



PO Box 2998 Spartanburg SC, 29304
(864) 576-1901

**THIS SUBCONTRACT IS SUBJECT TO ARBITRATION PURSUANT TO
S.C. CODE ANN. (1976) SECTION 15-48-10 ET. SEQ., AS AMENDED**

CLAYTON CONSTRUCTION COMPANY, INC SUBCONTRACT

THIS SUBCONTRACT AGREEMENT ("Subcontract") Made this date August 14, 2024 by and between Strickland Waterproofing Company, Inc ("Subcontractor") AND Clayton Construction Company, Inc. ("Contractor").

To:	Strickland Waterproofing Company, Inc 500 North Hoskins Road Charlotte, NC, 28216	Project:	Jesse Bobo Elementary
		Project #:	24064
		Project Address:	495 Powell Mill Road Spartanburg, SC, 29301
Contact:	Eddie Black	Owner:	Spartanburg County School District #6
Phone Number:	(704) 347-1345	Architect:	McMillan Pazdan Smith and Partners
Contact Email:	eblack@stricklandwaterproofing.com		

THE TERMS of this Subcontract include this Signature Page, the Clayton Construction Company, Inc. Standard Subcontract Terms and Conditions ("Terms and Conditions") included herein as Pages 1 through 6, and any attachments listed in the Terms and Conditions, all of which are incorporated herein by reference. This Subcontract shall constitute the entire agreement between the Contractor and Subcontractor for this Project.

SCOPE OF WORK: The following is a general description of the Subcontractor's scope of work for the Project: Furnish all necessary labor, materials, equipment, supervision, tools, transportation, taxes, insurance, permits, incidentals, etc. to complete the **Waterproofing** for the Jesse Bobo Elementary in accordance with any plans, specifications, scope of work, and addenda as prepared by McMillan Pazdan Smith and Partners.

- Contract pricing was derived from the following: Labor, materials, taxes, and any applicable fees to complete the Waterproofing scope of work according to the drawings by McMillan Pazdan Smith Architecture dated 04.22.2024.
*Note: The renovation portion of this project will begin in Summer 2025. CCC nor Owner will accept additional mobilization or material/labor cost increase fees associated with the scheduling of this project. All OSF requirements apply to this project.
- Scope includes but is not necessarily limited to:
- Scope excludes but is not necessarily limited to:

The Subcontractor understands and agrees that its scope of work is further defined in the Terms and Conditions, the attachments listed in those Terms and Conditions, and the Contract Documents.

SUBCONTRACT PRICE: The Contractor agrees to pay the Subcontractor, subject to the other provisions hereof; including additions and deletions as herein provided; the total sum of **Forty Thousand Three Hundred Fifty Dollars 00/100, (\$40,350.00)** (the "Subcontract Price") for the full and complete performance of Subcontractor's scope of work in accordance with the provisions herein.

IN WITNESS WHEREOF, the Contractor and Subcontractor have executed this Subcontract as of the first date written above.



PO Box 2998 Spartanburg SC, 29304
(864) 576-1901

Clayton Construction Company, Inc.

Strickland Waterproofing Company, Inc

By: _____

By: X Edgar Black

Print: _____

Print: Edgar Black

Title: _____

Title: Vice Present

Witness: _____

Witness: Doris Black
Doris Black, Corporate Secretary

CLAYTON CONSTRUCTION COMPANY, INC. STANDARD SUBCONTRACT TERMS AND CONDITIONS

Revision 1/29/2020

SECTION 1. DEFINITIONS AND REFERENCES:

