcontractor shall not be entitled to any stop payment notice, payment bond, or other claim or lien against Contractor or Owner for any additional compensation or damages in the event of such termination and payment.

In the event Contractor terminates Subcontractor pursuant to Paragraph 5.2, and it is subsequently determined in a civil action or arbitration that it was a wrongful termination or termination for default was improper, Contractor's liability to Subcontractor shall be no greater than it would be if Contractor would have terminated Subcontractor for convenience pursuant to Paragraph 5.3. Moreover, in this event, the damages, if any, Subcontractor shall be entitled to shall be limited to the compensation, if any, Subcontractor would be entitled to in the event of a termination for convenience in accordance with Paragraph 5.3.

5.4 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 actual attorneys' fees, on account of

- (a) defective work not remedied;
 - (b) claims filed or reasonable evidence indicating probable filing of claim;
 - (c) failure of Subcontractor to make payments properly to its subcontractors or for material, labor or fringe benefits;
 - (d) a reasonable doubt that this Subcontract can be completed for the balance then unpaid or within the time mandated by this Subcontract;
 - (e) damage to Contractor or another subcontractor;
 - (f) penalties assessed against Contractor or Subcontractor for failure of Subcontractor to comply with state, federal or local laws and regulations; or
 - (g) any other ground for withholding payment allowed by state or federal law, or as otherwise provided in this Subcontract.
- When the above matters are rectified, such amounts as then due and owing shall be paid or credited to Subcontractor.

Paragraph 6. Labor Relations

- 6.1 The employment of labor by the Subcontractor shall be to the satisfaction to the Contractor as it relates to safety, quality and conduct. If required by the Contractor, the Subcontractor shall replace any employee whom the Contractor determines to be undesirable.
- 6.2 Subcontractor acknowledges that Contractor has entered into labor agreements covering work at its construction job sites with the Carpenter's Union, Cement Mason's Union, and the Laborer's Union. Subcontractor agrees to be bound and to comply with all of the terms and conditions of such labor agreements to the same degree and extent as if the Subcontractor were a party to those Agreements including payments into employee trust funds required by the labor Agreements, and submission to and compliance with the arbitration and other dispute resolution requirements of the labor agreements. Subcontractor agrees to comply with the terms and provisions contained in such agreements for resolution of jurisdictional disputes. Subcontractor agrees at its own cost and expense, upon request of Contractor to take any and all lawful steps to secure a binding and final determination of said jurisdictional dispute by the National Labor Relations Board. Subcontractor further agrees that it will bind and require all Sub-Subcontractors performing job site work of the type covered by such labor agreements specified above to agree to and comply with all of the foregoing.
- 6.3 Subcontractor agrees that if a reserved Dual Gate System is established at the project, Subcontractor will be responsible for insuring that its employees use the Gates designed for Subcontractor and agrees not to delay the progress of the Work because of any labor union difficulties, and to hold harmless Contractor from any loss, damage, or delay occasioned by any difficulties between Subcontractor and any labor union. In the event a union threatens to strike, picket, or otherwise delay the job because of dispute with the Subcontractor, Contractor shall, in addition to its other rights and remedies, have the option of canceling this Contract forthwith and having the Work done and/or completed at Subcontractor's expense as provided for in paragraph 5.2 above.

Paragraph 7. Plans, Drawings and Specifications

- 7.1 Notwithstanding the information provided in the plans, models, drawings, and specifications, Subcontractor is responsible for insuring the proper matching and fitting of the Work with contiguous work, including but not limited to, the taking of all measurements.
- 7.2 The decision of the project architect, if any, as to the true construction, meaning and intent of the plans, drawings and specifications is final and binding upon the parties hereto. Subcontractor must confirm to and abide by those plans, without making any changes, additions and/or omissions in the Work except upon receipt of an Agreement Change Order from Contractor.

Paragraph 8. Safety and Accident Prevention

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- 8.1 Subcontractor agrees that the prevention of accidents to workers engaged upon or in the vicinity of the Work is its responsibility. 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. When so ordered, Subcontractor will stop any part of the Work, which Contractor deems unsafe until corrective measures satisfactory to Contractor have been taken, and Subcontractor agrees that it will not have nor make any claim for damages growing out of such stoppages. Should Subcontractor neglect to take such corrective measures, Contractor may do so at the cost and expense of Subcontractor. Failure on the part of the Contractor to stop unsafe practices will in no way relieve Subcontractor of its responsibility therefore.
- 8.2 Subcontractor agrees and understands that, notwithstanding other provision for safety in this Subcontract, Subcontractor shall conform to the highest standards of safety practices in the performance of the Work and shall comply with all applicable Federal, State, and local laws and ordinances affecting or relating to this Subcontract including, but not limited to, those with respect to occupational health and safety, the handling and storage of hazardous materials, accident prevention, and safety equipment and practices as well as the Contractor's specific Subcontractor Safety Program governing safety, health, sanitation and environmental protection, and Owner's applicable safety program while performing Work hereunder. Furthermore, the Subcontractor agrees that when designated and so informed by the Contractor, the Subcontractor will ensure the completion of specific Contractor and/or Owner health, safety or procedural training, of the Subcontractor's employees and bare the costs associated with this training if it is provided through a web-based service.
- 8.3 Subcontractor shall provide all safeguards, safety devices, and protective equipment, and take any other needed actions whatsoever, at Subcontractor's sole expense, as Contractor may determine to be necessary to protect the life and health of all persons on the jobsite, the safety of the public, and all property, in connection with Subcontractor's performance of the Work hereunder.
- 8.4 The current California Occupation Safety and Health Standards (Labor code 6401.7 and 8 CCR 3202) require that every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program. By executing this subcontract, Subcontractor warrants that Subcontractor has established an injury and illness prevention program, that it is current, and that it complies with the above referenced California Safety and Health Standards or any additional and successor codes and regulations thereto. Upon Contractor's request, Subcontractor will make available any and all records, which comprise said program including the program outline, meeting minutes, safety inspections, and accident reports.

Paragraph 9. Warranty

- 9.1 Subcontractor hereby warrants to Owner and Contractor that (a) all materials and equipment furnished shall be new unless otherwise specified and that (b) all Work under this Subcontract shall be performed in a good and workmanlike manner shall be of good quality, free from defects and in strict conformance with the Contract Documents. All work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective and will be replaced at Subcontractor's sole cost and expense. The warranty provided in this Paragraph 9 shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents. Subcontractor's obligations under this Paragraph 9 shall include all costs necessary to replace or repair, at Contractor's discretion, any defective work or servicing.
- 9.2 Subcontractor shall indemnify, defend and hold harmless Contractor against any claim, suit or action, or any alleged violation or infringement of patent rights which may be made against Contractor by reason of the use in connection with or as part of the performance of Subcontractor's Work hereunder.

Paragraph 10. Bankruptcy

- 10.1 Termination Absent Cure. If Subcontractor commits any act of insolvency, Contractor may, absent any applicable legal limitation, terminate this Subcontract upon giving forty-eight (48) hours written notice, by certified mail, to Subcontractor, its trustee (if any), 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.

Paragraph 11. Waiver and Notices

- 11.1 Waiver of any breach of this Subcontract by Contractor shall not be construed as a waiver of any other breach of this Subcontract nor shall such waiver serve as an estoppel of any other right Contractor may have hereunder.
- 11.2 Any notice from Contractor to Subcontractor may be delivered personally, faxed or mailed to Subcontractor at the address shown on this Subcontract. Such notice shall be deemed served upon being deposited in the United States mail so addressed with postage prepaid. In the event such notice is service by mail, the time for performance by Subcontractor of any act based on such notice shall be extended for forty-eight (48) Hours.

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Paragraph 12. Assignment

12.1 Subcontractor shall not, without written consent of Contractor, assign, transfer or sublet a majority of the work required by this Subcontract, nor assign any payment hereunder to others.

Paragraph 13. Claims and Dispute Resolution

13.1 The time allowed to make claims for extras, extensions of time, and for damages for delay or otherwise shall be in the manner provided in the Contract Documents for like claims by the Contractor upon the Owner, except that the time for making claims for extra cost shall not be later than either three (3) days prior to the time within which Contractor may make such claim to Owner, or within five (5) days of discovery of such claim, whichever occurs first.

13.2 Disputes Under Prime Contract. Any dispute resolution procedure in the prime contract shall be deemed incorporated in this Subcontract, and shall apply to any disputes arising hereunder, except disputes not involving the acts, omissions or otherwise the responsibility of the Owner under the prime contract, and those which have been waived by the making or acceptance of final payment.

13.3 Subject to prime contract dispute resolution procedures under Paragraph 13.2, and as for disputes not involving the acts, omissions or otherwise the responsibility of the Owner under the prime contract if a claim or dispute cannot be resolved by the Subcontractor's and Contractor's project staff, an Officer or Principal of each firm shall meet to attempt to resolve the dispute, upon the request of either party. Prior to any meetings, the parties shall exchange relevant information that will assist the parties in resolving the dispute.

If the parties are unable to negotiate a mutually acceptable resolution within 20 working days, AND the claim, dispute or breach involves a sum of less than \$250,000, then they shall settle the dispute by binding arbitration administered by the American Arbitration Association in accordance with the Construction Industry Arbitration Rules. Any such controversy or claim involving a sum of \$250,000 or more may be subject to arbitration, binding or non-binding, but only upon the separate written agreement of Contractor and Subcontractor agreeing to such arbitration. A court of competent jurisdiction in the State of California is hereby authorized to enter and enforce this arbitration clause and to confirm and enter judgment on any arbitration award rendered hereunder.

13.4 Work Continuation and Payment. Unless otherwise agreed in writing, Subcontractor shall carry on the work and maintain the schedule of work pending arbitration or litigation, and if so, Contractor shall continue to make payments in accordance with this Subcontract.

Paragraph 14. Indemnity

14.1 To the fullest extent permitted under the law of the State of California, the Subcontractor shall indemnify and hold harmless Contractor, Owner, any other entities required to be indemnified by Contractor under the Contract Documents, the officers, directors, partners, parent or subsidiary or related entities, agents and employees of any of them (collectively referred to as "Indemnities" and individually referred to as "Indemnitee"), from and against claims, damages, liabilities, losses and expenses ("Claims"), including but not limited to attorney's fees and expert's fees, arising out of or resulting from performance of the Subcontractor's Work under this Subcontract. Without limitation, "damages" include personal injury, including, but not limited to, bodily injury, economic loss, emotional injury, sickness or disease, or death to persons, including, but not limited to, any employees or agents of Subcontractor, Contractor, Owner, or any other subcontractor, or any person, damage to Contractor's property or equipment, or other damages of any kind.

It is expressly acknowledged that the foregoing indemnities shall apply despite any acts or omissions, misconduct or negligent conduct, on the part of Contractor, Owner or other Indemnities; except that the duty to indemnify or hold harmless a particular Indemnitee shall not be applicable to any claim, damages, liabilities, losses or expenses to the extent that the Claims arise out of, pertain to, or relate to the active negligence or willful misconduct of the Contractor, or its other agents, other servants, or other independent contractors who are responsible to the Contractor, or for defects in design furnished by those entities, or to the extent that Claims do not arise out of the scope of the Subcontractor's Work under this Agreement.

The defense or indemnification obligations under this Subcontract shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits of any insurance available to Subcontractor including, any damages, compensation or benefits payable by or for the Subcontractor under Workers Compensation acts, disability benefit acts or other employee benefit acts. This indemnification shall extend to claims occurring after this Subcontract is terminated as well as while it is in force.

14.2 In case suit is brought on any stop payment notice, payment bond or mechanic's claim or lien for labor performed or materials used on or furnished to the project on Subcontractor's behalf, Subcontractor shall pay and satisfy any such claim, 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, claim, or lien to be removed, and in the event Subcontractor shall fail so to do, Contractor is authorized to use whatever means in its discretion it may deem appropriate to cause said claim, 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 claim, lien or suit provided it causes the effect thereof to be

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removed promptly, and still 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 claims, liens or suits.

Paragraph 15. Insurance

15.1 Subcontractor and their subcontractors shall at all times and in all operations performed under this Subcontract carry the insurance required under this Article and the Contractor's Subcontractor Insurance Requirements attached hereto as Exhibit "D" and incorporated herein by this reference as though fully set forth herein. Subcontractor's insurance coverage shall include liability for all injuries and damages referred to in Paragraph 14. Before Subcontractor starts any work at the Project site, Subcontractor shall furnish Contractor with certificates and required endorsements. As more specifically set forth in Exhibit "D", Contractor and Owner shall be named as an additional insured under General Liability Policy and any other policy required by owner. All insurance policies shall, by appropriate language, exclude any claim on the part of the insurer to be subrogated on payment of loss or otherwise to any claim against Contractor or Owner. Subcontractor hereby waives any right or claim to be subrogated on payment of loss or otherwise to any claim against Contractor or Owner and further waives any right against Contractor or Owner for damages caused by fire or other perils to the extent covered by property insurance maintained by Owner pursuant to the Contract Documents, except such right as Subcontractor may have to the proceeds of such insurance held by Owner as Trustee. The furnishing of insurance by Subcontractor shall not be construed to affect or impair the obligations of Subcontractor under this Subcontract.

Paragraph 16. Design Build Work

16.1 If the Work is identified as being Design Build, a complete and operable system shall be provided which includes all work, though not shown or described, which may reasonably be inferred from the Contract documents. It shall be Subcontractor's responsibility to make certain that the Contract documents are in accordance with applicable laws, statutes, building codes and regulations, and shall comply with good engineering practices. Subcontractor agrees that working drawings, plans and specifications will be prepared, stamped and signed by a professional engineer, duly licensed in the State of California ("Engineer"). The Engineer may be an employee of Subcontractor, a third-party consultant, or an independent contractor with whom Subcontractor subcontracts the design work required under this Subcontract. Subcontractor agrees to perform said work and each and every part and detail thereof in the best and workmanlike manner by qualified, careful and efficient workers and to use materials that are satisfactory for the purpose for which they applied. Without limiting any other obligation herein, Design Build Subcontractor acknowledges that it is performing the work described above, on a design build basis. Design Build Subcontractor further warrants that its design shall meet the following criteria:

- (a) All technical or performance criteria described in the Contract documents;
- (b) The design is consistent with, and has been coordinated with Contract Documents including the drawings, the plans, and the specifications as well as the work of all other trades affected by the work and/or performing work in the contiguous area. Such Design/Build Subcontractor specifically agrees to coordinate its design with the Architect/Engineer and its subconsultants, and with the work, including the shop drawings, of all Subcontractors working in the contiguous areas, including other Design/Build Subcontractors. Subcontractor acknowledges that the design which is being contributed to by other entities is still evolving and being completed and that Subcontractor's design is interdependent and needs to evolve and be compatible with the final designs of such other entities.
- (c) Design Build Subcontractor's design and construction work meet the standard of care for the design of such system which is customary in the industry in the location of the project for design/build Subcontractors holding themselves out as being experts in design/build construction for their trade(s) for this specific type of improvement project. Nothing in this subparagraph is intended to limit Subcontractor's obligations under other provisions of the Subcontracting Agreement, including subparagraphs (a) and (b), above.

16.2 In the event that an Owner terminates a Design Build Project prior to commencement of any construction work, Contractor's liability for payment to Subcontractor for any preconstruction services under a Design Build Project shall arise only if Contractor is paid by Owner for such preconstruction services.

Paragraph 17. Use of Contractor's Equipment

17.1 Contractor may permit Subcontractor to use Contractor's equipment. Contractor may require the return of equipment to Contractor's custody and control for any reason and at any time, and Contractor may allow parties the use of equipment at any time.

Subcontractor is solely responsible for its activities while using equipment and agrees to use the EQUIPMENT at its own risk. Contractor makes no warranties or guarantees regarding the safety or suitability for a particular purpose, or the accuracy or effectiveness of the equipment to be used. Subcontractor has inspected the equipment to its full satisfaction before taking possession to ensure the equipment is operating safely.

Subcontractor agrees that Contractor shall have no liability for any damages resulting from the use of the EQUIPMENT by Subcontractor. Subcontractor agrees that all terms of Exhibit D, "Insurance and Indemnity" shall apply to Subcontractor's use of equipment.

Subcontractor shall ensure that its employees, agents and any individual(s) assigned by Subcontractor to operate the equipment (collectively "Operators") are trained and certified on the operation of the equipment before operating equipment. Before operating equipment, any operator shall have demonstrated their understanding of all hazards related to the operation

Subcontract #: 4392.003

of the equipment. All operators assigned by Subcontractor to operate the equipment shall be under the sole and exclusive supervision, direction and control of Subcontractor.

Paragraph 18. Independent Contractor

18.1 Subcontractor is an independent contractor and shall, at its 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 therefore, pay all manufacturers' taxes, sales taxes, use taxes, gross receipt taxes, processing taxes, and all federal, state, and municipal taxes, insurance and contributions which are measured by wages, salaries, or other remunerations paid to Subcontractor's employees, whether levied under existing or subsequently enacted laws, rules or regulations. Subcontractor, upon request, shall furnish evidence satisfactory to Contractor that any or all of the foregoing obligations have been fulfilled.

Paragraph 19. Entire Agreement

19.1 Subcontractor certifies that it is fully familiar with all of the terms, conditions and obligations of the Subcontract Agreement, the exhibits thereto, including, but not limited to the Contract Documents, and all laws regulations of any type applicable to the Subcontractor's work on the Project, and has inspected the physical conditions of the job site, is fully informed as to the conditions under which the work is to be performed and that it enters into this Subcontract based upon its investigation of all such matters and is not relying on any opinions or representations of Contractor. This Agreement represents the entire agreement between Contractor and Subcontractor, and supersedes any prior oral or written agreements or representations. The Contract Documents are incorporated in this Agreement by reference, with the same effect as if they were set forth at length herein, and that Subcontractor and its subcontractors will be bound by any and all of the Contract Documents and any addenda, modifications or changes thereto, insofar as they relate in any way, directly or indirectly, to the Work covered by this Subcontract. Subcontractor agrees to be bound to Contractor in the same manner and to the same extent as Contractor is bound to Owner under the Contract Documents, including, but not limited to, administrative provisions, to the extent of the Work provided for in this Subcontract, and that where in the Contract Documents reference is made to Contractor and the Work or specifications therein pertains in any way, directly or indirectly, to the Subcontractor trade, craft or type of work, then such work or specification shall be interpreted to apply to Subcontractor instead of Contractor and Subcontractor shall be deemed to have made all representations, warranties guaranties and covenants to Contractor and Owner which Contractor has made to Owner or Architect. In the event of any conflict between the requirements of the Contract Documents, and this Subcontract Agreement, Subcontractor shall be governed by the provisions imposing the greater duty on the Subcontractor. The term "Contract Documents" is defined to mean and include Exhibit A to this Subcontract, and the Prime Contract between Contractor and Owner with all attachments, exhibits and addenda thereto, together with its general, supplementary and other conditions, addenda, exhibits, and definitions, plans and specifications weather or not included in Exhibit A.

The subcontract and any SCO's may be executed by Project Manager of Contractor. Any modifications and/or additions to the terms and conditions of the Subcontract contained in this Exhibit "B" or Exhibit "D" must be made in writing and signed by both parties, and on behalf of Contractor, only a Corporate Officer or Project Executive is authorized to execute such modifications and/or additions.

End of Exhibit B

Subcontractor's Initials:

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General Contractor's Initials:

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Subcontract #: 4392.003

EXHIBIT C
Scope Inclusions & Clarifications

Project Name: Kaiser Oakland CDRP Service Relocation
Raymond
Date: 1/23/2018

Subcontractor:
Cost Code:09250

Scope of Work: Gypsum Board Assemblies

A) TRADE SPECIFIC SCOPE ITEMS

The following scope of work is intended to provide clarification only and is not intended to limit the work as defined, required or reasonably inferred by the contract documents which are listed in Exhibit A. Subcontractor shall provide all labor, material, equipment, tools, etc. as required to provide a complete scope of work, which specifically includes, but is not limited to, **Gypsum Board Assemblies.**

Inclusions & Clarifications (including but not limited to).

1. Furnish and install all; metal stud framing, metal furring, batt insulation, drywall, drywall ceiling assemblies, soffits, and all drywall taping and finishing as per Contract Documents. This work includes, but is not limited to all: related gage material, clips, hanger wires, and compression struts for gypsum board ceilings and wall systems. Typical notes include but are not limited to #3,11,17,18 & 21 on architectural RCP plans. Provide all layout including but not limited to soffits, walls, ceilings and all associated rough openings required in framing. MEP trades to provide location.
2. Furnish and install all backing called out as metal stud or flat strap for other work as shown on all Contract Documents. Backing shall be installed for all millwork, casework, shelving, wood paneling, crash guards, bumper rails, chair rails, handrails, wall protection systems, seismically braced wall attachments, access doors, and owner furnished equipment.
3. Include labor and material to frame receptionist wall (Kaiser Millwork to provide corian top and finished veneer per plans).
4. Provide all fire treated plywood & non-treated plywood as shown (i.e. note 30 A/2.1).
5. Enclose existing pipe as called out on note 22/A2.2
6. New soffit (coordinate cove lighting with electrician) @ brick perimeter per note 11/A6.1.
7. Install all access doors shown on plans (including MEP drawings). Coordinate with MEP subs.
8. Include all tile backing in wet rooms.
9. Include framing for access doors where required.
10. Assume one ceiling access door per hardlid room. (Per 5/A9.5).
11. Include acoustical sealant integral to drywall partitions.
12. Include fire safing and/or head of wall treatment to maintain UL Listed system.
13. Include any fans or means to dry the taping mud to meet schedule.
14. Include all scaffolding required for this scope of work.
15. All fire rated assemblies are included.
16. In fire and sound rated conditions cut drywall around existing utilizes to maintain the appropriate gap for the rated through penetration assembly
17. Framing to maintain a minimum of 1" gap from all utilities.
18. Re-establish layout after concrete plumbing trenches have been poured.
19. Furnish and install R-19 faced fiberglass batts held in place by pins to underside of the roof (2nd floor roof deck). Installation to occur post hangers. Provide plan for installing ceiling wires through insulation.
20. Include scope of work associated with PRFI's 28, 39, and 51.

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21. Include scope of work per PRFI 80 for the expansion Joint.
22. Include daily clean up of work area each day including scraping of taping mud off floor and sweeping of sanded taping mud and drywall dust.
23. Include level 4 drywall finish throughout per PRFI #54.
24. Include scraping of taping mud off floors as required.
25. Drywall/Studs to be stocked in the building on a as "Needed basis" for the week.
26. Drywall/Framing/Taping materials staged on the exterior of the building to be protected against weather, dirt and mold.
27. There is no Liquidated Damages on this project.

Exclusions/Qualifications

1. Overtime.
2. Engineered Drawings.
3. Demolition.
4. Upgrading existing construction not noted on plans.
5. Architectural Caulking.
6. Painters' Caulking.

B) CONTRACT RECAP

This is a partial contract to cover all costs as it pertains to the scope of work identified in Part A of this Exhibit C to the extent of the following basis: All projected costs associated with submittals, procurement of material / equipment, and field labor for the first 3 month of work shown on the project schedule as identified in Exhibit A. The remaining contract balance will be fulfilled in an upcoming change order dependent upon full payment from the client, Kaiser Foundation Hospitals.

CONTRACT AMOUNT

Partial Contract for 1 st 3 month of construction	<u>\$221,223.00</u>
Total Subcontract Value:	\$221,223.00

****Change Order Value (To be issued within 90 days of date on this contract) \$77,915.00**

HOURLY RATES – Including all burden/fringes, overhead, but excluding allowable markups. Rates are applicable for the duration of the entire project.

	Straight Time Rate (2018)
Journeyman	\$112.76
Foreman	\$131.59

CHANGE ORDER MARK-UPS – If Subcontractor is instructed to work on overtime to perform contract work, then XL Construction will pay the premium as 50% or 100% of the employee's actual base wage (for 1 - 1/2x or double-time rates), plus applicable taxes applied to the added 50% or 100%. Subcontractor gets a total of 15% mark-up on the Premium and employers taxes.

Overhead such as Home Office Support Labor, Project Managers, General Superintendents, vehicles are not compensable in change orders.

Subcontract #: 4392.003

Change Order requests must be detailed with quantities of materials and material rates, quantities of equipment and equipment rates, quantities of labor and labor rates. The allowable 15% mark-up must be shown on the break-down. No lump sum change order requests will be accepted.

At the discretion of XL Construction, Subcontractor will be required to perform change order work on Force Account. Daily Time and Material Tags must be provided at the end of each day to XL Superintendent for review and signature, complete with all labor, equipment, and materials used that day. Failure to provide tags will be cause for rejection of the costs, or the XL Project Manager may determine the value of the cost at sole discretion of XL Project Manager.

ALTERNATES – The following alternates are inclusive of all costs and fees.

N/A

End of Exhibit C

Subcontractor's Initials:

General Contractor's Initials:

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Subcontract #: 4392.003

EXHIBIT D
Insurance Requirements
Revised: 10/15/15

Before performing work or conducting any activities at the site of the Project, Subcontractor shall, at its expense, procure and maintain insurance and required coverage's on all its operations, in admitted companies having at least an A. M. Best rating of no less than A-VIII (except for State Fund for Workers' Compensation coverage), or Contractor may consider accepting coverage from a non-California admitted carrier with an A.M. Best rating of A or better, financial capacity of XII or better and in forms acceptable to the Contractor as follows:

- A. Workers' Compensation and Employers Liability Insurance as required by any applicable law, regulation or statute in which Subcontractor's work is performed. Employers Liability Insurance shall be provided in amounts not less than:
- (1) \$1,000,000 each accident for bodily injury by accident;
 - (2) \$1,000,000 each employee for bodily injury by disease;
 - (3) \$1,000,000 policy limit for bodily injury by disease;
- Longshoreman's & Harbor Worker's Act coverage on any employees working under this jurisdiction: Coverage for Jones Act on any maritime exposure; Waiver of Subrogation endorsement in favor of Contractor, Property owner, and the Project Owner (As required by Prime Contract.). If Subcontractor leases any employees through another company, then they will provide evidence of coverage in the form of an alternate employer/leased employee endorsement. Risk Retention Groups are not acceptable.
- B. General Liability Insurance, either Comprehensive General Liability of Commercial General Liability on coverage forms at least as broad as ISO occurrence form CG 0001, including coverage for:
- (1) Premises and Operations;
 - (2) Products and Completed Operations;
 - (3) Broad Form Property Damage (including Completed Operations)
 - (4) Explosion, Collapse, Underground Hazards (including subsidence);
 - (5) Contractual Liability insuring obligations assumed in this Subcontract;
 - (6) Personal Injury and Advertising Liability
 - (7) Severability of Interest Clause
 - (8) General Aggregate Limits of Insurance shall apply separately to the project.
 - (9) "Claims Made" and "Modified Occurrence" policy forms are not acceptable.
 - (10) Any self-insured retention or deductible greater than \$25,000 must be declared to contractor at time of bid and approved by contractor in writing.
 - (a) Subcontractor shall maintain primary and excess products liability and completed operations coverage through the expiration of the patent deficiency in construction statute of repose set forth in Section 337.1 of the California Code of Civil Procedure.
 - (11) Risk Retention Groups are not acceptable.

Unless otherwise specified in this subcontract, limits of liability shall be the greater of the limits required below or as carried by the Subcontractor. Minimum Limits of Liability shall be for all contractors other than described in section (11.a)

- (1) \$1,000,000 Each Occurrence Bodily Injury and Property Damage combined;
- (2) \$1,000,000 for Personal Injury Liability
- (3) \$2,000,000 Products & Completed Operations aggregate;
- (4) \$2,000,000 General Aggregate

(11.a) Minimum Limits for High Risk subcontractors as defined by Contractor including but not limited to the trades of Mechanical, Electrical, Plumbing, Process Piping, Elevators, Fire Protection, Structural Steel, Metal Decking, Roofing,

Earthwork, Foundations, Cranes, Shoring, Scaffolding and Exterior Building Envelope Enclosure shall be:

- (1) \$2,000,000 Each Occurrence Bodily Injury and Property Damage combined;
- (2) \$1,000,000 for Personal Injury Liability
- (3) \$4,000,000 Products & Completed Operations aggregate;
- (4) \$4,000,000 General Aggregate

The limits above can be provided in combination with an excess or umbrella policy

- C. Automobile Liability Insurance on a coverage form at least as broad as ISO form CA 0001, including:

Subcontract #: 4392.003

- (1) Coverage on all owned, non-owned, and hired automobiles;
 - (2) Limit of liability shall not be less than \$1,000,000 Combined Single Limit per accident.
 - (3) Name Contractor as Additional Insured on Auto Liability Policy.
- D. Increased liability limits: If higher limits or other forms of insurance are required by either the Owner or the Contractor, the Subcontractor will comply with such requirements by providing evidence of an umbrella or excess liability policy. This policy shall comply with all of the requirements of the general liability insurance shown above, and will include contractor as an additional insured.
- E. Additional Insured and Primary Insured Requirement:
- (1) Under the Commercial General Liability policy, the Subcontractor shall add the Contractor, its officers, directors and employees and the Owner (as required in this Subcontract) as additional insured. The policy shall stipulate that the insurance afforded the Contractor and the Owner, as additional insured shall apply as primary insurance. Any other insurance carried by the Contractor or the Owner will be excess only and will not contribute with this insurance. Insurance required by this contract and supported by the additional insured endorsement shall be as broad as necessary to support the indemnification requirement in said contract or as broad as the indemnitor's insurance coverage, whichever is broader.
 - (2) The additional insured coverage shall be provided by an endorsement providing coverage at least as broad as:
 - (a) Additional Insured (Form B) endorsement form CG 2010 (1985 version) as published by the ISO (or equivalent);
 - (b) A combination of Additional Insured endorsement form CG 2010 (any edition date) as published by the ISO (or equivalent) and Additional Insured endorsement form CG 2037 (any edition date) as published by the ISO (or equivalent);
 - (3) Additional insured endorsements shall be provided through warranty period following project completion.
 - (4) OCP - Owners and Contractors Protective Liability Coverage policy forms are not acceptable.
- F. Certificates of Insurance shall be furnished by the Subcontractor to Contractor before any work is commenced hereunder by the Subcontractor. In the event Subcontractor does not comply with the requirements of this section, Contractor, at its option, may provide insurance coverage to protect its interests and charge the Subcontractor for the cost of that insurance or Contractor may terminate this Subcontract. The required insurance shall be subject to approval of Contractor, but any acceptance of insurance certificates by the Contractor shall in no way limit or relieve the Subcontractor of the duties and responsibilities assumed by the Subcontractor in this Contract. No work shall be performed at the project site until said certificates have been furnished and approved. Payment may be withheld, or work may be suspended, at the option of the Contractor, until such certificates have been furnished, or if upon receipt of a cancellation notice on a policy, until withdrawal of the notice or the reinstatement of the canceled policy. Copies of subcontractor's insurance policies shall be furnished upon request.
- G. Requirements for Sub-Subcontractors, Vendors and Suppliers: Subcontractor shall ensure that its Subcontractors, Vendors and Suppliers of any tier shall maintain insurance in like form and amounts, including the Additional Insured requirements set forth above, and will provide contractor evidence of Sub-Subcontractors, vendors and suppliers insurance prior to their starting work.
- H. Builders Risk Insurance: Contractor and Subcontractor waive all rights against each other and against all other Subcontractors and Owner(s) for loss or damage to the extent reimbursed by Builder's Risk or any other property or equipment insurance applicable to the work, except such rights as they may have to the proceeds of such insurance. If the insurance policies require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the Owners of such policies will cause them to be so endorsed.

Upon written request of the Subcontractor, Contractor shall provide Subcontractor with a copy of the Builders Risk policy of insurance or any other property or equipment policy in force for the project and procured by the Contractor. Subcontractor shall satisfy itself as to the existence and extent of such insurance prior to commencement of Subcontractor's work.

If Builders Risk insurance purchased by Owner or Contractor provides coverage for Subcontractor for loss or damage to Subcontractor's work, Subcontractor shall be responsible for the insurance policy deductible amount up to \$25,000.

If Owner or Contractor has not purchased Builders Risk or equivalent insurance including the full insurable value of Subcontractor's work, then Subcontractor may procure such insurance at its own expense as will protect the interests of Subcontractor and its Subcontractors in the work. Such insurance shall also apply to any of Owner's or Contractor's property in the care, custody or control of the Subcontractor.

Subcontract #: 4392.003

- I. **Property Insurance:** Subcontractors of every tier shall procure and maintain at its own expense property and equipment insurance for Subcontractor's property, tools, equipment, temporary structures, work in progress (if not covered in "H" above), and work in transit or in temporary storage.
- J. **Crane/Riggers Liability:** Should Subcontractor or their Subcontractor's work involve the moving, lifting, lowering, rigging or hoisting of property or equipment by crane or other means, Subcontractor or their Subcontractor, is required to increase their general liability coverage limit to \$4,000,000. This limit can be achieved via a \$3,000,000 umbrella or excess liability policy. Subcontractor, or their Subcontractors, shall carry riggers liability insurance to insure against physical loss or damage to the property or equipment being hoisted, lifted or rigged.
- K. **Professional Liability Exposure:** A \$1,000,000 Professional Liability Insurance Policy shall be carried by Subcontractors providing any professional services under this subcontract including but not limited to design, mechanical, electrical, structural, plumbing and fire sprinkler. Evidence of coverage in the form of a Certificate of Insurance shall be provided prior to the start of the project. Coverage must allow for the reporting of claims for a minimum of 10 years following completion of the project. However, if Owner or contractor elects to purchase a project design policy, Subcontractor's policy will be endorsed to provide excess coverage only.
- L. **Aircraft/Helicopter Insurance:** If the Subcontractor or his Subcontractors use any owned, leased, chartered, or hired aircraft of any type in the performance of this contract, they shall maintain aircraft liability insurance in an amount of not less than \$10,000,000 per occurrence including Passenger Liability. Evidence of coverage in the form of a certificate of insurance shall be provided prior to the start of the project.
- M. **Pollution Liability:**
- (1) If Subcontractors or their Subcontractors or Suppliers on any tier are performing work on the building envelope, or perform work that may cause mold or microbial matter, in addition to the above insurance requirements, carry a "Contractors Pollution Policy" with limits not less than \$1,000,000 per occurrence and \$1,000,000 annual aggregate. The policy shall have no exclusion for microbial matter or fungus (Mold).
- If Subcontractors or their Subcontractors or Suppliers of any tier are either required to perform remediation of hazardous materials as those terms are defined in federal, state or local law, or if their operations create an exposure to hazardous materials, they must, in addition to the above requirements, carry a "Contractor's Pollution Liability" policy with limits not less than \$5,000,000 per occurrence and not less than \$5,000,000 annual aggregate naming Contractor as additional Insured. Coverage must be provided on an 'Occurrence Basis' and a 'Claims-made coverage' is not acceptable.
- (2) If Subcontractor or their Subcontractors haul hazardous material (including, without limitation, waste), the policy must extend pollution coverage to the transportation of hazardous materials or pollutants by waste hauling vehicles with limits not less than \$2,000,000. If Subcontractor is subject to the Motor Carrier Act of 1980, the Motor Carrier Act endorsement MCS-90 must be obtained and attached to the policy. Coverage must be provided on an 'Occurrence Basis' and a 'Claims-made coverage' is not acceptable.
- (3) If subcontractors work could in any way contribute to or cause airborne silica to be released, then they shall maintain a pollution liability policy with limits no less than \$1,000,000 per occurrence and \$2,000,000 Aggregate.
- N. **Subcontractors responsibility to provide adequate insurance:** Subcontractors obligations for loss or damage arising out of Subcontractors work is in no way limited to the types or amounts of insurance set forth above. To the extent Subcontractor maintains insurance greater than these minimum requirements, Subcontractor agrees that such insurance shall be applicable to any of Subcontractors liability obligations hereunder. In specifying minimum insurance requirements herein, neither Contractor nor Owner assert or recommend this insurance as adequate to Subcontractors requirements. Subcontractor is solely responsible to inform itself of amounts and types of insurance it may need beyond these requirements to protect itself from loss, damage or liability. Failure of Contractor to enforce in a timely manner any of the provisions of these Insurance Requirements shall not act as a waiver to enforcement of any of these provisions at a later date in the performance of this Subcontract. Any exceptions to these Insurance Requirements must be delineated in the Contract Documents.
- O. **Subcontractors use of Contractor's Equipment:** Contractor may permit Subcontractor to use Contractor's equipment. Contractor may require the return of equipment to Contractor's custody and control for any reason and at any time, and Contractor may allow parties the use of equipment at any time. Subcontractors accessing or utilizing any Contractor provided Scaffolding or Contractor provided Fall Protection Systems shall complete the required Scaffold and/or Fall Protection Loan and Indemnity Agreement Release.

Subcontract #: 4392.003

Subcontractor is solely responsible for its activities while using equipment and agrees to use the EQUIPMENT at its own risk. Contractor makes no warranties or guarantees regarding the safety or suitability for a particular purpose, or the

accuracy or effectiveness of the equipment to be used. Subcontractor has inspected the equipment to its full satisfaction before taking possession to ensure the equipment is operating safely.

Subcontractor agrees that Contractor shall have no liability for any damages resulting from the use of the EQUIPMENT by Subcontractor. Subcontractor agrees that all terms of paragraph 17, "Insurance and Indemnity" shall apply to Subcontractor's use of equipment.

Subcontractor shall ensure that its employees, agents and any individual(s) assigned by Subcontractor to operate the equipment (collectively "Operators") are trained and certified on the operation of the equipment before operating equipment. Before operating equipment, any operator shall have demonstrated their understanding of all hazards related to the operation of the equipment. All operators assigned by Subcontractor to operate the equipment shall be under the sole and exclusive supervision, direction and control of Subcontractor.

If Contractor permits Subcontractor to use any of Contractor's equipment, coverage for physical damage insurance for Contractor's equipment that is rented, leased, or hired from others. Limits of insurance shall not be less than \$100,000 per item/per occurrence. Insurance must not exclude or restrict coverage for any damage to the boom of EQUIPMENT caused by overload.