- 1) "Signature Page" shall refer to the first page(s) of this agreement, entitled 'Clayton Construction Company, Inc. Subcontract' and executed by the parties.
- 2) "Contractor" shall refer to Clayton Construction Company, Inc.
- 3) "Contractor's Address" shall be defined as 121 Venture Blvd, Suite A, Spartanburg, South Carolina 29306.
- 4) "Subcontractor" shall refer to the Subcontractor as defined on the Signature Page.
- 5) "Subcontract" shall refer to the Subcontractor's subcontract as defined in Section 1 of the Signature Page.
- 6) "Terms and Conditions" shall refer to the Clayton Construction Company, Inc. Standard Subcontract Terms and Conditions.
- 7) "Lower-Tier Sub(s)" shall refer to the Subcontractor's suppliers, subcontractors, employees, or material men or any of their suppliers, subcontractors, employees, or material men.
- 8) "Work" shall refer to the Subcontractor's Scope of Work as defined in Section 2 of the Signature Page.
- 9) "Subcontract Price" shall refer to the Subcontractor's Subcontract Price as defined in Section 3 of the Signature Page.
- 10) "Project" shall refer to the project listed on the Signature Page after the 'Project Name' heading.
- 11) "Owner" shall refer to the owner of the Project.
- 12) "Architect" shall refer to the architect of the Project.
- 13) "Engineer" shall refer to the engineer of the Project.
- 14) "Contract Documents" shall refer to: (a) any and all drawings or specifications prepared by the Architect or Engineer; and (b) any and all terms and conditions of the agreement between Owner and Contractor for the Project; including, but not limited to general, special, supplementary and other conditions made a part thereof by reference.
- 15) "Draw Request" shall refer to the document attached hereto as "Attachment 1".
- 16) "Indemnities" shall refer to Contractor, Contractor's employees, Contractor agents, Owner, Owner's employees, and Owner's agents.
- 17) "Indemnity" shall refer to one of the Indemnities.

SECTION 2. SCOPE OF WORK: The Subcontractor agrees to furnish all labor, materials, supervision, tools, equipment, supplies and incidentals, unless specifically excluded herein, and in every respect complete the Work in accordance with all the provisions, terms, and conditions of this Subcontract and in accordance with the Contract Documents, which shall be considered a part of this Subcontract by reference. It is understood and agreed that this Subcontract supersedes all prior bids or proposals and, accordingly, that any reference herein to the Subcontractor's bid or proposal to perform the Work is solely and exclusively for the purpose of further technically describing the Work to be performed, and that any terms, conditions, or other qualifications in such bid or proposal are excluded and not a part of this Subcontract. The Subcontractor understands and agrees that its scope of work is generally described in Section 2 of the Signature Page and further defined in the Contract Documents and the attachments listed below:

Check if Attached:

<input checked="" type="checkbox"/>	Attachment 1	Clayton Construction Company, Inc.'s Site/Safety Rules
<input checked="" type="checkbox"/>	Attachment 2	Partial Release of Lien
<input checked="" type="checkbox"/>	Attachment 3	Final Release of Lien

SECTION 3. PRICE; PAYMENT: (a) The Contractor agrees to pay the Subcontractor, subject to other provisions hereof, including additions and deletions as provided herein, the Subcontract Price with progress payments based on percentage of actual Work performed to the satisfaction of Contractor and Owner. The Subcontract Price is firm and not subject to escalation, unless otherwise stated, and includes all sales, excise, use, or similar taxes applicable to the performance of the Work. Progress payments will be made to the Subcontractor in an amount equal to NINETY PERCENT (90%) of the estimated value of the labor, materials, and equipment incorporated in the construction and NINETY PERCENT (90%) of the estimated value of the materials and equipment suitably stored at the Project site, less the aggregate of previous payments in each case.

Subcontractor: 

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(b) Within ten (10) days after the date of transmission of this Subcontract to Subcontractor, Subcontractor shall submit to Contractor for Contractor's approval a detailed schedule showing a proper cost breakdown (with proper share of associated overhead and profit) of the Subcontract Price according to the various line items, or parts, of the Work, for use only as a basis for verifying Subcontractor's Draw Requests.

(c) The Subcontractor shall submit one (1) copy of all Draw Requests to Contractor at Contractor's Address or by email to Contractor. All requests for payment must be received by the twentieth (20th) day of each month at 2:00 PM (or such other time as may be required by the Contract Documents). Draw Requests submitted after the aforementioned date and time will be processed the following month. Requests for payment not in the approved schedule of values format will be returned to Subcontractor and will not be paid until Contractor receives the correct format. The Subcontract Number must be shown on the Draw Request or they will be returned.

(d) The Contractor reserves the right to examine and audit Subcontractor's records for purposes of verifying the accuracy of Subcontractor's Draw Requests.

(e) Contractor's payment to Subcontractor will be made on the basis of, and only to the extent of, payments actually received by Contractor from Owner, and within ten (10) days after such receipt by Contractor. Contractor's receipt of payment for the Work performed by Subcontractor from the Owner is a condition precedent to any payment to Subcontractor.