- P. **Work Near Railroads:** If Subcontractor (including any lower tier Subcontractor or supplier) performs any work or conducts any operations within fifty feet of any railroad (including any light rail, fixed rail or other rail system), Subcontractor shall obtain an endorsement of its Commercial General Liability Policy to delete any exclusion, including the "Contractual Liability" exclusion, for work performed within fifty feet of a railroad. A copy of such endorsement shall be provided to Contractor prior to any work or operations by Subcontractor within fifty feet of any railroad.

Q. **Other requirements:**

- (1) Any acceptance of insurance certificates by Contractor shall in no way limit or relieve Subcontractor of its duties and responsibilities under this Subcontract including the duty to indemnify and hold harmless Contractor under other provisions hereof. Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve Subcontractor for liability in excess of such coverage nor shall it preclude Contractor from taking such other actions as is available to it under any other provision of this Subcontract or law. If higher limits or other forms of insurance are required in the Prime Contract, Subcontractor will comply with such requirements.
- (2) Subcontractor shall be responsible for any deductible amount or any loss arising out of coverage denials by its insurance carrier(s).
- (3) Should any insurance policy lapse or be canceled during the contract period, Subcontractor shall, prior to the effective expiration or cancellation date, furnish Contractor with evidence of renewal or replacement of the policy. Failure to continuously satisfy insurance requirements as herein provided is a material breach of contract. In the event Subcontractor fails to maintain any insurance coverage required, Contractor may, but is not required to, maintain such coverage and charge the expense to Subcontractor or terminate this contract.
- (4) Subcontractor will notify Contractor in writing within 24 hours of receiving a Notice of Cancellation on any insurance policy required in these insurance requirements. Notice of Cancellation should be faxed to the attention of Contractor's Accounting Department. Failure of Subcontractor to provide timely notice of pending cancellation shall be considered a material Breach of Contract.

End of Exhibit D

Subcontractor's Initials:

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General Contractor's Initials:

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Subcontract #: 4392.003

EXHIBIT E
GENERAL REQUIREMENTS
Revised: 10/17/17

1. GENERAL

- a. XL Construction is signatory to the Laborers', Carpenter's, and Cement Mason's Unions. Subcontractors are to provide Union labor for all work claimed by these trades. In trades that use labor in other classifications, non-union labor is acceptable, unless otherwise indicated by the biddings documents or other contract documents.
- b. Provide all labor, materials, equipment, tools, layout, scaffolding, storage, hoisting, rigging, cartage, supplies, safety equipment, supervision, insurance, taxes, applicable bonds, overhead, profit and all other items necessary to perform the work.
- c. Contract price includes all costs for escalation, labor and material price increases per project schedule. No escalation costs or other price increases will be accepted for the duration of the project.
- d. Design / Build Subcontractors shall include costs of plan check and permits fees associated with the specific subcontractor's work.
- e. If this project is pursuing LEED certification all subcontractors are required to perform their work in a manner consistent with the LEED Checklist and Specifications, including providing the documentation required to achieve LEED credits. Refer to the project documents for additional information.

2. SITE REQUIREMENTS

- a. All subcontractors are to include all costs for daily cleanup, dumpsters and/or off haul of their debris associated with their work.
- b. DAILY CLEAN-UP IS MANDATORY. Subcontractors shall participate in a recycling program for this project. Each subcontractor is responsible for separating and disposing of debris in the appropriate dumpster.
- c. Subcontractor is prohibited from removing any materials, equipment, etc. from the project that may have salvage value unless specifically authorized by XL Construction in writing.
- d. Subcontractor shall provide Encroachment Permits, Traffic Control Plans and fees for work in Public streets or sidewalks.
- e. Subcontractor will be responsible for properly coordinating its scope of work with other trades and XL Construction. Any items missed during coordination shall be corrected at the subcontractor's expense.
- f. Subcontractor is responsible for protecting existing structure and property, personnel and the work of other contractors in carrying out this scope of work.
- g. All works in progress and completed shall be protected by the subcontractor from damage by other trades during construction. This subcontractor shall reinstate any damage caused by failure to protect as required.
- h. Where the subcontractor is to provide the Contractor with penetration information, such information shall be issued in sufficient time to enable holes, ducts, chases, etc., to be formed or built as the works proceed.
- i. Include all chipping, coring, drilling, and saw cutting as necessary for a complete and proper installation.
- j. Subcontractor is responsible for all costs associated with locating existing utilities, whether in concrete slabs and/or below grade, including interior and exterior, etc. All existing utilities shall be located and marked prior to saw cutting, coring, excavating, etc. Subcontractor shall perform the work in such a manner as to avoid damaging any lines, cables, pipes, pipelines, etc.
- k. Task lighting is the responsibility of subcontractor requiring it.
- l. Power for equipment with higher voltage or wattage, such as welding, beyond the normal temporary power being provided by XL, is the responsibility of subcontractor requiring it.
- m. Subcontractor shall provide all fans, air scrubbers, etc. as required to maintain air quality levels caused by welding or such activities.
- n. Subcontractor shall provide all labor, materials and equipment for minimizing dust migration for all dust creating activities.
- o. Subcontractor shall provide all sound attenuation or insulation requirements for its work shown or specified, including existing conditions.
- p. All Subcontractors are responsible for sealing all their penetrations, including existing penetrations if applicable, in fire rated assemblies with submitted and approved UL Listed Assemblies. Refer to the contract documents for additional information.
- q. Subcontractor is responsible for providing all supports required for their work, including anchors, miscellaneous iron, bracing, etc., as required for a complete and code compliant system. If calculations are required, subcontractor must use a licensed structural engineer, registered in the State of California, to perform the calculations required.

Subcontract #: 4392.003

- r. Subcontractor is responsible for removing all layout on floor and walls prior to installation of finishes. Use of paint, sharpies, or other types of markers that may bleed through the flooring or other finishes is not allowed. Verify products with XL prior to use.
 - s. Subcontractor shall submit daily a "Subcontractor's Daily Report" on General Contractor's form at the end of shift every day indicating the number of personnel working on the project site, their specific craft and classification, hours worked, equipment used, work activity and any significant event(s).
- 3. PROJECT SCHEDULE**
- a. Time is of the essence of this project. Subcontractor shall maintain proper manpower loading and all necessary equipment move-in's to maintain the project schedule as issued by XL. Subcontractor agrees to the dates for the schedule and meet any specific milestones and duration noted for your trade. Subcontractor includes out of sequence and comeback work when work of other trades is required prior to and/or affects the work of this trade.
- 4. MATERIAL HANDLING**
- a. Use of scissor lifts in the buildings will be at the discretion of XL Construction. Any subcontractor proposing to use lifts will need to provide loads for the engineer's review.
 - b. Parking for field crews to be coordinated with XL Construction.
 - c. Space may be limited; therefore, laydown areas for equipment and material will have to be closely coordinated with XL Construction. Just in time deliveries may be utilized to avoid congesting the site. All deliveries are to be coordinated and approved with XL Construction a minimum of 48 hours in advance.
 - d. Subcontractor shall receive, unload and handle all materials and equipment required for the performance of this Work including equipment furnished by others. Subcontractor shall provide competent flagmen for any traffic control required for this Work (both vehicular and pedestrian) to direct traffic.
- 5. TESTING AND INSPECTIONS**
- a. Subcontractor will provide labor, material, equipment, etc. and means of access to perform code required inspections. Include all necessary costs to cover this process. Subcontractor will be required to submit a Request for Inspection Form to XL in advance of each inspection and/or test (notification time will be determined by XL Superintendent). If a subcontractor's work does not pass inspection and/or testing, that subcontractor will be responsible to pay all applicable re-inspection fees and/or retesting fees. Subcontractor foreman (or field lead) will, at the discretion of the XL Superintendent, be required to attend inspections.
 - b. To avoid damaging ceiling tiles the Subcontractor requiring access to the interstitial space for testing and or inspections is responsible for installing color-coded flags to identify areas where ceiling tiles are to be left out. The flag must hang below the ceiling grid. Upon completion of all testing and balancing the Subcontractor shall remove the flags to allow for the Ceiling Subcontractor to complete the installation of the ceiling tiles.
 - c. Subcontractor is responsible for removing and replacing ceiling tiles where access is needed for their work, inspections, investigations, demo, etc.
 - d. Subcontractors must pre-test their systems in the presence of XL Superintendent prior to inspection by City or County inspectors.
 - e. Costs associated with failed inspections will be the subcontractor's responsibility requesting the inspection.
- 6. PROJECT ADMINISTRATION**
- a. Subcontractor meetings: During construction, all on-site subcontractor foremen will be required to participate in weekly subcontractor coordination meetings with XL Construction and the other trades on site.
 - b. All materials, parts, equipment, workmanship and modifications made shall be warranted for a minimum of one year from the date of acceptance of work, which is the "Certificate of Occupancy" as issued by the City Inspector. If the project specification warranty period is longer than one year, subcontractor shall comply with the project specifications. All defective items that surface during the warranty period shall be rectified at no cost to the XL or the Owner. A written warranty certificate shall be submitted prior to final payment. All equipment manufacturer warranties shall be submitted with subcontractor warranty.
 - c. Final as-built drawings are required and shall be submitted to XL Construction no later than ten days after project completion. Unless otherwise noted by the project team, three (3) sets of as-builts are required in addition to two (2) electronic copies. In addition, Subcontractors shall update as-builts monthly. Progress payments will be withheld if as-builts are not up to date at time of billings.
 - d. If necessary, daily work tags and must be signed by the XL Construction Project Superintendent.
 - e. **SUBMITTALS**
 - i. Within 5 days of the Notice to Proceed (NTP), provide a shop drawing/submittal log and schedule of submittals.
 - ii. All submittals must be submitted no more than 15 days after contract award, or per XL's submittal schedule.
 - iii. No material or equipment shall be ordered without an approved submittal unless written direction is issued by XL's project manager.
 - iv. Comply with project specifications, and provide the following submittals, as required:

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- I. All engineering calculations
 - II. Coordination drawings
 - III. Shop Drawings
 - IV. Information sheets on new materials, fixtures, equipment, controls, and devices
 - v. Submit all submittals electronically using Procore, a web based file sharing system.
 - vi. If not electronic, Subcontractor is required to submit the required number of hardcopies and samples.
 - vii. Provide mock-ups as required by XL Construction and listed in the specifications or the specific instructions.
 - viii. Comply with specifications and requirements set forth by the Designer / Owner for submission of alternates.
 - ix. Provide a Weekly Status Report regarding procurement status, fabrication, etc. of items required for this Work.
 - x. Operations and Maintenance manuals are to be submitted with project submittals or upon release of equipment into fabrication.
- f. **REQUEST FOR INFORMATIONS**
- i. RFI's must be submitted in writing to XL Construction within one business day of discovering an issue.
 - ii. Untimely submission of RFI's will exclude Subcontractors' right to seek additional time. Subcontractors should plan their work accordingly to avoid impacting the project schedule with late discovery.
 - iii. All RFI's must be accompanied with photos and/or sketches illustrating the issue along with a proposed solution. RFI's issued to XL Construction that are illegible and unclear will be rejected.
7. **BIM / MODELING:**
- a. This project may incorporate BIM Modeling to coordinate and prevent system clashes. Refer to the Project's BIM Execution Plan, for more detail.
8. **SAFETY**
- a. Include all safety equipment and provisions to complete the work in a safe and proper manner. As a minimum, Subcontractors shall comply with all Federal, State and Local Regulatory requirements pertaining to Employee Health and Safety and Industrial Welfare Commission requirements. In situations where XL Construction Corporation and/or its client deem more stringent requirements for employee health and safety are necessary, such requirements shall supersede statutory minimum requirements. In addition, each subcontractor shall adhere to the Health, Safety and Environmental requirements of XL Construction's Subcontractor Safety Program (SSP).
 - b. Subcontractors/Vendors with Crews 25 and Larger: shall employ a full-time, non-productive, dedicated Safety Coordinator. This person shall be an active team member within the overall safety staff team and shall look out for all trades and general site safety, but in particular manage safety within their crews and ensure compliance. Qualifications: minimum 5 years within the trades, minimum OSHA 30 (within last 2 years) or greater, and minimum 1-year experience in safety-related activities.
 - c. XL has implemented a ZERO TOLERANCE program on all XL Construction projects. Craftsman may be removed from the project after a single serious safety violation. In addition, XL may stop the subcontractor's work after any recordable injury and conduct a senior level management review meeting with the subcontractor's executive in charge of the project. Determination of a serious safety violation is at the discretion of the project superintendent.
 - d. All Subcontractor personnel will be required to be a part of the Clicksafety program. This is an online safety training and test that is to be taken by each person that will be working onsite. The subcontractor is to pay \$68 per person directly to Clicksafety for this service. The online training and test will take approximately, 45 minutes and once completed is good for each employee, for one year, at any XL construction jobsite. We encourage the training and test be taken from the subcontractor's office or home. This will reduce the non-productive safety orientation time requirement on the job. Loss in productivity caused by workers that arrive onsite untrained shall be the responsibility of Subcontractor. Confirmation of passing the test will need to be provided to or verified by the XL Project Superintendent prior to starting work onsite. A sticker will be issued once evidence of successful completion of the training has been provided.
 - e. When required per project, Subcontractor shall also have each person working onsite take the Infection Control Clicksafety program.

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- f. All workers will be expected to be trained on Project Specific site safety requirements, which should be expected to be 1 hour per craftsman.
- g. Safety Meetings: All on-site workers are required to attend a XL Construction led safety meeting every week.
- h. Subcontractor's use of Contractor provided Equipment, Scaffolding and Planking ("Contractor Facilities") is at its own risk, and Subcontractor acknowledges that Contractor Facilities are provided by XL Construction "AS IS." Contractor disclaims any and all warranties, whether express or implied, including any warranties of fitness. Subcontractor shall be responsible to inspect all areas of the Contractor Facilities that it intends to utilize before every use, and will report to XL Construction any functional defects and will refrain from using the Contractor Facilities until the defects are addressed. Subcontractor agrees that it is responsible for training and implementing safety precautions for its employees that use the Contractor Facilities.
- i. Subcontractor foremen will be required to complete and review "Methods of Procedures" (MOPs) and/or "Job Hazard Analysis" (JHA) with the onsite XL foreman at a minimum of 15 days ahead of when any activity will be taking place. These MOPs are to include step-by-step procedures for activities to be performed by the subcontractor along with potential risks and risk mitigation efforts employed by the subcontractor. These are to be reviewed daily by all crews onsite prior to engaging in their activities.

9. CLICKSAFETY NOTIFICATION

Notification of Online Contractor Safety Training Initiative

XL Construction and ClickSafety have partnered to create a web-based Contractor Safety orientation course for all XL Construction Projects. All Subcontractors requiring access to this project must complete this orientation-training course online through ClickSafety. This course addresses site-specific safety expectations/requirements that you and your employees are expected to understand and comply with while working on the premises.

XL has also created Current Good Manufacturing Practices (cGMP), Good Documentation Practices (GDP) and Infection Control training programs, which address additional training requirements for those types of projects.

Project Requirements:

ClickSafety is the leading provider of web-based safety and risk management systems for the Construction Industry.

ClickSafety will be providing the online training and tracking system used to deliver safety orientation. You will be required to have ALL your employees successfully complete the online Contractor Safety orientation course through the ClickSafety system prior to their arrival onsite. The average employee should take 30 - 45 minutes to complete the training for each course. Some of the courses are available in English and Spanish. SSP training is good for one year. You might be required to take some or all the additional courses outlined above. The project team will advise on these requirements. All mandatory courses for your project will be included on the Invitation to Bid Document. Please refer to the Invitation to Bid Document to see which courses will be required for each project.

Project Fees:

The fee structure for ClickSafety services is: \$68.00/Employee.

In addition, your company will be required to accept ClickSafety's Users Agreement upon registration.

ClickSafety Account Setup, User Registration and Implementation:

Step 1: Go to the XL Construction portal at www.clicksafety.com/xl

Step 2: Create a company account. Click on the 'Company' tab above the 'User' Step 1 on the home page.

Step 3: Prepay for employee training with a credit card.

Step 4: Direct all employees to the project page to self-register and complete training prior to arrival at the jobsite.

A ClickSafety representative will be available to answer any of your questions about this program. The ClickSafety program administrator is:

Jason Maddox
Account Manager
ClickSafety.com, Inc.
Phone: 925.855.6731
Email: Jason.Maddox@clicksafety.com

For general information about ClickSafety, you can visit their web site at: www.clicksafety.com.

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Should you have specific questions regarding the project or safety requirements, you may contact:

Lili Vergara
Safety & Health Specialist
XL Construction
Phone: 408.240.6379
Email: LVergara@xlconstruction.com

We appreciate your attention in this matter and look forward to a continuing and successful business relationship.

Disclaimer:

ClickSafety and XL Construction make this training material available with the understanding that users exercise their own skill and care with respect to its use. It is the duty of each employer as specified in the Occupational Safety and Health Act of 1970 (P.L. 91-596) to furnish to each of his employee's employment and a place of employment which is free from recognized hazards that are causing or likely to cause death or serious physical harm to his employees and must comply with the applicable occupational safety and health standards adopted for his / her type of work. In addition, each employee must comply with occupational safety and health standards and all rules, regulations, and orders which are applicable to his or her own actions and conduct.

10. CLICKSAFETY INSTRUCTIONS

1. Go to www.clicksafety.com/xl
2. Click on "Register for Training" square button on right
3. Complete "First Name", "Last Name" and both "Last 4 digits of SSN" fields
4. Select your preferred language.
5. Select your employer from the drop-down menu. If your employer is not listed or if you did not receive an access code from your employer, please contact your office Administrator to complete company registration information.
6. Enter your company access code. This can be received from your company administrator.
7. Select the Training Courses that you are assigned to take. Highlight the course and click the right arrow button so that it will be added to your selected courses to take. If you need to add additional tests, continue to select the course from the left and click on the right arrow button. When you are finished adding courses, click Continue.
8. Confirm your First Name, Last Name, Last 4 digits of your SSN, Language Preference, Employer name and Training Courses Selected. Click Next.
9. You will next be sent to an activation page. Click "Login".
10. You will automatically be sent to the beginning of the course or to your main user screen. If you need to logout for any reason, you can go back to www.clicksafety.com/xl and enter your username and password. The course will keep your place. Your username will be your first initial, your entire last name. Example: John Smith = jsmith. Your password will be the last 4 digits of your SSN.
11. Click the red arrow to begin the course.
12. You must answer all quiz questions correctly to move to the next section of the course. There are 4 sections total.
13. If you come to a screen that has graphics in the lower right-hand corner, please wait until the pictures move to the left before advancing to the next screen.
14. When you have completed the course, click "Return to the Control Panel".
15. Scroll down to "Assigned Courses" and double click on the certificate icon to the right of the completed course.
16. Print the certificate and bring it to the job trailer headquarters to receive your hard hat sticker allowing you access to the jobsite.
17. Please contact your company Administrator or Foreman if you are having any difficulty completing this course on your own.
18. If you are required to take additional courses, you can then select them from the control panel.

End of Exhibit E

Subcontractors Initials:
General Contractor's Initials:

DS
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**CONSTRUCTION.****SUBCONTRACT**

This Contract is entered into on 02/01/2018 by and between the parties identified below.

1. **PARTIES:**

Subcontractor Raymond - Northern California, Inc. 4589 Pacheco Blvd. Martinez, CA 94553 925/680-8300	Contractor XL Construction Corporation 851 Buckeye Court Milpitas, CA 95035 (408) 240-6000
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2. **PROJECT and OWNER:**

Client:	Kaiser Foundation Health Plan- Herein after referred to as "Owner"
Project Name:	Kaiser OAK CDRP Service Relocation
Project Location:	380 W. MacArthur Blvd., Oakland, CA 94609
Project Number:	4392.
Subcontract:	4392.008
3. **THE WORK:**
Subcontractor agrees to perform and complete, in a good, workmanlike and substantial manner all **Acoustical Ceiling** work more particularly described below (hereinafter called "The Work"). Subcontractor shall furnish all labor, materials, equipment, tools and services necessary to properly perform and complete such work. The Work specifically includes, but is not limited to: **Per attached Exhibit C.**
4. **CONTRACT PRICE:**
Contractor shall pay Subcontractor for the performance of the Work, subject to additions and deductions as herein provided, **One Hundred Sixty-One Thousand Nine Hundred Eighty-Two And 00/100 (\$ 161,982.00)** which price includes all federal, state, county, municipal and other taxes imposed on the labor and/or materials to be furnished by Subcontractor.
5. **EXHIBITS:**
The following Exhibits attached hereto are incorporated herein:

EXHIBIT A. It is agreed that the Contract Documents set forth in Exhibit 'A' are incorporated in and made a part of this Subcontract. Subcontractor agrees to be bound to Contractor in the same manner and to the same extent as Contractor is bound to Owner under the contract documents including, but not limited to, administrative provisions. Where, in the Contract Documents, reference is made to Contractor, and the work or specification therein pertain in any way, directly or indirectly, to Subcontractor's trade, craft or type of work: 1) such work or specifications shall be interpreted to apply to Subcontractor instead of Contractor and 2) Subcontractor shall be deemed to have made all representations, warrants, guarantees and covenants to Contractor and Owner which Contractor has made Owner or Architect. If anything in this Agreement is inconsistent with the Contract Documents, this Agreement will govern.

EXHIBIT B. Terms & Conditions
EXHIBIT C. Scope Inclusions & Clarifications
EXHIBIT D. Insurance Requirements
EXHIBIT E. General Requirements

The parties specifically agree that this Agreement, and all Contract Documents including Change Orders, may be executed electronically, and such electronic signature is fully binding as to such party.

RAYMOND - NORTHERN CALIFORNIA, INC.

XL CONSTRUCTION CORPORATION

DocuSigned by: By: <u>Ray Gilbert</u> C823FE858070480... Print Title: <u>VP/Area Manager</u> License Number: <u>307786</u> Fax Number: <u>(925) 827-1436</u> Name of Safety Director: <u>Ed Hanley</u>	DocuSigned by: Date: <u>2/20/2018 2:28 PM PST</u> 3FCB78141130485... Patrick McHugh, Sr. Project Manager, 408-240-6037 XL License 647480 XL Fax Number (408) 240-6001
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Contractors are required by law to be licensed and regulated by the Contractor's State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors State License Board, P.O. Box 26000, Sacramento, CA 95826.

Please Initial ALL "EXHIBITS" listed in Item 5

Subcontract #: 4392.008

EXHIBIT A
Contract Documents

Exhibit "A"

OWNER CONTRACT

- a. The contract and conditions of the contract between XL Construction Corporation and Kaiser Foundation Hospitals for the Kaiser Oakland CDRP Service Relocaiton Project at 380 West MacArthur Blvd. Oakland, CA.

1. ALTERNATES: Refer to Exhibit C
2. ADDENDUMS: Addendum 1 dated 2017/05/05
3. CONSTRUCTION SCHEDULE: Construction Schedule "4392 Kaiser Oakland CDRP DIRT TT_Full Schedule.DD.01-12-18" sent out on 01/24/2018.
4. OTHER DOCUMENTS:
 - a. Bid Documents
 - i. 01 Bid Form 1 Kaiser Oakland CDRP
 - ii. 02 General Requirements
 - iii. 03 ExhibitB_101515
 - iv. 03 ExhibitD_101515
 - v. 04 Kaiser SCP 2014
 - vi. 05 ITBs All Trades
 - vii. 06 Kaiser Oak CDRP_Schedule_RFP_03.29.17_Full
 - viii. 07 380 MacArthur Blvd -Original As-Builts
 - ix. 08 111-708 CDRP - Permit Set 17-0210
 - x. 09 111-708 Stantec 2016-1118 Building Condition Report Attachment 4
 - xi. 10 Working with DIRT TT for General Contractors-Kaiser CDRP-031717
 - xii. 11 111-708 CDRP KPTT Room Ready Check List 7.6.2010
 - xiii. 12 111-708 CDRP - Access Control System Section 28 10 00 Specs 3-23-17
 - xiv. 13 111-708 CDRP - CCTV System Section 28 20 00 Specs 3-23-17
 - xv. 14 17 Kaiser NFS Construction Performance Safety Standards
 - xvi. 15 Diversity Direct Spend Addendum - Copy
 - xvii. 16 111-708 Stantec 2016-1123 Hazardous Materials Survey Attachment 3
 - xviii. 17 KP Exterior Sign Performance Specs June 2013
 - xix. 18 KP Interior Sign Performance Specs June 2013
 - xx. 19 Sign Program Orientation Guide March 31 2012
 - xxi. 20 Current Exterior Signs June 2013
 - xxii. 21 Current Interior Signs June 2013
 - b. Preconstruction RFI's (PRFI's) 1 - 85
 - c. MT.Site Logistics Plan
 - d. Forensic Analytical Survey Report July 17, 2017
 - e. 4392 Kaiser CDRP - Site Specific Safety Plan_01/12/18
 - f. Contractor Quality Control Plan
 - g. Equipment List Updated 2018.01.25.pdf (Uploaded Under "Document's" Tab in Procure)
 - h. Ower Furnished Equipment Cutsheets (Uploaded Under "Document's" Tab in Procure)

5. DRAWINGS & SPECIFICATIONS:

- a. 17.05.05 - Addendum 1
- b. 17.05.11 - PRFI 14 Civil Drawings
- c. 17.05.24 - Change Order 1
- d. 17.06.08 - Change Order 2
- e. 17.07.12 - Change Order 3
- f. 17.07.13 - Change Order 4

Subcontract #: 4392.008

End of Exhibit A

Subcontractor's Initials:

General Contractor's Initials:

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Courthouse News Service

Subcontract #: 4392.008

EXHIBIT B
Terms & Conditions
Revised: 12/18/2017

Paragraph 1. Payment of Contract Price

- 1.1 Contract Price shall be paid in accordance with the provisions of this Paragraph 1. Subcontractor shall hold as trustee all funds received from Contractor for the individuals or entities whose labor, materials, services, supplies or equipment contributed to the amount claimed in Subcontractor's Applications for Payment, including without limitation, its work-force, lower-tier subcontractors, and suppliers. Nothing herein shall require money to be placed in a separate account of Subcontractor.
- 1.2 On or before the 20th day of each month, but in no event later than 5 days before Contractor is required to submit to Owner, Subcontractor shall submit to Contractor an invoice on the form provided by Contractor showing the value of the Work completed, from which shall be deducted a retention of ten percent (10%), all previous payments, and any items chargeable to Subcontractor, together with such labor and material lien releases, waivers, and proofs of payment (including union benefit trust obligations) as Contractor, in its sole discretion, shall reasonably require.

With its first invoice, Subcontractor shall also submit a detailed schedule showing the breakdown of the Work into its various parts for use only as a basis of checking the Subcontractor's monthly invoices. If requested by Contractor, subcontractor shall also provide to Contractor an affidavit listing the company names and values of all suppliers and subcontractors providing material or services exceeding \$5,000 to Subcontractor on the project.

In the event Subcontractor does not submit such a monthly invoice, schedule or affidavit in a timely manner, then Contractor, at its option, may deem the invoice incomplete and withhold payment until such invoice or documentation is submitted or include in Contractor's monthly estimate to Owner an amount it deems proper for Subcontractor's Work for the month. Subcontractor agrees to accept such estimated amount as Subcontractor's invoiced amount for that month. Subcontractor waives payment for any invoices received by Contractor in excess of six (6) months after completion of Subcontractor's portion of the Work, and Subcontractor shall have no further claim for payment under such invoices.

- 1.3 Upon approval of such monthly invoice and supporting documentation by Contractor and Owner, payment will be made to Subcontractor as reflected in Contractor's applications for payment. Such payment shall be made within 7 days after Contractor receives payment from the Owner. If the contract Documents provide specific terms for early payment, Subcontractor agrees to those payment terms.
- 1.4 The ten percent (10%) retention to be deducted on all invoices as set forth in subparagraph 1.1 above shall be paid to Subcontractor as a final payment as follows:

Provided that the Subcontractor has furnished satisfactory evidence that there are no claims or liens outstanding or unsatisfied for labor or materials furnished in connection with the Work; and Provided further that the work required by the Contract Documents has been delivered to and accepted by the Owner; the final payment for any Work hereunder shall be paid to Subcontractor with funds received by Contractor from Owner in final payment for work under the Prime Contract, within 7 days after Contractor has received such final payment from Owner.

- 1.5 If Owner delays making any payment to Contractor from which payment to Subcontractor is to be made, Contractor 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 it be less than the time required by Contractor and Subcontractor to pursue to conclusion their legal remedies against Owner to obtain payment, including, but not limited to, mechanic's lien remedies.
- 1.6 Any payment made hereunder prior to completion and acceptance of the Work shall not be construed to be an acceptance of defective, faulty or improper work or materials, nor shall it be deemed to release Subcontractor from any of its obligations under this Subcontract.
- 1.7 If Subcontractor has entered into other independent subcontracts with Contractor, and Subcontractor defaults in its performance under any such other subcontracts giving rise to unsatisfied obligations by Subcontractor to Contractor, Contractor may offset such unsatisfied obligations against Contractor's obligation to Subcontractor under this Subcontract.
- 1.8 If it appears to the Contractor that the labor, material or other bills incurred in the performance of Subcontractor's Work are not being currently paid, or reasonable grounds for insecurity exist, or the Contractor has been notified by the Owner or its agent that the Owner intends to assert a backcharge or set-off with respect to Subcontractor's Work, then the Contractor may take such steps as it deems necessary to ensure that the money paid with any progress payment will be utilized to pay such bills, including joint check or direct payment to lower tier subcontractors and suppliers.

Paragraph 2. Changes in Work

Subcontract #: 4392.008

- 2.1** Contractor reserves the right, from time to time, to make such changes, additions and/or deletions in the Work as it may deem necessary, upon written "Subcontract Change Order" (SCO) to Subcontractor. The value of the work to be changed, added or deleted must be stated in the Subcontract Change Order and will be added to or deducted from the Contract Price. Once Subcontractor has received a Subcontract Change Order, it has five business days to reject the value of the work in the Subcontract Change Order or such value shall be deemed accepted. Should Contractor and Subcontractor disagree as to the value of the work to be changed, added or deleted, Subcontractor will nevertheless promptly proceed with the work at Contractor's direction. Subcontractor shall supply Contractor with all documentation necessary to substantiate the amount of the addition to or deduction from the price or time. Once Subcontractor receives Contractor's written direction, Subcontractor is solely responsible for timely performance of the work as changed by the written direction. Payment for changed work shall be made in accordance with Paragraph 1.

If a dispute arises between Contractor and Subcontractor about whether particular work is a change in the Work described in the Subcontractor Agreement, or if Contractor and Subcontractor are unable to agree on an appropriate adjustment for changed work, Subcontractor shall timely perform the disputed work upon receiving written direction from Contractor. If Subcontractor intends to submit a claim for the disputed work, it shall give prompt written notice to Contractor before proceeding with the work. In addition, Subcontractor shall submit its written claim for additional compensation for that work within ten (10) days after such work is performed in sufficient detail for Contractor to make an evaluation of the merits of the claim. Subcontractor's failure either to give the written notice before proceeding with the work or to submit the written claim within the ten (10) days constitutes an agreement by it that it will not be paid for the disputed work.

- 2.2** Subcontractor shall not be entitled to any additional compensation for any extras unless the extras have been ordered by written authorization.

To assist in the documentation of any claim the Subcontractor may have, Contractor authorizes its Project Superintendent to sign extra work orders, Extra Work Authorizations (EWAs), or similar documentation relating to said claims provided, however, that notwithstanding any language contained in the Subcontractor's extra work orders or similar documentation to the contrary, such signature by Contractor's Project Superintendent shall only represent the following:

- (a) To the best of Contractor's knowledge at the time its Superintendent signed Subcontractor's documentation, the hours and/or materials represented therein appeared to have been worked and/or used on the Project;
- (b) By signing Subcontractor's documentation, Contractor does not waive or release any right to dispute or object to the Subcontractor's claim that it is entitled to additional compensation, an extension of time, or that the hours worked and/or materials used were reasonable for the work performed therein; and Subcontractor acknowledges and agrees that Contractor's Superintendent does not have authority to waive any of the terms, conditions or requirements set forth in this Subcontract. Only the Contractor's Project Manager shall have authority to modify the terms of the subcontract by Agreement Change Order.

Any extras furnished by Subcontractor except in accordance with the forgoing will be done so at Subcontractor's sole expense. Contractor shall be entitled to delete such portions of the work as Contractor may see fit by instructions in writing to the Subcontractor and shall be entitled to deduct the reasonable value of such work deleted from the Contract Price.

- 2.3** If the Subcontractor asserts a claim which involves, in whole or in part, acts or omissions which are the responsibility of the Owner or another party, including but not limited to claims for failure to pay, an extension of time, delay damages, or extra work, Contractor may present the Subcontractor's claim to the Owner or other responsible party, provided that Contractor determines that such claim has been submitted in good faith and does not violate any laws relating to false claims. If Contractor submits such claim by Subcontractor, Subcontractor is solely responsible should such claim be deemed a "false claim," and Subcontractor agrees to indemnify, defend and hold harmless Contractor for all losses and damages associated therewith. The Subcontractor shall cooperate fully with the Contractor in all steps taken in connection with prosecuting such a claim and shall hold harmless and reimburse the Contractor for all expense, including legal expense, incurred by Contractor which arise out of Contractor's submission of Subcontractor's claim to Owner or other responsible party. Subcontractor shall be bound by any adjudication or award in any action or proceeding resolving such a claim.
- 2.4** Subcontractor agrees at no additional cost to Contractor to make any changes, additions, or modifications, ordered by Contractor, which do not involve extra cost to Subcontractor.

Paragraph 3. Commencement and Completion of Work

- 3.1** Subcontractor agrees to commence the Work within forty-eight (48) hours after notice by Contractor to do so.
- 3.2** Subcontractor shall provide adequate supervision and keep sufficient workmen, supplies, material, tools and equipment on the job to prosecute the Work diligently to completion, and cooperate with and not hinder or delay the other trades in the performance of their work.
- 3.3** Subcontractor shall provide Contractor with scheduling information and a proposed schedule for performance of its Work in a form acceptable to Contractor. The Contractor shall not be bound to use Subcontractor's scheduling information, but may rely upon the same.

Subcontract #: 4392.008

Subcontractor shall conform to the Contractor's progress schedule and all revisions or changes made thereto. Subcontractor acknowledges that revisions may be made in such schedule and agrees to make no claim for acceleration, inefficiency or delay by reason of such revision(s) as long as Contractor has not acted in an arbitrary or capricious manner in making the revision(s).

- 3.4** Contractor shall have the right to decide the time and order in which the various portions of the work shall be installed and the relative priority of the Work of Subcontractor and the other Subcontractors, and, in general, all other matters pertaining to the timely, orderly, and safe conduct of the Work of the Subcontractor on the premises. Contractor shall have the right to suspend Work for a reasonable time without payment of additional compensation.

Where Subcontractor has failed to perform its Work in a timely manner or maintain its part of the Contractor's schedule, Contractor may require Subcontractor, without additional compensation, to accelerate the Work as Contractor may direct until Subcontractor's Work is in accordance with Contractor's schedule.

No claims for additional compensation or damages for delays, including but not limited to inefficiencies or loss of productivity, whether caused in whole or in part by any conduct on the part of Contractor, delays by other subcontractors or Owner, shall be recoverable from Contractor, and an extension of time for completion of its Work 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.

Paragraph 4. Performance of Work

- 4.1** Whether or not specifically set forth in the Contract Documents, the Work includes the following: Any item of labor, service, equipment and/or material reasonably required by the plans, drawings and specifications or customarily furnished by a Subcontractor performing work of this type; Any item of labor, service, equipment and/or material required to complete the Work in compliance with any applicable law, ordinance, regulation or building codes, or necessary to obtain any inspection approvals being obtained by the Contractor; All plans, drawings, permits, and fees required by law, regulations, ordinance, or building codes; All scaffolding, barricades, shoring, traffic control necessary or required for the performance of the Work; Such as-built plans, specifications and maintenance manuals as may be reasonably required by Contractor.
- 4.2** Unless otherwise specifically provided in the Contract Documents, all workmanship, materials, equipment and articles incorporated in the Work shall be new and the best grade of their respective kinds for the purpose. Subcontractor agrees at its own cost and expense to do all digging, backfilling, cutting, patching, and fitting of every kind necessary to install its Work in a proper and timely manner. Layout of its Work, dimension of materials and field measurements are the responsibility of Subcontractor. Subcontractor is responsible for the accuracy of its Work and any resulting damages or loss to contractor or other subcontractors. Incorrect dimensions or measurements on plans or shop drawings do not relieve Subcontractor of this responsibility. Every part of the Work described herein will be executed in strict accordance with the Contract Documents in the highest sound, workmanlike and professional manner. Any expense incurred by Contractor due to failure of Subcontractor to install its Work in the proper manner may be deducted from monies otherwise due Subcontractor, or will be paid for by Subcontractor, upon demand.
- 4.3** Subcontractor agrees to keep the premises free and clean at all times, including, the removal of all excess material, debris, and equipment. Subcontractor's failure to do so shall give Contractor the option of removing said items at Subcontractor's own risk and expense.
- 4.4** Subcontractor agrees to protect its Work, materials, tools and equipment against loss or damage by fire, theft, or accident, and not to make any claim or demand upon Contractor for any injury, loss or damage to Subcontractor, its agents or employees, on account of any negligent act or omission of any third person or persons.
- 4.5** Subcontractor waives any claim, demand or cause of action against Contractor for the loss, use, misuse, abuse, or conversion of the tools, materials, equipment, plans, permits or diagrams, taken or used by Contractor when Subcontractor is in breach of its obligations in accordance with Paragraph 5 hereof.
- 4.6** Subcontractor's failure to promptly report in writing to Contractor any alleged defects in any work of another person on or in which Subcontractor is to install its work will be deemed an acknowledgement by Subcontractor that such other work is fit and proper to receive Subcontractor's Work.
- 4.7** All materials and workmanship shall be subject to inspection, examination and testing by Contractor at any and all times during manufacture and/or construction. Contractor shall have the right to reject defective material, equipment and workmanship or require its correction without further cost to Contractor. Subcontractor will furnish, without additional charge, all reasonable facilities, labor and materials necessary for safe and convenient testing and inspection as may be required.