(f) The Contractor may deduct or retain from any amounts due or to become due to the Subcontractor any sums owed by the Subcontractor to the Contractor or the amount of any claims or lien against the Contractor or the Project arising out of the Subcontractor's performance of the Work.

(g) Prior to any payment, and at the request of Contractor, Subcontractor shall furnish, in a form suitable to the Contractor, a general release of liens, and all claims, together with any affidavits that may be required by the Contractor. The Contractor reserves the right (but Contractor assumes no liability or obligation) to pay any outstanding past due obligations of the Subcontractor arising out of the performance of the Work, by checks made payable jointly to the Subcontractor and the Lower-Tier Subcontractor/Supplier or payable directly to the Lower-Tier Subcontractor/Supplier. Upon the issuance of a joint check by Contractor, Subcontractor agrees to promptly endorse same so the joint check can be delivered by the Contractor to the Lower-Tier Subcontractor/Supplier. Upon Contractor's notice to Subcontractor of Contractor's intent to issue a check made payable directly to the Lower-Tier Subcontractor/Supplier for certain unpaid invoice(s) relating to the goods and/or materials furnished to and used by the Subcontractor in relation to the Work, either unilaterally or because of Subcontractor's refusal to endorse a joint check tendered by the Contractor, Subcontractor will have five (5) days to notify Contractor in writing at the Contractor's Address of any disputes with Contractor's release of payment. If not disputed within five (5) days, Subcontractor hereby expressly authorizes Contractor to issue and remit a single party check payable to the Lower-Tier Subcontractor/Supplier for the amount shown upon the unpaid invoice(s). Each payment made directly to or jointly with a Lower-Tier Subcontractor/Supplier shall: (i) apply as a payment of the Subcontract Price on this Subcontract; and (ii) incur an administration fee in the amount of Seventy-Five Dollars (\$75.00) which will be applied against Subcontractor's Subcontract balance.

(h) Contractor reserves the right to withhold, as an additional reserve and without limiting its other rights and remedies, an amount sufficient: (i) to defend, satisfy and discharge any asserted claim that Subcontractor or a Lower-Tier Subcontractor/Supplier has failed to make payment for labor, services, materials, equipment, taxes or other items or obligations furnished or incurred in connection with the Subcontractor's Work or has caused damage to the Work or any other part of the Project; (ii) to complete the Work or cause the Work to be completed if it appears that the funds remaining in the Subcontract, including retainage and exclusive of back-charges, are insufficient to complete the Work in accordance with the requirements of this Subcontract; (iii) to reimburse Contractor for any back-charges incurred as a result of any act or omission by Subcontractor hereunder; (iv) to protect Contractor from the possible consequences of any other breach or default by Subcontractor; or (v) to secure Contractor with respect to any breach or default by Subcontractor or its affiliates, parent company and subsidiaries under any other agreement.

(i) Subcontractor shall bond, release, or otherwise discharge any liens of its Lower-Tier Subcontractors/Suppliers in connection with the Project at its sole cost and expense, within five (5) calendar days of receipt of a written or oral demand from Contractor and shall indemnify, defend and hold harmless the Contractor and the Owner from any expenses, damages or claims arising from any such liens, including any attorneys' fees incurred by either the Contractor or the Owner.

(j) Final payment will be made to the Subcontractor within thirty (30) days after this Subcontract is fully completed and performed by the Subcontractor including, but not limited to, the submission to the Contractor of any documentation required by the Contract Documents or this Subcontract, the work hereunder is accepted in writing by the Owner, full payment for such work has been received by the Contractor from the Owner, and, in a form suitable to the Contractor, a complete release of any and all claims against the Contractor has been executed by the Subcontractor and delivered to the Contractor.

(k) SUBCONTRACTOR HEREBY SPECIFICALLY WAIVES THE PROVISIONS OF SOUTH CAROLINA CODE ANN. §§ 29-6-30 AND 29-6-50 AND AGREES THAT THIS SECTION SHALL PREVAIL OVER SOUTH CAROLINA CODE ANN. §§ 29-6-30 AND 29-6-50 IN REGARD TO RATES OF INTEREST AND PAYMENT PERIODS.

SECTION 4. CHANGES: Contractor may, at any time and without notice to Subcontractor's sureties, if any, make changes in, additions to and/or omissions from the Work, by issuance of a Subcontract Change Order. Subcontractor shall promptly proceed with the performance of this Subcontract as so changed. **NOTIFICATION OF ANY CLAIM FOR ADJUSTMENT OF SUBCONTRACT PRICE OR FOR AN EXTENSION OF TIME UNDER THIS SECTION MUST BE MADE IN WRITING WITHIN TEN (10) DAYS FROM THE DATE SUCH CHANGES ARE ORDERED, BUT IN NO EVENT SHALL SUCH NOTICE BE PROVIDED LATER THAN THE TIME REQUIRED BY THE PROVISIONS OF THE CONTRACT DOCUMENTS BETWEEN THE OWNER AND THE CONTRACTOR.** Such claim shall be itemized and supported by such documents or information as Contractor or Owner may require and submitted within an additional ten (10) days. The failure by the Subcontractor to provide written notice of any claim within the above time limits shall constitute a waiver by the Subcontractor of such claim. To the extent that the provisions of the Contract Documents between the Owner and the Contractor contain any limitations on the adjustment of compensation or time schedules for changes, including, but not limited to, percentage markups for changes, then the Subcontractor agrees to be bound by such provisions in determining any adjustment to the Subcontract Price or change in schedule. No increase or decrease in Subcontract Price or extension of time shall be binding on Contractor unless agreed in a Subcontract Change Order signed by the Contractor's Project Manager. The signature of the Contractor's project superintendent is only an indication that the work requested under this Section has been completed. Each Subcontract Change Order issued by Contractor shall be deemed to be effective and accepted by Subcontractor at the time of the earliest of the following occurrences: (a) the date that Subcontractor signs the Subcontract Change Order; or (b) ten (10) calendar days after the date that Contractor mails the Subcontract Change Order to Subcontractor unless within that ten (10) calendar day period, Contractor receives written notification from Subcontractor objecting to the Subcontract Change Order, which notice must specify all of Subcontractor's reasons for its objection; or (c) the date when Subcontractor begins the performance of the changed Work; or (d) the date Subcontractor submits a Draw Request or invoice to Contractor which includes the changed Work with an adjustment to the Subcontract Price that is acceptable to Contractor. Acceptance of final payment by Subcontractor shall constitute a waiver of all claims by Subcontractor.

SECTION 5. SCHEDULES AND PERFORMANCE: (a) Subcontractor shall prosecute the Work in a prompt, diligent and workmanlike manner whenever all or any part of the Work becomes available or at such time or times as Contractor may direct. Subcontractor agrees to perform the Work in accordance with any Project time schedules provided by Contractor and any changes to said schedules. If Subcontractor discovers any errors, omissions, discrepancies, or conflicts in the plans or specifications for the Project, it shall immediately so inform Contractor in writing. Any Work affected by such discoveries that is performed by Subcontractor prior to authorization by Contractor shall be at Subcontractor's risk. Subcontractor shall obtain and pay for all permits, licenses and official inspections made necessary by the Work, and comply with all laws, ordinances and regulations relating thereto.

(b) There may be other subcontractors or forces of Contractor or Owner working in the same area where Work under this Subcontract will be performed. Subcontractor understands that its work may be interfered with or temporarily delayed from time to time on account of the performance of work by others, and Subcontractor agrees to fully cooperate with Contractor and the other subcontractors to avoid any delay or hindrance of their work, and to assure orderly and expeditious performance and completion of the Project as a whole and further agrees that neither the Contractor nor the Owner shall be responsible to Subcontractor for any delay, hindrance, interference or expense caused by another subcontractor. Contractor may require that certain facilities be used concurrently by Subcontractor and others. If any part of Subcontractor's Work depends upon the proper execution of or results upon the work of others, Subcontractor shall inspect and promptly report in writing to Contractor any defects in such work that render it unsuitable for proper execution and results. Failure of Subcontractor to inspect and report shall constitute an acceptance of such other work as fit and proper for the reception of its Work. However, Subcontractor shall not be responsible for the failure to discover latent defects in the work of others.

(c) Subcontractor acknowledges and accepts the sole responsibility for costs which may result from the nature and location of work and the general and local conditions and all other matters which can in any way affect performance of the Subcontract, or the cost associated with such performance. Failure of Subcontractor to acquaint itself with any applicable condition will not relieve it from the responsibility for the difficulties or the costs of successfully performing the Subcontract.

(d) Contractor's failure to insist on performance of any term, condition, or instruction, or to exercise any right or privilege included in this Subcontract, or its waiver of any breach, shall not thereafter waive any such term, condition, instruction, and/or any right or privilege.