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4.8 Subcontractor shall pay Contractor for any damage caused by Subcontractor, or its agents, employees, suppliers or material men, to any portion of the Work, or to any property adjacent thereto which Contractor repairs, whether Contractor is legally obligated to do so or not.

4.9 Subcontractor acknowledges that it has inspected the site where the Work is to be performed, has examined and understands the plans, drawings and specifications, and all other Contract requirements, is familiar with all the laws, regulations, codes, ordinances, and rules pertinent to its work and agrees to install its work in the location and manner required by any governmental authority, including but not limited to, City, County and State Building Departments and subject to the approval of Contractor and Owner without any additional cost to Contractor.

4.10 Time for performance by Subcontractor of each and all of its obligations hereunder is of the essence in the Subcontract. Subcontractor shall be liable to Contractor on account of any delay or breach of contract by Subcontractor, including, but not limited to any liquidated damages, or delays or breach sustained by Contractor, or for which Contractor may be liable to Owner or any other party because of Subcontractor's delay and/or breach.

Paragraph 5. Recourse by Contractor

5.1 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 Subcontract, or fails to make prompt payment to its 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 Subcontract, 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 same including reasonable 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, who shall be liable for the payment of same including reasonable profit, and actual attorneys' fees incurred as a result of Subcontractor's failure of performance; 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.

5.2 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 Paragraph 5.2, then Contractor may terminate Subcontractor's right to perform under this Subcontract 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 fifteen percent (15%) 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 Subcontractor. Subcontractor shall be liable for the payment of any amount by which such expenses may exceed the unpaid balance of the Contract Price, and shall pay Contractor said amount within 30 days of written demand therefore.

5.3 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 Subcontract, 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, in accordance with Paragraph 1:

- (a) the actual cost of the work completed in conformity with this Subcontract, plus
- (b) such other costs actually incurred by Subcontractor as a result of the termination as are permitted by the prime contract, plus

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- (c) a mark-up of up to fifteen percent (15%) of the cost of the Work referred to in subpart (1) above for overhead and profit; provided, however, that in no event will the mark-up be greater than Subcontractor would have received if the contract had not been terminated.

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 Subcontract. In no event shall payment due hereunder exceed the amount due for approved units of work or percentage of completion. Subcontractor shall not be entitled to any stop payment notice, payment bond, or other claim or lien against Contractor or Owner for any additional compensation or damages in the event of such termination and payment.

In the event Contractor terminates Subcontractor pursuant to Paragraph 5.2, and it is subsequently determined in a civil action or arbitration that it was a wrongful termination or termination for default was improper, Contractor's liability to Subcontractor shall be no greater than it would be if Contractor would have terminated Subcontractor for convenience pursuant to Paragraph 5.3. Moreover, in this event, the damages, if any, Subcontractor shall be entitled to shall be limited to the compensation, if any, Subcontractor would be entitled to in the event of a termination for convenience in accordance with Paragraph 5.3.

- 5.4 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 actual attorneys' fees, on account of

- (a) defective work not remedied;
 - (b) claims filed or reasonable evidence indicating probable filing of claim;
 - (c) failure of Subcontractor to make payments properly to its subcontractors or for material, labor or fringe benefits;
 - (d) a reasonable doubt that this Subcontract can be completed for the balance then unpaid or within the time mandated by this Subcontract;
 - (e) damage to Contractor or another subcontractor;
 - (f) penalties assessed against Contractor or Subcontractor for failure of Subcontractor to comply with state, federal or local laws and regulations; or
 - (g) any other ground for withholding payment allowed by state or federal law, or as otherwise provided in this Subcontract.
- When the above matters are rectified, such amounts as then due and owing shall be paid or credited to Subcontractor.

Paragraph 6. Labor Relations

- 6.1** The employment of labor by the Subcontractor shall be to the satisfaction to the Contractor as it relates to safety, quality and conduct. If required by the Contractor, the Subcontractor shall replace any employee whom the Contractor determines to be undesirable.

- 6.2** Subcontractor acknowledges that Contractor has entered into labor agreements covering work at its construction job sites with the Carpenter's Union, Cement Mason's Union, and the Laborer's Union. Subcontractor agrees to be bound and to comply with all of the terms and conditions of such labor agreements to the same degree and extent as if the Subcontractor were a party to those Agreements including payments into employee trust funds required by the labor Agreements, and submission to and compliance with the arbitration and other dispute resolution requirements of the labor agreements. Subcontractor agrees to comply with the terms and provisions contained in such agreements for resolution of jurisdictional disputes. Subcontractor agrees at its own cost and expense, upon request of Contractor to take any and all lawful steps to secure a binding and final determination of said jurisdictional dispute by the National Labor Relations Board. Subcontractor further agrees that it will bind and require all Sub-Subcontractors performing job site work of the type covered by such labor agreements specified above to agree to and comply with all of the foregoing.

- 6.3** Subcontractor agrees that if a reserved Dual Gate System is established at the project, Subcontractor will be responsible for insuring that its employees use the Gates designed for Subcontractor and agrees not to delay the progress of the Work because of any labor union difficulties, and to hold harmless Contractor from any loss, damage, or delay occasioned by any difficulties between Subcontractor and any labor union. In the event a union threatens to strike, picket, or otherwise delay the job because of dispute with the Subcontractor, Contractor shall, in addition to its other rights and remedies, have the option of canceling this Contract forthwith and having the Work done and/or completed at Subcontractor's expense as provided for in paragraph 5.2 above.

Paragraph 7. Plans, Drawings and Specifications

- 7.1** Notwithstanding the information provided in the plans, models, drawings, and specifications, Subcontractor is responsible for insuring the proper matching and fitting of the Work with contiguous work, including but not limited to, the taking of all measurements.

- 7.2** The decision of the project architect, if any, as to the true construction, meaning and intent of the plans, drawings and specifications is final and binding upon the parties hereto. Subcontractor must confirm to and abide by those plans, without making any changes, additions and/or omissions in the Work except upon receipt of an Agreement Change Order from Contractor.

Paragraph 8. Safety and Accident Prevention

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- 8.1** Subcontractor agrees that the prevention of accidents to workers engaged upon or in the vicinity of the Work is its responsibility. 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. When so ordered, Subcontractor will stop any part of the Work, which Contractor deems unsafe until corrective measures satisfactory to Contractor have been taken, and Subcontractor agrees that it will not have nor make any claim for damages growing out of such stoppages. Should Subcontractor neglect to take such corrective measures, Contractor may do so at the cost and expense of Subcontractor. Failure on the part of the Contractor to stop unsafe practices will in no way relieve Subcontractor of its responsibility therefore.
- 8.2** Subcontractor agrees and understands that, notwithstanding other provision for safety in this Subcontract, Subcontractor shall conform to the highest standards of safety practices in the performance of the Work and shall comply with all applicable Federal, State, and local laws and ordinances affecting or relating to this Subcontract including, but not limited to, those with respect to occupational health and safety, the handling and storage of hazardous materials, accident prevention, and safety equipment and practices as well as the Contractor's specific Subcontractor Safety Program governing safety, health, sanitation and environmental protection, and Owner's applicable safety program while performing Work hereunder. Furthermore, the Subcontractor agrees that when designated and so informed by the Contractor, the Subcontractor will ensure the completion of specific Contractor and/or Owner health, safety or procedural training, of the Subcontractor's employees and bear the costs associated with this training if it is provided through a web-based service.
- 8.3** Subcontractor shall provide all safeguards, safety devices, and protective equipment, and take any other needed actions whatsoever, at Subcontractor's sole expense, as Contractor may determine to be necessary to protect the life and health of all persons on the jobsite, the safety of the public, and all property, in connection with Subcontractor's performance of the Work hereunder.
- 8.4** The current California Occupation Safety and Health Standards (Labor code 6401.7 and 8 CCR 3202) require that every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program. By executing this subcontract, Subcontractor warrants that Subcontractor has established an injury and illness prevention program, that it is current, and that it complies with the above referenced California Safety and Health Standards or any additional and successor codes and regulations thereto. Upon Contractor's request, Subcontractor will make available any and all records, which comprise said program including the program outline, meeting minutes, safety inspections, and accident reports.

Paragraph 9. Warranty

- 9.1** Subcontractor hereby warrants to Owner and Contractor that (a) all materials and equipment furnished shall be new unless otherwise specified and that (b) all Work under this Subcontract shall be performed in a good and workmanlike manner shall be of good quality, free from defects and in strict conformance with the Contract Documents. All work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective and will be replaced at Subcontractor's sole cost and expense. The warranty provided in this Paragraph 9 shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents. Subcontractor's obligations under this Paragraph 9 shall include all costs necessary to replace or repair, at Contractor's discretion, any defective work or servicing.
- 9.2** Subcontractor shall indemnify, defend and hold harmless Contractor against any claim, suit or action, or any alleged violation or infringement of patent rights which may be made against Contractor by reason of the use in connection with or as part of the performance of Subcontractor's Work hereunder.

Paragraph 10. Bankruptcy

- 10.1 Termination Absent Cure.** If Subcontractor commits any act of insolvency, Contractor may, absent any applicable legal limitation, terminate this Subcontract upon giving forty-eight (48) hours written notice, by certified mail, to Subcontractor, its trustee (if any), 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.

Paragraph 11. Waiver and Notices

- 11.1** Waiver of any breach of this Subcontract by Contractor shall not be construed as a waiver of any other breach of this Subcontract nor shall such waiver serve as an estoppel of any other right Contractor may have hereunder.
- 11.2** Any notice from Contractor to Subcontractor may be delivered personally, faxed or mailed to Subcontractor at the address shown on this Subcontract. Such notice shall be deemed served upon being deposited in the United States mail so addressed with postage prepaid. In the event such notice is service by mail, the time for performance by Subcontractor of any act based on such notice shall be extended for forty-eight (48) Hours.

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Paragraph 12. Assignment

12.1 Subcontractor shall not, without written consent of Contractor, assign, transfer or sublet a majority of the work required by this Subcontract, nor assign any payment hereunder to others.

Paragraph 13. Claims and Dispute Resolution

13.1 The time allowed to make claims for extras, extensions of time, and for damages for delay or otherwise shall be in the manner provided in the Contract Documents for like claims by the Contractor upon the Owner, except that the time for making claims for extra cost shall not be later than either three (3) days prior to the time within which Contractor may make such claim to Owner, or within five (5) days of discovery of such claim, whichever occurs first.

13.2 Disputes Under Prime Contract. Any dispute resolution procedure in the prime contract shall be deemed incorporated in this Subcontract, and shall apply to any disputes arising hereunder, except disputes not involving the acts, omissions or otherwise the responsibility of the Owner under the prime contract, and those which have been waived by the making or acceptance of final payment.

13.3 Subject to prime contract dispute resolution procedures under Paragraph 13.2, and as for disputes not involving the acts, omissions or otherwise the responsibility of the Owner under the prime contract if a claim or dispute cannot be resolved by the Subcontractor's and Contractor's project staff, an Officer or Principal of each firm shall meet to attempt to resolve the dispute, upon the request of either party. Prior to any meetings, the parties shall exchange relevant information that will assist the parties in resolving the dispute.
If the parties are unable to negotiate a mutually acceptable resolution within 20 working days, AND the claim, dispute or breach involves a sum of less than \$250,000, then they shall settle the dispute by binding arbitration administered by the American Arbitration Association in accordance with the Construction Industry Arbitration Rules. Any such controversy or claim involving a sum of \$250,000 or more may be subject to arbitration, binding or non-binding, but only upon the separate written agreement of Contractor and Subcontractor agreeing to such arbitration. A court of competent jurisdiction in the State of California is hereby authorized to enter and enforce this arbitration clause and to confirm and enter judgment on any arbitration award rendered hereunder.

13.4 Work Continuation and Payment. Unless otherwise agreed in writing, Subcontractor shall carry on the work and maintain the schedule of work pending arbitration or litigation, and if so, Contractor shall continue to make payments in accordance with this Subcontract.

Paragraph 14. Indemnity

14.1 To the fullest extent permitted under the law of the State of California, the Subcontractor shall indemnify and hold harmless Contractor, Owner, any other entities required to be indemnified by Contractor under the Contract Documents, the officers, directors, partners, parent or subsidiary or related entities, agents and employees of any of them (collectively referred to as "Indemnities" and individually referred to as "Indemnitee"), from and against claims, damages, liabilities, losses and expenses ("Claims"), including but not limited to attorney's fees and expert's fees, arising out of or resulting from performance of the Subcontractor's Work under this Subcontract. Without limitation, "damages" include personal injury, including, but not limited to, bodily injury, economic loss, emotional injury, sickness or disease, or death to persons, including, but not limited to, any employees or agents of Subcontractor, Contractor, Owner, or any other subcontractor, or any person, damage to Contractor's property or equipment, or other damages of any kind.

It is expressly acknowledged that the foregoing indemnities shall apply despite any acts or omissions, misconduct or negligent conduct, on the part of Contractor, Owner or other Indemnities; except that the duty to indemnify or hold harmless a particular Indemnitee shall not be applicable to any claim, damages, liabilities, losses or expenses to the extent that the Claims arise out of, pertain to, or relate to the active negligence or willful misconduct of the Contractor, or its other agents, other servants, or other independent contractors who are responsible to the Contractor, or for defects in design furnished by those entities, or to the extent that Claims do not arise out of the scope of the Subcontractor's Work under this Agreement.

The defense or indemnification obligations under this Subcontract shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits of any insurance available to Subcontractor including, any damages, compensation or benefits payable by or for the Subcontractor under Workers Compensation acts, disability benefit acts or other employee benefit acts. This indemnification shall extend to claims occurring after this Subcontract is terminated as well as while it is in force.

14.2 In case suit is brought on any stop payment notice, payment bond or mechanic's claim or lien for labor performed or materials used on or furnished to the project on Subcontractor's behalf, Subcontractor shall pay and satisfy any such claim, 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, claim, or lien to be removed, and in the event Subcontractor shall fail so to do, Contractor is authorized to use whatever means in its discretion it may deem appropriate to cause said claim, 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 claim, lien or suit provided it causes the effect thereof to be

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removed promptly, and still 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 claims, liens or suits.

Paragraph 15. Insurance

15.1 Subcontractor and their subcontractors shall at all times and in all operations performed under this Subcontract carry the insurance required under this Article and the Contractor's Subcontractor Insurance Requirements attached hereto as Exhibit "D" and incorporated herein by this reference as though fully set forth herein. Subcontractor's insurance coverage shall include liability for all injuries and damages referred to in Paragraph 14. Before Subcontractor starts any work at the Project site, Subcontractor shall furnish Contractor with certificates and required endorsements. As more specifically set forth in Exhibit "D", Contractor and Owner shall be named as an additional insured under General Liability Policy and any other policy required by owner. All insurance policies shall, by appropriate language, exclude any claim on the part of the insurer to be subrogated on payment of loss or otherwise to any claim against Contractor or Owner. Subcontractor hereby waives any right or claim to be subrogated on payment of loss or otherwise to any claim against Contractor or Owner and further waives any right against Contractor or Owner for damages caused by fire or other perils to the extent covered by property insurance maintained by Owner pursuant to the Contract Documents, except such right as Subcontractor may have to the proceeds of such insurance held by Owner as Trustee. The furnishing of insurance by Subcontractor shall not be construed to affect or impair the obligations of Subcontractor under this Subcontract.

Paragraph 16. Design Build Work

16.1 If the Work is identified as being Design Build, a complete and operable system shall be provided which includes all work, though not shown or described, which may reasonably be inferred from the Contract documents. It shall be Subcontractor's responsibility to make certain that the Contract documents are in accordance with applicable laws, statutes, building codes and regulations, and shall comply with good engineering practices. Subcontractor agrees that working drawings, plans and specifications will be prepared, stamped and signed by a professional engineer, duly licensed in the State of California ("Engineer"). The Engineer may be an employee of Subcontractor, a third-party consultant, or an independent contractor with whom Subcontractor subcontracts the design work required under this Subcontract. Subcontractor agrees to perform said work and each and every part and detail thereof in the best and workmanlike manner by qualified, careful and efficient workers and to use materials that are satisfactory for the purpose for which they applied. Without limiting any other obligation herein, Design Build Subcontractor acknowledges that it is performing the work described above, on a design build basis. Design Build Subcontractor further warrants that its design shall meet the following criteria:

- (a) All technical or performance criteria described in the Contract documents;
- (b) The design is consistent with, and has been coordinated with Contract Documents including the drawings, the plans, and the specifications as well as the work of all other trades affected by the work and/or performing work in the contiguous area. Such Design/Build Subcontractor specifically agrees to coordinate its design with the Architect/Engineer and its subconsultants, and with the work, including the shop drawings, of all Subcontractors working in the contiguous areas, including other Design/Build Subcontractors. Subcontractor acknowledges that the design which is being contributed to by other entities is still evolving and being completed and that Subcontractor's design is interdependent and needs to evolve and be compatible with the final designs of such other entities.
- (c) Design Build Subcontractor's design and construction work meet the standard of care for the design of such system which is customary in the industry in the location of the project for design/build Subcontractors holding themselves out as being experts in design/build construction for their trade(s) for this specific type of improvement project. Nothing in this subparagraph is intended to limit Subcontractor's obligations under other provisions of the Subcontract Agreement, including subparagraphs (a) and (b), above.

16.2 In the event that an Owner terminates a Design Build Project prior to commencement of any construction work, Contractor's liability for payment to Subcontractor for any preconstruction services under a Design Build Project shall arise only if Contractor is paid by Owner for such preconstruction services.

Paragraph 17. Use of Contractor's Equipment

17.1 Contractor may permit Subcontractor to use Contractor's equipment. Contractor may require the return of equipment to Contractor's custody and control for any reason and at any time, and Contractor may allow parties the use of equipment at any time.

Subcontractor is solely responsible for its activities while using equipment and agrees to use the EQUIPMENT at its own risk. Contractor makes no warranties or guarantees regarding the safety or suitability for a particular purpose, or the accuracy or effectiveness of the equipment to be used. Subcontractor has inspected the equipment to its full satisfaction before taking possession to ensure the equipment is operating safely.

Subcontractor agrees that Contractor shall have no liability for any damages resulting from the use of the EQUIPMENT by Subcontractor. Subcontractor agrees that all terms of Exhibit D, "Insurance and Indemnity" shall apply to Subcontractor's use of equipment.

Subcontractor shall ensure that its employees, agents and any individual(s) assigned by Subcontractor to operate the equipment (collectively "Operators") are trained and certified on the operation of the equipment before operating equipment. Before operating equipment, any operator shall have demonstrated their understanding of all hazards related to the operation

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of the equipment. All operators assigned by Subcontractor to operate the equipment shall be under the sole and exclusive supervision, direction and control of Subcontractor.

Paragraph 18. Independent Contractor

18.1 Subcontractor is an independent contractor and shall, at its 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 therefore, pay all manufacturers' taxes, sales taxes, use taxes, gross receipt taxes, processing taxes, and all federal, state, and municipal taxes, insurance and contributions which are measured by wages, salaries, or other remunerations paid to Subcontractor's employees, whether levied under existing or subsequently enacted laws, rules or regulations. Subcontractor, upon request, shall furnish evidence satisfactory to Contractor that any or all of the foregoing obligations have been fulfilled.

Paragraph 19. Entire Agreement

19.1 Subcontractor certifies that it is fully familiar with all of the terms, conditions and obligations of the Subcontract Agreement, the exhibits thereto, including, but not limited to the Contract Documents, and all laws regulations of any type applicable to the Subcontractor's work on the Project, and has inspected the physical conditions of the job site, is fully informed as to the conditions under which the work is to be performed and that it enters into this Subcontract based upon its investigation of all such matters and is not relying on any opinions or representations of Contractor. This Agreement represents the entire agreement between Contractor and Subcontractor, and supersedes any prior oral or written agreements or representations. The Contract Documents are incorporated in this Agreement by reference, with the same effect as if they were set forth at length herein, and that Subcontractor and its subcontractors will be bound by any and all of the Contract Documents and any addenda, modifications or changes thereto, insofar as they relate in any way, directly or indirectly, to the Work covered by this Subcontract. Subcontractor agrees to be bound to Contractor in the same manner and to the same extent as Contractor is bound to Owner under the Contract Documents, including, but not limited to, administrative provisions, to the extent of the Work provided for in this Subcontract, and that where in the Contract Documents reference is made to Contractor and the Work or specifications therein pertains in any way, directly or indirectly, to the Subcontractor trade, craft or type of work, then such work or specification shall be interpreted to apply to Subcontractor instead of Contractor and Subcontractor shall be deemed to have made all representations, warranties guaranties and covenants to Contractor and Owner which Contractor has made to Owner or Architect. In the event of any conflict between the requirements of the Contract Documents, and this Subcontract Agreement, Subcontractor shall be governed by the provisions imposing the greater duty on the Subcontractor. The term "Contract Documents" is defined to mean and include Exhibit A to this Subcontract, and the Prime Contract between Contractor and Owner with all attachments, exhibits and addenda thereto, together with its general, supplementary and other conditions, addenda, exhibits, and definitions, plans and specifications whether or not included in Exhibit A.

The subcontract and any SCO's may be executed by Project Manager of Contractor. Any modifications and/or additions to the terms and conditions of the Subcontract contained in this Exhibit "B" or Exhibit "D" must be made in writing and signed by both parties, and on behalf of Contractor, only a Corporate Officer or Project Executive is authorized to execute such modifications and/or additions.

End of Exhibit B

Subcontractor's Initials:

General Contractor's Initials:

DS
PG
DS
/

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EXHIBIT C
Scope Inclusions & Clarifications

Project Name: Kaiser Oakland CDRP Service Relocation
Raymond
Date: 1/31/2018

Subcontractor:

Cost Code:09500

Scope of Work: Acoustical Ceilings

A) TRADE SPECIFIC SCOPE ITEMS

The following scope of work is intended to provide clarification only and is not intended to limit the work as defined, required or reasonably inferred by the contract documents which are listed in Exhibit A. Subcontractor shall provide all labor, material, equipment, tools, etc. as required to provide a complete scope of work, which specifically includes, but is not limited to, **Acoustical Ceilings**.

Inclusions & Clarifications (including but not limited to).

1. Provide and install all acoustical ceilings as shown on the RCP (A6.1-A6.4).
2. Supply wires for lights, including pendants, cans exit lights, registers, etc to comply with applicable code requirements. Provide additional wires for lights and registers (2ea). Tie off by others.
3. Provide Armstrong woodworks channeled plank and all associated anchorage and support. Coordinate with electrician on lighting placement and cutting of holes for fixtures.
4. Provide tile at the time of grid install and cut and install tiles at can lights, exit lights, fire alarm strobes, fire sprinkler heads, etc.
5. Layout t-bar prior to MEP rough-in and coordinate ceiling layouts with sprinklers, registers, lights, etc.
6. Include installation of tile on a separate mobilization
7. Include device tiles out of sequence work.
8. Per RFI# 84; added J8D004 vinyl acoustical expansion joint to 1 & 2nd floor ceilings where elevator lobby abuts main building @ A-line.
9. Include offloading, hoisting, and equipment
10. There is no Liquidated Damages on this project.

Exclusions/Qualifications

1. Overtime.
2. Demolition.
3. Building permits
4. X-ray floor.

B) CONTRACT RECAP

This is a partial contract to cover all costs as it pertains to the scope of work identified in Part A of this Exhibit C to the extent of the following basis: All projected costs associated with submittals, procurement of material / equipment, and field labor for the first 3 month of work shown on the project schedule as identified in Exhibit A. The remaining contract balance will be fulfilled in an upcoming change order dependent upon full payment from the client, Kaiser Foundation Hospitals.

CONTRACT AMOUNT

Subcontract #: 4392.008

<u>Partial Contract for 1st 3 month of construction</u>	<u>\$161,982.00</u>
Total Subcontract Value:	\$161,982.00

****Change Order Value (To be issued within 90 days of date on this contract) \$84,378.00**

HOURLY RATES – Including all burden/fringes, overhead, but excluding allowable markups. Rates are applicable for the duration of the entire project.

	Straight Time Rate (2018)
Journeyman	\$112.76
Foreman	\$131.59

CHANGE ORDER MARK-UPS – If Subcontractor is instructed to work on overtime to perform contract work, then XL Construction will pay the premium as 50% or 100% of the employee's actual base wage (for 1 - 1/2x or double-time rates), plus applicable taxes applied to the added 50% or 100%. Subcontractor gets a total of 15% mark-up on the Premium and employers taxes.

Overhead such as Home Office Support Labor, Project Managers, General Superintendents, vehicles are not compensable in change orders.

Change Order requests must be detailed with quantities of materials and material rates, quantities of equipment and equipment rates, quantities of labor and labor rates. The allowable 15% mark-up must be shown on the break-down. No lump sum change order requests will be accepted.

At the discretion of XL Construction, Subcontractor will be required to perform change order work on Force Account. Daily Time and Material Tags must be provided at the end of each day to XL Superintendent for review and signature, complete with all labor, equipment, and materials used that day. Failure to provide tags will be cause for rejection of the costs, or the XL Project Manager may determine the value of the cost at sole discretion of XL Project Manager.

ALTERNATES – The following alternates are inclusive of all costs and fees.
N/A

End of Exhibit C

Subcontractor's Initials:

General Contractor's Initials:

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Subcontract #: 4392.008

EXHIBIT D
Insurance Requirements
Revised: 10/15/15

Before performing work or conducting any activities at the site of the Project, Subcontractor shall, at its expense, procure and maintain insurance and required coverage's on all its operations, in admitted companies having at least an A. M. Best rating of no less than A-VIII (except for State Fund for Workers' Compensation coverage), or Contractor may consider accepting coverage from a non-California admitted carrier with an A.M. Best rating of A or better, financial capacity of XII or better and in forms acceptable to the Contractor as follows:

- A. Workers' Compensation and Employers Liability Insurance as required by any applicable law, regulation or statute in which Subcontractor's work is performed. Employers Liability Insurance shall be provided in amounts not less than:

- (1) \$1,000,000 each accident for bodily injury by accident;
- (2) \$1,000,000 each employee for bodily injury by disease;
- (3) \$1,000,000 policy limit for bodily injury by disease;

Longshoreman's & Harbor Worker's Act coverage on any employees working under this jurisdiction: Coverage for Jones Act on any maritime exposure; Waiver of Subrogation endorsement in favor of Contractor, Property owner, and the Project Owner (As required by Prime Contract.). If Subcontractor leases any employees through another company, then they will provide evidence of coverage in the form of an alternate employer/leased employee endorsement. Risk Retention Groups are not acceptable.

- B. General Liability Insurance, either Comprehensive General Liability of Commercial General Liability on coverage forms at least as broad as ISO occurrence form CG 0001, including coverage for:

- (1) Premises and Operations;
- (2) Products and Completed Operations;
- (3) Broad Form Property Damage (including Completed Operations)
- (4) Explosion, Collapse, Underground Hazards (including subsidence);
- (5) Contractual Liability insuring obligations assumed in this Subcontract;
- (6) Personal Injury and Advertising Liability
- (7) Severability of Interest Clause
- (8) General Aggregate Limits of Insurance shall apply separately to the project.
- (9) "Claims Made" and "Modified Occurrence" policy forms are not acceptable.
- (10) Any self-insured retention or deductible greater than \$25,000 must be declared to contractor at time of bid and approved by contractor in writing.
 - (a) Subcontractor shall maintain primary and excess products liability and completed operations coverage through the expiration of the patent deficiency in construction statute of repose set forth in Section 337.1 of the California Code of Civil Procedure.

- (11) Risk Retention Groups are not acceptable.

Unless otherwise specified in this subcontract, limits of liability shall be the greater of the limits required below or as carried by the Subcontractor. Minimum Limits of Liability shall be for all contractors other than described in section (11.a)

- (1) \$1,000,000 Each Occurrence Bodily Injury and Property Damage combined;
- (2) \$1,000,000 for Personal Injury Liability
- (3) \$2,000,000 Products & Completed Operations aggregate;
- (4) \$2,000,000 General Aggregate

(11.a) Minimum Limits for High Risk subcontractors as defined by Contractor including but not limited to the trades of Mechanical, Electrical, Plumbing, Process Piping, Elevators, Fire Protection, Structural Steel, Metal Decking, Roofing,

Earthwork, Foundations, Cranes, Shoring, Scaffolding and Exterior Building Envelope Enclosure shall be:

- (1) \$2,000,000 Each Occurrence Bodily Injury and Property Damage combined;
- (2) \$1,000,000 for Personal Injury Liability
- (3) \$4,000,000 Products & Completed Operations aggregate;
- (4) \$4,000,000 General Aggregate

The limits above can be provided in combination with an excess or umbrella policy

- C. Automobile Liability Insurance on a coverage form at least as broad as ISO form CA 0001, including:

Subcontract #: 4392.008

- (1) Coverage on all owned, non-owned, and hired automobiles;
 - (2) Limit of liability shall not be less than \$1,000,000 Combined Single Limit per accident.
 - (3) Name Contractor as Additional Insured on Auto Liability Policy.
- D. Increased liability limits: If higher limits or other forms of insurance are required by either the Owner or the Contractor, the Subcontractor will comply with such requirements by providing evidence of an umbrella or excess liability policy. This policy shall comply with all of the requirements of the general liability insurance shown above, and will include contractor as an additional insured.
- E. Additional Insured and Primary Insured Requirement:
- (1) Under the Commercial General Liability policy, the Subcontractor shall add the Contractor, its officers, directors and employees and the Owner (as required in this Subcontract) as additional insured. The policy shall stipulate that the insurance afforded the Contractor and the Owner, as additional insured shall apply as primary insurance. Any other insurance carried by the Contractor or the Owner will be excess only and will not contribute with this insurance. Insurance required by this contract and supported by the additional insured endorsement shall be as broad as necessary to support the indemnification requirement in said contract or as broad as the indemnitor's insurance coverage, whichever is broader.
 - (2) The additional insured coverage shall be provided by an endorsement providing coverage at least as broad as:
 - (a) Additional Insured (Form B) endorsement form CG 2010 (1985 version) as published by the ISO (or equivalent);
 - (b) A combination of Additional Insured endorsement form CG 2010 (any edition date) as published by the ISO (or equivalent) and Additional Insured endorsement form CG 2037 (any edition date) as published by the ISO (or equivalent);
 - (3) Additional insured endorsements shall be provided through warranty period following project completion.
 - (4) OCP - Owners and Contractors Protective Liability Coverage policy forms are not acceptable.
- F. Certificates of Insurance shall be furnished by the Subcontractor to Contractor before any work is commenced hereunder by the Subcontractor. In the event Subcontractor does not comply with the requirements of this section, Contractor, at its option, may provide insurance coverage to protect its interests and charge the Subcontractor for the cost of that insurance or Contractor may terminate this Subcontract. The required insurance shall be subject to approval of Contractor, but any acceptance of insurance certificates by the Contractor shall in no way limit or relieve the Subcontractor of the duties and responsibilities assumed by the Subcontractor in this Contract. No work shall be performed at the project site until said certificates have been furnished and approved. Payment may be withheld, or work may be suspended, at the option of the Contractor, until such certificates have been furnished, or if upon receipt of a cancellation notice on a policy, until withdrawal of the notice or the reinstatement of the canceled policy. Copies of subcontractor's insurance policies shall be furnished upon request.
- G. Requirements for Sub-Subcontractors, Vendors and Suppliers: Subcontractor shall ensure that its Subcontractors, Vendors and Suppliers of any tier shall maintain insurance in like form and amounts, including the Additional Insured requirements set forth above, and will provide contractor evidence of Sub-Subcontractors, vendors and suppliers insurance prior to their starting work.
- H. Builders Risk Insurance: Contractor and Subcontractor waive all rights against each other and against all other Subcontractors and Owner(s) for loss or damage to the extent reimbursed by Builder's Risk or any other property or equipment insurance applicable to the work, except such rights as they may have to the proceeds of such insurance. If the insurance policies require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the Owners of such policies will cause them to be so endorsed.
- Upon written request of the Subcontractor, Contractor shall provide Subcontractor with a copy of the Builders Risk policy of insurance or any other property or equipment policy in force for the project and procured by the Contractor. Subcontractor shall satisfy itself as to the existence and extent of such insurance prior to commencement of Subcontractor's work.
- If Builders Risk Insurance purchased by Owner or Contractor provides coverage for Subcontractor for loss or damage to Subcontractor's work, Subcontractor shall be responsible for the insurance policy deductible amount up to \$25,000.
- If Owner or Contractor has not purchased Builders Risk or equivalent insurance including the full insurable value of Subcontractor's work, then Subcontractor may procure such insurance at its own expense as will protect the interests of Subcontractor and its Subcontractors in the work. Such insurance shall also apply to any of Owner's or Contractor's property in the care, custody or control of the Subcontractor.

Subcontract #: 4392.008

- I. **Property Insurance:** Subcontractors of every tier shall procure and maintain at its own expense property and equipment insurance for Subcontractor's property, tools, equipment, temporary structures, work in progress (if not covered in "H" above), and work in transit or in temporary storage.
- J. **Crane/Riggers Liability:** Should Subcontractor or their Subcontractor's work involve the moving, lifting, lowering, rigging or hoisting of property or equipment by crane or other means, Subcontractor or their Subcontractor, is required to increase their general liability coverage limit to \$4,000,000. This limit can be achieved via a \$3,000,000 umbrella or excess liability policy. Subcontractor, or their Subcontractors, shall carry riggers liability insurance to insure against physical loss or damage to the property or equipment being hoisted, lifted or rigged.
- K. **Professional Liability Exposure:** A \$1,000,000 Professional Liability Insurance Policy shall be carried by Subcontractors providing any professional services under this subcontract including but not limited to design, mechanical, electrical, structural, plumbing and fire sprinkler. Evidence of coverage in the form of a Certificate of Insurance shall be provided prior to the start of the project. Coverage must allow for the reporting of claims for a minimum of 10 years following completion of the project. However, if Owner or contractor elects to purchase a project design policy, Subcontractor's policy will be endorsed to provide excess coverage only.
- L. **Aircraft/Helicopter Insurance:** If the Subcontractor or his Subcontractors use any owned, leased, chartered, or hired aircraft of any type in the performance of this contract, they shall maintain aircraft liability insurance in an amount of not less than \$10,000,000 per occurrence including Passenger Liability. Evidence of coverage in the form of a certificate of insurance shall be provided prior to the start of the project.
- M. **Pollution Liability:**
 - (1) If Subcontractors or their Subcontractors or Suppliers on any tier are performing work on the building envelope, or perform work that may cause mold or microbial matter, in addition to the above insurance requirements, carry a "Contractors Pollution Policy" with limits not less than \$1,000,000 per occurrence and \$1,000,000 annual aggregate. The policy shall have no exclusion for microbial matter or fungus (Mold).

If Subcontractors or their Subcontractors or Suppliers of any tier are either required to perform remediation of hazardous materials as those terms are defined in federal, state or local law, or if their operations create an exposure to hazardous materials, they must, in addition to the above requirements, carry a "Contractor's Pollution Liability" policy with limits not less than \$5,000,000 per occurrence and not less than \$5,000,000 annual aggregate naming Contractor as additional Insured. Coverage must be provided on an 'Occurrence Basis' and a 'Claims-made coverage' is not acceptable.
 - (2) If Subcontractor or their Subcontractors haul hazardous material (including, without limitation, waste), the policy must extend pollution coverage to the transportation of hazardous materials or pollutants by waste hauling vehicles with limits not less than \$2,000,000. If Subcontractor is subject to the Motor Carrier Act of 1980, the Motor Carrier Act endorsement MCS-90 must be obtained and attached to the policy. Coverage must be provided on an 'Occurrence Basis' and a 'Claims-made coverage' is not acceptable.
 - (3) If subcontractors work could in any way contribute to or cause airborne silica to be released, then they shall maintain a pollution liability policy with limits no less than \$1,000,000 per occurrence and \$2,000,000 Aggregate.
- N. **Subcontractors responsibility to provide adequate insurance:** Subcontractors obligations for loss or damage arising out of Subcontractors work is in no way limited to the types or amounts of insurance set forth above. To the extent Subcontractor maintains insurance greater than these minimum requirements, Subcontractor agrees that such insurance shall be applicable to any of Subcontractors liability obligations hereunder. In specifying minimum insurance requirements herein, neither Contractor nor Owner assert or recommend this insurance as adequate to Subcontractors requirements. Subcontractor is solely responsible to inform itself of amounts and types of insurance it may need beyond these requirements to protect itself from loss, damage or liability. Failure of Contractor to enforce in a timely manner any of the provisions of these Insurance Requirements shall not act as a waiver to enforcement of any of these provisions at a later date in the performance of this Subcontract. Any exceptions to these Insurance Requirements must be delineated in the Contract Documents.
- O. **Subcontractors use of Contractor's Equipment:** Contractor may permit Subcontractor to use Contractor's equipment. Contractor may require the return of equipment to Contractor's custody and control for any reason and at any time, and Contractor may allow parties the use of equipment at any time. Subcontractors accessing or utilizing any Contractor provided Scaffolding or Contractor provided Fall Protection Systems shall complete the required Scaffold and/or Fall Protection Loan and Indemnity Agreement Release.

Subcontract #: 4392.008

Subcontractor is solely responsible for its activities while using equipment and agrees to use the EQUIPMENT at its own risk. Contractor makes no warranties or guarantees regarding the safety or suitability for a particular purpose, or the

accuracy or effectiveness of the equipment to be used. Subcontractor has inspected the equipment to its full satisfaction before taking possession to ensure the equipment is operating safely.