Subcontractor: *b*

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SECTION 6. CONTRACTUAL RELATIONSHIP, ARBITRATION: (a) To the extent that provisions of the Contract Documents between the Owner and Contractor apply to the Work of the Subcontractor, Subcontractor shall assume toward the Contractor all the obligations and responsibilities which the Contractor, pursuant to the Contract Documents, assumes toward the Owner and the Architect/Engineer, and shall only have the rights, remedies and redress against the Contractor which the Contractor, by the Contract Documents, has against the Owner, provided that where any provision of the Contract Documents between the Owner and Contractor is inconsistent with any provision of this Subcontract, this Subcontract shall govern. The Contractor will provide the Subcontractor with an unpriced copy of the Contract Documents if requested by the Subcontractor in writing, provided that the Subcontractor shall reimburse the Contractor for its copying costs.

(b) In the event that the Contract Documents between the Owner and the Contractor contain an arbitration agreement, the Subcontractor agrees that any arbitration proceeding initiated by it or by the Contractor may, at the Contractor's option, be consolidated with any arbitration proceedings between the Owner and the Contractor and/or between the Contractor and any other contractor, subcontractor, or supplier, and agrees to be bound to Contractor to the same extent that Contractor is bound to Owner by any decisions or awards made in such proceedings.

(c) Subcontractor agrees that any claim or controversy of whatever between Contractor and Subcontractor, including but not limited to the issue of arbitrability of a dispute, arising out of or relating to this Subcontract or the breach of it, shall be resolved by the dispute resolution procedures set forth below. If the controversy is not resolved by discussions among the parties, Subcontractor agrees to then attempt in good faith to settle the dispute[s] by mediation pursuant to the rules of the Construction Industry Mediation Procedures of the American Arbitration Association ("AAA"), before resorting to arbitration, litigation, or some other dispute resolution procedure. SHOULD ANY DISPUTES REMAIN OR EXIST BETWEEN THE PARTIES AFTER COMPLETION OF THE DISPUTE RESOLUTION PROCESS SET FORTH ABOVE, THEN, AT THE SOLE DISCRETION OF THE CONTRACTOR, THE PARTIES SHALL PROMPTLY SUBMIT ANY DISPUTE, CLAIM OR CONTROVERSY ARISING OUT OF OR RELATING TO THIS SUBCONTRACT OR ANY DISPUTE CONTEMPLATED BY THIS SUBCONTRACT INCLUDING ANY ACTION IN TORT, CONTRACT, OR OTHERWISE, AT EQUITY OR AT LAW, OR ANY ALLEGED BREACH, INCLUDING, BUT NOT LIMITED TO, ANY MATTER WITH RESPECT TO THE MEANING, EFFECT, VALIDITY, TERMINATION, INTERPRETATION, PERFORMANCE OR ENFORCEMENT OF THIS SUBCONTRACT TO BINDING ARBITRATION IN ACCORDANCE WITH THE AAA CONSTRUCTION INDUSTRY ARBITRATION RULES WHICH ARE INCORPORATED HEREIN BY REFERENCE. Additionally, the Subcontractor agrees that the matters which are the subject of this Subcontract and any issues arising among the parties in relation to this Subcontract involve, touch and concern interstate commerce as contemplated by the Federal Arbitration Act 9 U.S.C.A. § 1 et seq. (1999). Subcontractor agrees that any mediation or arbitration shall be exclusively conducted in Spartanburg, South Carolina and that South Carolina law shall apply to the dispute[s] resolved hereunder. Notwithstanding the foregoing, judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. Should Contractor elect not to arbitrate the claims and disputes between Contractor and Subcontractor, Subcontractor agrees that the proper judicial venue is the Court of Common Pleas for Spartanburg County, South Carolina and agrees it is subject to jurisdiction there.

(d) No claim or dispute or other matter in controversy shall interfere with the progress of the Work and the Subcontractor shall proceed with its Work despite the existence of, and without awaiting the resolution of, any such claim or dispute.