Subcontractor agrees that Contractor shall have no liability for any damages resulting from the use of the EQUIPMENT by Subcontractor. Subcontractor agrees that all terms of paragraph 17, "Insurance and Indemnity" shall apply to Subcontractor's use of equipment.

Subcontractor shall ensure that its employees, agents and any individual(s) assigned by Subcontractor to operate the equipment (collectively "Operators") are trained and certified on the operation of the equipment before operating equipment. Before operating equipment, any operator shall have demonstrated their understanding of all hazards related to the operation of the equipment. All operators assigned by Subcontractor to operate the equipment shall be under the sole and exclusive supervision, direction and control of Subcontractor.

If Contractor permits Subcontractor to use any of Contractor's equipment, coverage for physical damage insurance for Contractor's equipment that is rented, leased, or hired from others. Limits of insurance shall not be less than \$100,000 per item/per occurrence. Insurance must not exclude or restrict coverage for any damage to the boom of EQUIPMENT caused by overload.

- P. Work Near Railroads: If Subcontractor (including any lower tier Subcontractor or supplier) performs any work or conducts any operations within fifty feet of any railroad (including any light rail, fixed rail or other rail system), Subcontractor shall obtain an endorsement of its Commercial General Liability Policy to delete any exclusion, including the "Contractual Liability" exclusion, for work performed within fifty feet of a railroad. A copy of such endorsement shall be provided to Contractor prior to any work or operations by Subcontractor within fifty feet of any railroad.
- Q. Other requirements:
- (1) Any acceptance of insurance certificates by Contractor shall in no way limit or relieve Subcontractor of its duties and responsibilities under this Subcontract including the duty to indemnify and hold harmless Contractor under other provisions hereof. Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve Subcontractor for liability in excess of such coverage nor shall it preclude Contractor from taking such other actions as is available to it under any other provision of this Subcontract or law. If higher limits or other forms of insurance are required in the Prime Contract, Subcontractor will comply with such requirements.
 - (2) Subcontractor shall be responsible for any deductible amount or any loss arising out of coverage denials by its insurance carrier(s).
 - (3) Should any insurance policy lapse or be canceled during the contract period, Subcontractor shall, prior to the effective expiration or cancellation date, furnish Contractor with evidence of renewal or replacement of the policy. Failure to continuously satisfy insurance requirements as herein provided is a material breach of contract. In the event Subcontractor fails to maintain any insurance coverage required, Contractor may, but is not required to, maintain such coverage and charge the expense to Subcontractor or terminate this contract.
 - (4) Subcontractor will notify Contractor in writing within 24 hours of receiving a Notice of Cancellation on any insurance policy required in these insurance requirements. Notice of Cancellation should be faxed to the attention of Contractor's Accounting Department. Failure of Subcontractor to provide timely notice of pending cancellation shall be considered a material Breach of Contract.

End of Exhibit D

Subcontractor's Initials:

General Contractor's Initials:

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Subcontract #: 4392.008

EXHIBIT E
GENERAL REQUIREMENTS
Revised: 10/17/17

1. GENERAL

- a. XL Construction is signatory to the Laborers', Carpenter's, and Cement Mason's Unions. Subcontractors are to provide Union labor for all work claimed by these trades. In trades that use labor in other classifications, non-union labor is acceptable, unless otherwise indicated by the biddings documents or other contract documents.
- b. Provide all labor, materials, equipment, tools, layout, scaffolding, storage, hoisting, rigging, cartage, supplies, safety equipment, supervision, insurance, taxes, applicable bonds, overhead, profit and all other items necessary to perform the work.
- c. Contract price includes all costs for escalation, labor and material price increases per project schedule. No escalation costs or other price increases will be accepted for the duration of the project.
- d. Design / Build Subcontractors shall include costs of plan check and permits fees associated with the specific subcontractor's work.
- e. If this project is pursuing LEED certification all subcontractors are required to perform their work in a manner consistent with the LEED Checklist and Specifications, including providing the documentation required to achieve LEED credits. Refer to the project documents for additional information.

2. SITE REQUIREMENTS

- a. All subcontractors are to include all costs for daily cleanup, dumpsters and/or off haul of their debris associated with their work.
- b. **DAILY CLEAN-UP IS MANDATORY.** Subcontractors shall participate in a recycling program for this project. Each subcontractor is responsible for separating and disposing of debris in the appropriate dumpster.
- c. Subcontractor is prohibited from removing any materials, equipment, etc. from the project that may have salvage value unless specifically authorized by XL Construction in writing.
- d. Subcontractor shall provide Encroachment Permits, Traffic Control Plans and fees for work in Public streets or sidewalks.
- e. Subcontractor will be responsible for properly coordinating its scope of work with other trades and XL Construction. Any items missed during coordination shall be corrected at the subcontractor's expense.
- f. Subcontractor is responsible for protecting existing structure and property, personnel and the work of other contractors in carrying out this scope of work.
- g. All works in progress and completed shall be protected by the subcontractor from damage by other trades during construction. This subcontractor shall reinstate any damage caused by failure to protect as required.
- h. Where the subcontractor is to provide the Contractor with penetration information, such information shall be issued in sufficient time to enable holes, ducts, chases, etc., to be formed or built as the works proceed.
- i. Include all chipping, coring, drilling, and saw cutting as necessary for a complete and proper installation.
- j. Subcontractor is responsible for all costs associated with locating existing utilities, whether in concrete slabs and/or below grade, including interior and exterior, etc. All existing utilities shall be located and marked prior to saw cutting, coring, excavating, etc. Subcontractor shall perform the work in such a manner as to avoid damaging any lines, cables, pipes, pipelines, etc.
- k. Task lighting is the responsibility of subcontractor requiring it.
- l. Power for equipment with higher voltage or wattage, such as welding, beyond the normal temporary power being provided by XL, is the responsibility of subcontractor requiring it.
- m. Subcontractor shall provide all fans, air scrubbers, etc. as required to maintain air quality levels caused by welding or such activities.
- n. Subcontractor shall provide all labor, materials and equipment for minimizing dust migration for all dust creating activities.
- o. Subcontractor shall provide all sound attenuation or insulation requirements for its work shown or specified, including existing conditions.
- p. All Subcontractors are responsible for sealing all their penetrations, including existing penetrations if applicable, in fire rated assemblies with submitted and approved UL Listed Assemblies. Refer to the contract documents for additional information.
- q. Subcontractor is responsible for providing all supports required for their work, including anchors, miscellaneous iron, bracing, etc., as required for a complete and code compliant system. If calculations are required, subcontractor must use a licensed structural engineer, registered in the State of California, to perform the calculations required.

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- r. Subcontractor is responsible for removing all layout on floor and walls prior to installation of finishes. Use of paint, sharpies, or other types of markers that may bleed through the flooring or other finishes is not allowed. Verify products with XL prior to use.
 - s. Subcontractor shall submit daily a "Subcontractor's Daily Report" on General Contractor's form at the end of shift every day indicating the number of personnel working on the project site, their specific craft and classification, hours worked, equipment used, work activity and any significant event(s).
- 3. PROJECT SCHEDULE**
- a. Time is of the essence of this project. Subcontractor shall maintain proper manpower loading and all necessary equipment move-in's to maintain the project schedule as issued by XL. Subcontractor agrees to the dates for the schedule and meet any specific milestones and duration noted for your trade. Subcontractor includes out of sequence and comeback work when work of other trades is required prior to and/or affects the work of this trade.
- 4. MATERIAL HANDLING**
- a. Use of scissor lifts in the buildings will be at the discretion of XL Construction. Any subcontractor proposing to use lifts will need to provide loads for the engineer's review.
 - b. Parking for construction crews to be coordinated with XL Construction.
 - c. Space may be limited; therefore, laydown areas for equipment and material will have to be closely coordinated with XL Construction. Just in time deliveries may be utilized to avoid congesting the site. All deliveries are to be coordinated and approved with XL Construction a minimum of 48 hours in advance.
 - d. Subcontractor shall receive, unload and handle all materials and equipment required for the performance of this Work including equipment furnished by others. Subcontractor shall provide competent flagmen for any traffic control required for this Work (both vehicular and pedestrian) to direct traffic.
- 5. TESTING AND INSPECTIONS**
- a. Subcontractor will provide labor, material, equipment, etc. and means of access to perform code required inspections. Include all necessary costs to cover this process. Subcontractor will be required to submit a Request for Inspection Form to XL in advance of each inspection and/or test (notification time will be determined by XL Superintendent). If a subcontractor's work does not pass inspection and/or testing, that subcontractor will be responsible to pay all applicable re-inspection fees and/or retesting fees. Subcontractor foreman (or field lead) will, at the discretion of the XL Superintendent, be required to attend inspections.
 - b. To avoid damaging ceiling tiles the Subcontractor requiring access to the interstitial space for testing and or inspections is responsible for installing color-coded flags to identify areas where ceiling tiles are to be left out. The flag must hang below the ceiling grid. Upon completion of all testing and balancing the Subcontractor shall remove the flags to allow for the Ceiling Subcontractor to complete the installation of the ceiling tiles.
 - c. Subcontractor is responsible for removing and replacing ceiling tiles where access is needed for their work, inspections, investigations, demo, etc.
 - d. Subcontractors must pre-test their systems in the presence of XL Superintendent prior to inspection by City or County inspectors.
 - e. Costs associated with failed inspections will be the subcontractor's responsibility requesting the inspection.
- 6. PROJECT ADMINISTRATION**
- a. Subcontractor meetings: During construction, all on-site subcontractor foremen will be required to participate in weekly subcontractor coordination meetings with XL Construction and the other trades on site.
 - b. All materials, parts, equipment, workmanship and modifications made shall be warranted for a minimum of one year from the date of acceptance of work, which is the "Certificate of Occupancy" as issued by the City Inspector. If the project specification warranty period is longer than one year, subcontractor shall comply with the project specifications. All defective items that surface during the warranty period shall be rectified at no cost to the XL or the Owner. A written warranty certificate shall be submitted prior to final payment. All equipment manufacturer warranties shall be submitted with subcontractor warranty.
 - c. Final as-built drawings are required and shall be submitted to XL Construction no later than ten days after project completion. Unless otherwise noted by the project team, three (3) sets of as-builts are required in addition to two (2) electronic copies. In addition, Subcontractors shall update as-builts monthly. Progress payments will be withheld if as-builts are not up to date at time of billings.
 - d. If necessary, daily work tags and must be signed by the XL Construction Project Superintendent.
 - e. **SUBMITTALS**
 - i. Within 5 days of the Notice to Proceed (NTP), provide a shop drawing/submittal log and schedule of submittals.
 - ii. All submittals must be submitted no more than 15 days after contract award, or per XL's submittal schedule.
 - iii. No material or equipment shall be ordered without an approved submittal unless written direction is issued by XL's project manager.
 - iv. Comply with project specifications, and provide the following submittals, as required:

Subcontract #: 4392.008

- I. All engineering calculations
 - II. Coordination drawings
 - III. Shop Drawings
 - IV. Information sheets on new materials, fixtures, equipment, controls, and devices
 - v. Submit all submittals electronically using Procore, a web based file sharing system.
 - vi. If not electronic, Subcontractor is required to submit the required number of hardcopies and samples.
 - vii. Provide mock-ups as required by XL Construction and listed in the specifications or the specific instructions.
 - viii. Comply with specifications and requirements set forth by the Designer / Owner for submission of alternates.
 - ix. Provide a Weekly Status Report regarding procurement status, fabrication, etc. of items required for this Work.
 - x. Operations and Maintenance manuals are to be submitted with project submittals or upon release of equipment into fabrication.
- f. **REQUEST FOR INFORMATIONS**
- i. RFI's must be submitted in writing to XL Construction within one business day of discovering an issue.
 - ii. Untimely submission of RFI's will exclude Subcontractors' right to seek additional time. Subcontractors should plan their work accordingly to avoid impacting the project schedule with late discovery.
 - iii. All RFI's must be accompanied with photos and/or sketches illustrating the issue along with a proposed solution. RFI's issued to XL Construction that are illegible and unclear will be rejected.
7. **BIM / MODELING:**
- a. This project may incorporate BIM Modeling to coordinate and prevent system clashes. Refer to the Project's BIM Execution Plan, for more detail.
8. **SAFETY**
- a. Include all safety equipment and provisions to complete the work in a safe and proper manner. As a minimum, Subcontractors shall comply with all Federal, State and Local Regulatory requirements pertaining to Employee Health and Safety and Industrial Welfare Commission requirements. In situations where XL Construction Corporation and/or its client deem more stringent requirements for employee health and safety are necessary, such requirements shall supersede statutory minimum requirements. In addition, each subcontractor shall adhere to the Health, Safety and Environmental requirements of XL Construction's Subcontractor Safety Program (SSP).
 - b. Subcontractors/Vendors with Crews 25 and Larger: shall employ a full-time, non-productive, dedicated Safety Coordinator. This person shall be an active team member within the overall safety staff team and shall look out for all trades and general site safety, but in particular manage safety within their crews and ensure compliance. Qualifications: minimum 5 years within the trades, minimum OSHA 30 (within last 2 years) or greater, and minimum 1-year experience in safety-related activities.
 - c. XL has implemented a ZERO TOLERANCE program on all XL Construction projects. Craftsman may be removed from the project after a single serious safety violation. In addition, XL may stop the subcontractor's work after any recordable injury and conduct a senior level management review meeting with the subcontractor's executive in charge of the project. Determination of a serious safety violation is at the discretion of the project superintendent.
 - d. All Subcontractor personnel will be required to be a part of the Clicksafety program. This is an online safety training and test that is to be taken by each person that will be working onsite. The subcontractor is to pay \$68 per person directly to Clicksafety for this service. The online training and test will take approximately, 45 minutes and once completed is good for each employee, for one year, at any XL construction jobsite. We encourage the training and test be taken from the subcontractor's office or home. This will reduce the non-productive safety orientation time requirement on the job. Loss in productivity caused by workers that arrive onsite untrained shall be the responsibility of Subcontractor. Confirmation of passing the test will need to be provided to or verified by the XL Project Superintendent prior to starting work onsite. A sticker will be issued once evidence of successful completion of the training has been provided.
 - e. When required per project, Subcontractor shall also have each person working onsite take the Infection Control Clicksafety program.

Subcontract #: 4392.008

- f. All workers will be expected to be trained on Project Specific site safety requirements, which should be expected to be 1 hour per craftsperson.
- g. Safety Meetings: All on-site workers are required to attend a XL Construction led safety meeting every week.
- h. Subcontractor's use of Contractor provided Equipment, Scaffolding and Planking ("Contractor Facilities") is at its own risk, and Subcontractor acknowledges that Contractor Facilities are provided by XL Construction "AS IS." Contractor disclaims any and all warranties, whether express or implied, including any warranties of fitness. Subcontractor shall be responsible to inspect all areas of the Contractor Facilities that it intends to utilize before every use, and will report to XL Construction any functional defects and will refrain from using the Contractor Facilities until the defects are addressed. Subcontractor agrees that it is responsible for training and implementing safety precautions for its employees that use the Contractor Facilities.
- i. Subcontractor foremen will be required to complete and review "Methods of Procedures" (MOPs) and/or "Job Hazard Analysis" (JHA) with the onsite XL foreman at a minimum of 15 days ahead of when any activity will be taking place. These MOPs are to include step-by-step procedures for activities to be performed by the subcontractor along with potential risks and risk mitigation efforts employed by the subcontractor. These are to be reviewed daily by all crews onsite prior to engaging in their activities.

9. CLICKSAFETY NOTIFICATION

Notification of Online Contractor Safety Training Initiative

XL Construction and ClickSafety have partnered to create a web-based Contractor Safety orientation course for all XL Construction Projects. All Subcontractors requiring access to this project must complete this orientation-training course online through ClickSafety. This course addresses site-specific safety expectations/requirements that you and your employees are expected to understand and comply with while working on the premises.

XL has also created Current Good Manufacturing Practices (cGMP), Good Documentation Practices (GDP) and Infection Control training programs, which address additional training requirements for those types of projects.

Project Requirements:

ClickSafety is the leading provider of web-based safety and risk management systems for the Construction Industry.

ClickSafety will be providing the online training and tracking system used to deliver safety orientation. You will be required to have ALL your employees successfully complete the online Contractor Safety orientation course through the ClickSafety system prior to their arrival onsite. The average employee should take 30 - 45 minutes to complete the training for each course. Some of the courses are available in English and Spanish. SSP training is good for one year. You might be required to take some or all the additional courses outlined above. The project team will advise on these requirements. All mandatory courses for your project will be included on the Invitation to Bid Document. Please refer to the Invitation to Bid Document to see which courses will be required for each project.

Project Fees:

The fee structure for ClickSafety services is: \$68.00/Employee.

In addition, your company will be required to accept ClickSafety's Users Agreement upon registration.

ClickSafety Account Setup, User Registration and Implementation:

Step 1: Go to the XL Construction portal at www.clicksafety.com/xl

Step 2: Create a company account. Click on the 'Company' tab above the 'User' Step 1 on the home page.

Step 3: Prepay for employee training with a credit card.

Step 4: Direct all employees to the project page to self-register and complete training prior to arrival at the jobsite.

A ClickSafety representative will be available to answer any of your questions about this program. The ClickSafety program administrator is:

Jason Maddox
Account Manager
ClickSafety.com, Inc.
Phone: 925.855.6731
Email: Jason.Maddox@clicksafety.com

For general information about ClickSafety, you can visit their web site at: www.clicksafety.com.

Subcontract #: 4392.008

Should you have specific questions regarding the project or safety requirements, you may contact:

Lili Vergara
Safety & Health Specialist
XL Construction
Phone: 408.240.6379
Email: LVergara@xlconstruction.com

We appreciate your attention in this matter and look forward to a continuing and successful business relationship.

Disclaimer:

ClickSafety and XL Construction make this training material available with the understanding that users exercise their own skill and care with respect to its use. It is the duty of each employer as specified in the Occupational Safety and Health Act of 1970 (P.L. 91-596) to furnish to each of his employee's employment and a place of employment which is free from recognized hazards that are causing or likely to cause death or serious physical harm to his employees and must comply with the applicable occupational safety and health standards adopted for his / her type of work. In addition, each employee must comply with occupational safety and health standards and all rules, regulations, and orders which are applicable to his or her own actions and conduct.

10. CLICKSAFETY INSTRUCTIONS

1. Go to www.clicksafety.com/xl
2. Click on "Register for Training" square button on right
3. Complete "First Name", "Last Name" and both "Last 4 digits of SSN" fields
4. Select your preferred language.
5. Select your employer from the drop-down menu. If your employer is not listed or if you did not receive an access code from your employer, please contact your office Administrator to complete company registration information.
6. Enter your company access code. This can be received from your company administrator.
7. Select the Training Courses that you are assigned to take. Highlight the course and click the right arrow button so that it will be added to your selected courses to take. If you need to add additional tests, continue to select the course from the left and click on the right arrow button. When you are finished adding courses, click Continue.
8. Confirm your First Name, Last Name, Last 4 digits of your SSN, Language Preference, Employer name and Training Courses Selected. Click Next.
9. You will next be sent to an activation page. Click "Login".
10. You will automatically be sent to the beginning of the course or to your main user screen. If you need to logout for any reason, you can go back to www.clicksafety.com/xl and enter your username and password. The course will keep your place. Your username will be your first initial, your entire last name. Example: John Smith = jsmith. Your password will be the last 4 digits of your SSN.
11. Click the red arrow to begin the course.
12. You must answer all quiz questions correctly to move to the next section of the course. There are 4 sections total.
13. If you come to a screen that has graphics in the lower right-hand corner, please wait until the pictures move to the left before advancing to the next screen.
14. When you have completed the course, click "Return to the Control Panel".
15. Scroll down to "Assigned Courses" and double click on the certificate icon to the right of the completed course.
16. Print the certificate and bring it to the job trailer headquarters to receive your hard hat sticker allowing you access to the jobsite.
17. Please contact your company Administrator or Foreman if you are having any difficulty completing this course on your own.
18. If you are required to take additional courses, you can then select them from the control panel.

End of Exhibit E

Subcontractors Initials: DS
General Contractor's Initials: PLG DS

RECAP OF BALANCE DUE

(XL Construction and Kaiser Foundation)

(Drywall Contract \$221,223.00) + (Acoustical Contract \$161,982.00) = (TOTAL BASE CONTRACT \$383,205.00)

(Drywall Changes \$230,312.76) + (Acoustical Changes \$33,273.00) = (TOTAL EXECUTED CHANGES \$263,585.76)

(Revised Drywall Contract \$451,535.76) + (Revised Acoustical Ceilings Contract \$195,255.00) = (TOTAL REVISED CONTRACT \$646,790.76)

(Total Contract Amount \$646,790.76) – (Amount Received \$539,060.36) = (TOTAL AMOUNT DUE \$107,730.40)

Courthouse News Service

CALIFORNIA PRELIMINARY NOTICE
(For use on Private and Public Works)
California Civil Code §§ 8200, et seq., 9300, et seq.

OWNER or **PUBLIC ENTITY**
or Reputed Owner (private work) (public work)

Kaiser Foundation Health Plan, Inc.
(name)

1800 Harrison Street
(address)

Oakland CA 94612
(city) (state) (zip code)

DIRECT CONTRACTOR or
Reputed Direct Contractor, if any
(private and public work)

XL Construction Corp.
(name)

851 Buckeye Court
(address)

Milpitas CA 95035
(city) (state) (zip code)

CONSTRUCTION LENDER or
Reputed Construction Lender, if any
(private work)

None
(name)

(address)

(city) (state) (zip code)

NOTICE TO PROPERTY OWNER

EVEN THOUGH YOU HAVE PAID YOUR CONTRACTOR IN FULL, if the person or firm that has given you this notice is not paid in full for labor, service, equipment, or material provided or to be provided to your construction project, a lien may be placed on your property. Foreclosure of the lien may lead to loss of all or part of your property. You may wish to protect yourself against this by (1) requiring your contractor to provide signed releases by the person or firm that has given you this notice before making payment to your contractor, or (2) any other method that is appropriate under the circumstances.

This notice is required by law to be served by the undersigned as a statement of your legal rights. This notice is not intended to reflect upon the financial condition of the contractor or the person employed by you on the construction project.

If you record a notice of cessation or completion of your construction project, you must with 10 days after recording, send a copy of the notice of completion to your contractor and the person or firm that has given you this notice. The notice must be sent by registered or certified mail. Failure to send the notice will extend the deadline to record a claim of lien. You are not required to send the notice if you are a residential homeowner of a dwelling containing four or fewer units.

YOU ARE HEREBY NOTIFIED THAT

Raymond - Northern California, Inc., a California corporation
(name of person or firm furnishing labor, services, equipment or material)

4589 Pacheco Blvd., Martinez, CA 94553
(address of person or firm furnishing labor, services, equipment or material)

Telephone (925) 680-8300

Subcontractor

(describe claimant's relationship to the parties, e.g. direct contractor, subcontractor, materialman) has furnished or will furnish labor, services, equipment or materials of the following general description of the labor, services, equipment or material furnished or to be furnished:

Gypsum Board Assemblies

for the building, structure or other work of improvement located at:
(address or description of job site sufficient for identification, including street address, if any)

Kaiser OAK CDRP Service Relocation

380 W. MacArthur Blvd.

Oakland, CA 94609

The name of the person or firm to or for whom the work is provided:

XL Construction Corp. (XL Job #4392.003)

An estimate of the total price of the labor, services, equipment or materials furnished or to be furnished is:

\$221,223.00

Identify all laborers not paid compensation when due, and any person or entity to whom a portion of a laborer's compensation is paid. State: number of straight time and overtime hours worked by the laborer on each job; and, amount then past due and owing.
(Material suppliers not required to furnish)

(names and address of unpaid laborer)

(names and address of unpaid laborer)

(names and address of unpaid laborer)

PROOF OF SERVICE DECLARATION

I, Kendra Millner, declare that on February 5, 2018, I served copies of the California Preliminary Notice on each of the parties at the addresses set forth below:

Construction Lender or Reputed Construction Lender: (name) None

(address) _____

Owner or Direct Owner or Public Entity: (name) Kaiser Foundation Health Plan, Inc.

(address) 1800 Harrison Street, Oakland, CA 94612

Direct Contractor or Reputed Direct Contractor: (name) XL Construction Corp.

(address) 851 Buckeye Court, Milpitas, CA 95035

In the following manner (check appropriate box):

- ☐ by personally delivering copies upon a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him/her of the general nature of the papers.
- ☒ by registered or certified mail, express mail or overnight delivery by an express service carrier, addressed to each of the parties at the address shown above.
- ☐ by leaving the notice and mailing a copy in the manner provided in California Code of Civil Procedure §415.20 for service of summons and complaint in a civil action.

I declare under penalty of perjury, that the foregoing is true and correct. Executed on February 5, 2018, at Martinez, California.


(Signature of person making service)

Kendra Millner
Print Name

Civil Code §8118: If notice is given by registered mail, certified mail or express service carrier, documentation must be attached:

1. U.S. Postal Service receipt showing payment was made to mail the notice using registered or certified mail or express mail.
2. Documentation provided by an express service carrier showing that payment was made to send the notice by overnight delivery service.
3. Return receipt, delivery confirmation, signature confirmation, tracking record or other proof of delivery or attempted delivery provided by the U.S. Postal Service or express service carrier.

CALIFORNIA PRELIMINARY NOTICE
(For use on Private and Public Works)
California Civil Code §§ 8200, et seq., 9300, et seq.

OWNER or **PUBLIC ENTITY**
or Reputed Owner (public work)
(private work)

Kaiser Foundation Health Plan, Inc.

(name)

1800 Harrison Street

(address)

Oakland

(city)

CA

(state)

94612

(zip code)

DIRECT CONTRACTOR or
Reputed Direct Contractor, if any
(private and public work)

XL Construction Corp.

(name)

851 Buckeye Court

(address)

Milpitas

(city)

CA

(state)

95035

(zip code)

CONSTRUCTION LENDER or
Reputed Construction Lender, if any
(private work)

None

(name)

(address)

(city)

(state)

(zip code)

YOU ARE HEREBY NOTIFIED THAT

Raymond - Northern California, Inc., a California corporation

(name of person or firm furnishing labor, services, equipment or material)

4589 Pacheco Blvd., Martinez, CA 94553

(address of person or firm furnishing labor, services, equipment or material)

Telephone (925) 680-8300

Subcontractor

(describe claimant's relationship to the parties, e.g. direct contractor, subcontractor, materialman) has furnished or will furnish labor, services, equipment or materials of the following general description of the labor, services, equipment or material furnished or to be furnished:

Acoustical Ceilings

for the building, structure or other work of improvement located at:
(address or description of job site sufficient for identification, including street address, if any)

Kaiser OAK EDRP Service Relocation

380 W. MacArthur Blvd.

Oakland, CA 94609

The name of the person or firm to or for whom the work is provided:

XL Construction Corp. (XL Job #4392.008)

NOTICE TO PROPERTY OWNER

EVEN THOUGH YOU HAVE PAID YOUR CONTRACTOR IN FULL, if the person or firm that has given you this notice is not paid in full for labor, service, equipment, or material provided or to be provided to your construction project, a lien may be placed on your property. Foreclosure of the lien may lead to loss of all or part of your property. You may wish to protect yourself against this by (1) requiring your contractor to provide signed releases by the person or firm that has given you this notice before making payment to your contractor, or (2) any other method that is appropriate under the circumstances.

This notice is required by law to be served by the undersigned as a statement of your legal rights. This notice is not intended to reflect upon the financial condition of the contractor or the person employed by you on the construction project.

If you record a notice of cessation or completion of your construction project, you must with 10 days after recording, send a copy of the notice of completion to your contractor and the person or firm that has given you this notice. The notice must be sent by registered or certified mail. Failure to send the notice will extend the deadline to record a claim of lien. You are not required to send the notice if you are a residential homeowner of a dwelling containing four or fewer units.

An estimate of the total price of the labor, services, equipment or materials furnished or to be furnished is:.

\$161,982.00

Identify all laborers not paid compensation when due, and any person or entity to whom a portion of a laborer's compensation is paid. State: number of straight time and overtime hours worked by the laborer on each job; and, amount then past due and owing.
(Material suppliers not required to furnish)

(names and address of unpaid laborer)

(names and address of unpaid laborer)

(names and address of unpaid laborer)

PROOF OF SERVICE DECLARATION

I, Kendra Millner, declare that on February 5, 2018, I served copies of the California Preliminary Notice on each of the parties at the addresses set forth below:

Construction Lender or Reputed Construction Lender: (name) None

(address) _____

Owner or Direct Owner or Public Entity: (name) Kaiser Foundation Health Plan, Inc.

(address) 1800 Harrison Street, Oakland, CA 94612

Direct Contractor or Reputed Direct Contractor: (name) XL Construction Corp.

(address) 851 Buckeye Court, Mipiltas, CA 95035

In the following manner (check appropriate box):

- ☐ by personally delivering copies upon a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him/her of the general nature of the papers.
- ☒ by registered or certified mail, express mail or overnight delivery by an express service carrier, addressed to each of the parties at the address shown above.
- ☐ by leaving the notice and mailing a copy in the manner provided in California Code of Civil Procedure §415.20 for service of summons and complaint in a civil action.



I declare under penalty of perjury, that the foregoing is true and correct. Executed on February 5, 2018, at Martinez, California.


Kendra Millner
(Signature of person making service)

Kendra Millner
Print Name

Civil Code §8118: If notice is given by registered mail, certified mail or express service carrier, documentation must be attached:

1. U.S. Postal Service receipt showing payment was made to mail the notice using registered or certified mail or express mail.
2. Documentation provided by an express service carrier showing that payment was made to send the notice by overnight delivery service.
3. Return receipt, delivery confirmation, signature confirmation, tracking record or other proof of delivery or attempted delivery provided by the U.S. Postal Service or express service carrier.

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature X </p> <p><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>Kaiser Foundation Health Plan, Inc. 1800 Harrison Street Oakland, CA 94612</p>		<p>B. Received by (Printed Name) </p>	<p>C. Date of Delivery</p>
		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™ <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery</p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number (Transfer from service label)</p>		<p>7007 0220 0003 6845 2187</p>	
PS Form 3811, July 2013		Domestic Return Receipt	

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature X </p> <p>XL Construction <input type="checkbox"/> Agent VI Pham <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>XL Construction Corp. 851 Buckeye Court Milpitas, CA 95035</p>		<p>B. Received by (Printed Name) VI Pham</p>	<p>C. Date of Delivery FEB 07 2018</p>
		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™ <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery</p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number (Transfer from service label)</p>		<p>7007 0220 0003 6845 2170</p>	
PS Form 3811, July 2013		Domestic Return Receipt	

Recording Requested By:

Ray Gilbert, V.P./Area Manager of
Raymond-Northern California, Inc.



2019044825

03/12/2019 02:19 PM

OFFICIAL RECORDS OF ALAMEDA COUNTY
MELISSA WILK
RECORDING FEE: 105.00

When Recorded Mail To Claimant at:

Attn: Kendra Millner, Contract Admin.
Raymond - Northern California, Inc.
4589 Pacheco Blvd.
Martinez, CA 94553



3 PGS

COPY of document to be recorded
has not been compared with original

SPACE ABOVE THIS LINE FOR RECORDERS USE

CLAIM OF MECHANICS LIEN

(CA Civil Code §8400 et seq)

THE UNDERSIGNED CLAIMANT, RAYMOND-NORTHERN CALIFORNIA, INC., A CALIFORNIA CORPORATION (correct full name as on contractor's license, if applicable or records of Secretary of State), CLAIMS A LIEN FOR LABOR, SERVICES, EQUIPMENT, AND/OR MATERIALS UNDER CALIFORNIA CIVIL CODE SECTION 8416 ET SEQ., UPON THE PREMISES HEREINAFTER DESCRIBED, AND UPON EVERY ESTATE OR INTEREST IN SUCH STRUCTURES, IMPROVEMENTS AND PREMISES HELD BY ANY PARTY HOLDING ANY ESTATE THEREIN.

THE LABOR, SERVICES, EQUIPMENT, AND/OR MATERIALS, WERE FURNISHED FOR THE CONSTRUCTION OF THOSE CERTAIN BUILDINGS, IMPROVEMENTS, OR STRUCTURES, NOW UPON THAT CERTAIN PARCEL OF LAND SITUATED IN THE COUNTY OF Alameda, STATE OF CALIFORNIA, SAID LAND DESCRIBED AS FOLLOWS:

Address: 380 W. MacArthur Blvd., Oakland, CA 94609 and/or Sufficient

Description: Kaiser OAK CDRP Service Relocation Project

THE MECHANICS LIEN IS CLAIMED FOR THE FOLLOWING GENERALLY DESCRIBED WORK, LABOR, SERVICES, EQUIPMENT OR MATERIALS:

Description: Drywall, Insulation, Acoustical Ceilings

THE SUM OF \$161,788.00, TOGETHER WITH INTEREST THEREON AT THE RATE OF 7% PERCENT PER YEAR FROM 3/12/2019 (date when balance became due), IS DUE CLAIMANT, AFTER DEDUCTING ALL JUST CREDITS AND OFFSETS, FOR THE LABOR, SERVICES, EQUIPMENT, AND/OR MATERIALS FURNISHED BY CLAIMANT.

CLAIMANT FURNISHED THE LABOR, SERVICES, EQUIPMENT, AND/OR MATERIALS AT THE REQUEST OF OR UNDER CONTRACT WITH:

Name: XL Construction Corporation

Address: 851 Buckeye Court, Milpitas, CA 95035

THE OWNER(S) OR REPUTED OWNER(S) OF SAID PREMISES IS/ARE:

Name: Kaiser Foundation Health Plan, Inc.

Address: 1800 Harrison Street, Oakland, CA 94612

DATE: 3/8/2019

NAME OF CLAIMANT: RAYMOND-NORTHERN CALIFORNIA, INC.

BY:

(Signature of Claimant or Authorized Agent)

Travis Winsor C.E.O.

VERIFICATION

I, Travis Winsor, state: I am the C.E.O. ("Owner of", "President of", "Authorized Agent of", "Partner of", etc.) of the claimant named in the foregoing Mechanics Lien. I have read said Mechanics Lien and know the contents thereof; the same is true of my own knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 8, 2019 (date), at Orange (city), California.

(Signature of Claimant or Authorized Agent)

NOTICE OF MECHANICS LIEN

ATTENTION!

Upon the recording of the enclosed MECHANICS LIEN with the county recorder's office of the county where the property is located, your property is subject to the filing of a legal action seeking a court-ordered foreclosure sale of the real property on which the lien has been recorded. That legal action must be filed with the court no later than 90 days after the date the mechanics lien is recorded.

The party identified in the enclosed mechanics lien may have provided labor or materials for improvements to your property and may not have been paid for these items. You are receiving this notice because it is a required step in filing a mechanics lien foreclosure action against your property. The foreclosure action will seek a sale of your property in order to pay for unpaid labor, materials, or improvements provided to your property. This may affect your ability to borrow against, refinance, or sell the property until the Mechanics Lien is released.

BECAUSE THE LIEN AFFECTS YOUR PROPERTY, YOU MAY WISH TO SPEAK WITH YOUR CONTRACTOR IMMEDIATELY, OR CONTACT AN ATTORNEY, OR FOR MORE INFORMATION ON MECHANICS LIENS GO TO THE CONTRACTORS' STATE LICENSE BOARD WEBSITE AT www.cslb.ca.gov.

Please complete and sign at least one (1) of the following proofs of service and record it along with this 3-page Mechanics Lien: Always attempt to serve the owner or reputed owner. Per California Civil Code § 8416 (c)(2) you must use the "ALTERNATIVE PROOF OF SERVICE AFFIDAVIT" if the owner or reputed owner cannot be served under Civil Code Section 8416(c)(1). Note: There is no prohibition from using both proof of service affidavits and serving both the owner/reputed owner as well as the construction lender and/or original contractor.

Use the Alternative Proof of Service Affidavit if the owner or reputed owner cannot be served per California Civil Code § 8416 (c)(1), as specified above. Note: You may also use this Alternative Proof of Service if you have served the owner or reputed owner as specified above and also want to serve the construction lender and/or original contractor as an additional measure.

PROOF OF SERVICE AFFIDAVIT

California Civil Code §8416 (a)(7), (c)(1)

I Aynae Kebede, declare that I served a copy of the enclosed MECHANICS LIEN and NOTICE OF MECHANICS LIEN by Registered Mail, Certified Mail, or First Class Mail, evidenced by a certificate of mailing, postage prepaid, addressed to the following owner or reputed owner of the property Kaiser Foundation Health Plan, Inc.

(Name and title of person or entity served)

at the following address: 1800 Harrison Street, Oakland, CA 94612

(Owner's residence or place of business or owner's address on building permit or otherwise as per California Civil Code Section 8174)

on this date: 3/8/2019 Signed at Orange, Orange
(Month/Day/Year) (City, County of person making service)

on this date: 3/8/2019 [Signature]
(Month/Day/Year) (Signature of person making service)

ALTERNATIVE PROOF OF SERVICE AFFIDAVIT

California Civil Code §8416 (a)(7), (c)(2)

I , declare that the owner or reputed owner of the property specified in the enclosed MECHANICS LIEN and NOTICE OF MECHANICS LIEN could not be served by Registered Mail, Certified Mail, or First Class Mail, evidenced by a certificate of mailing, postage prepaid as specified in California Civil Code § 8416 (c)(1), or that I am also serving the Construction Lender and/or Original Contractor as an additional measure. Therefore, pursuant to California Civil Code §8416 (c)(2), I served a copy of the enclosed MECHANICS LIEN and NOTICE OF MECHANICS LIEN by Registered Mail, Certified Mail or First Class Mail, evidenced by a certificate of mailing, postage prepaid, addressed to the construction lender (N/A)

(Name of construction lender)

at the following address:
(Construction lender address)

and/or to the original contractor
(Name of original contractor)

at the following address:
(Original contractor address)

on this date: Signed at
(Month/Day/Year) (City, County of person making service)

on this date:
(Month/Day/Year) (Signature of person making service)