SECTION 7. WARRANTY AND INSPECTIONS: (a) The Subcontractor expressly warrants that all materials, work and equipment incorporated in the Work shall conform to the specifications, drawings, samples and other descriptions set forth in the Subcontract and the Contract Documents and will be of good materials and workmanship and free from defect and warrants that all materials and equipment are both merchantable and fit for the purposes for which they are intended to be used under the Contract Documents. Subcontractor's warranty under this Subcontract shall extend for the same period and to the same coverage extent that the Contractor is obligated to guarantee its work under the Contract Documents with the Owner, regardless of when the Work under this Subcontract was performed by Subcontractor or any of its Lower-Tier Subs. Upon receipt of written notice from Contractor or Owner of any breach of warranty during the applicable warranty period, Subcontractor shall correct the affected Work and all costs incurred as the result of breach of warranty shall be borne by Subcontractor. Should Subcontractor fail to make the necessary correction promptly, Contractor may perform or cause to be performed the necessary work at Subcontractor's expense. All warranties shall run to Contractor, Owner, and their respective successors and assigns. The above warranties are not intended as a limitation but are in addition to all other express warranties set forth in this Subcontract or the Contract Documents and such other warranties as are implied by law, custom and usage of trade. Subcontractor and its surety or sureties, if any, shall be liable for the satisfaction and full performance of the warranties set forth herein.

(b) Subcontractor shall, at its own expense, have its Work tested and inspected in accordance with the requirements of the Contract Documents, this Subcontract, the suppliers or manufacturers of the materials or systems and applicable industry standards, and shall submit one copy of all tests or inspection reports to Contractor within two (2) days of its receipt of said reports. Neither the submission of any tests or inspection reports to Contractor nor the review of said reports by Contractor shall relieve the Subcontractor of its responsibility to comply with the requirements of the Contract Documents.

(c) The Work and all materials and equipment furnished in connection therewith shall at all times be subject to inspection by Contractor or Owner. Subcontractor shall, at its own expense, provide safe and necessary facilities and all samples, documents, drawings and lists necessary for such inspection. If any material, equipment or any part of the Work is determined by Owner or Contractor, either during performance of the Work, or on final inspection, or during any applicable guarantee period, to be defective or not in compliance with the requirements thereof, Contractor shall notify Subcontractor that such material, equipment or Work is rejected. Thereupon, Subcontractor shall, at its own expense, immediately replace or correct such defective material, equipment or Work by making the same comply strictly with all requirements thereof.

SECTION 8. INSURANCE AND BOND REQUIREMENTS: (a) The Subcontractor shall provide and maintain worker's compensation insurance in each jurisdiction in which the work is to be performed with limits required by law of an employer, and employer's liability insurance with minimum limits of \$500,000. The Subcontractor also shall provide and maintain in full force and effect during the term of this Subcontract Commercial General Liability and Automobile Liability insurance in a company satisfactory to the Contractor, protecting the Subcontractor, the Owner and the Contractor against liability from damages growing out of any operation of the Subcontractor, (including the operation of automobiles, trucks, and other vehicles owned or rented) in connection with the performance of this Subcontract and also including liability arising after completion of such operations. The Commercial General Liability insurance shall expressly cover any contractual liability assumed by Subcontractor under this Subcontract.

(b) All insurance that the Subcontractor is required to maintain under this subcontract shall have at least the following amounts of coverage:

1. Worker's Compensation	Limits <u>Statutory</u>
Employer's Liability	
Policy Limit	Limits <u>\$ 500,000</u>
Each Accident	Limits <u>\$ 500,000</u>
Each Employee by Disease	Limits <u>\$ 500,000</u>
2. Commercial General Liability	
General Aggregate	Limits <u>\$2,000,000</u>
Each Occurrence	Limits <u>\$1,000,000</u>
	Limits Apply Per Project
3. Commercial Auto	
Combined Single Limit	
Liability & Property Damage	Limits <u>\$1,000,000</u>
4. Umbrella Liability	Limits \$1,000,000

(c) The Subcontractor will submit to the Contractor one(1) copy of certificate of insurance naming Contractor and Owner as an additional insured for both ongoing and completed operations, and certifying that the insurance policies carried by the Subcontractor were in force before the Subcontractor begins performance of the Work and certifying that these policies will not be canceled during the period of construction other than by an endorsement added to the policies and certificates reading substantially as follows: "The policies herein referred to are not cancelable or subject to a reduction of coverage by the Insurer unless Clayton Construction Company, Inc. has received thirty (30) days prior written notice, as evidenced by return receipt of registered or certified letter". The insurance provided by Subcontractor shall be primary and non-contributory with respect to any insurance which Contractor or Owner may, at their discretion, elect to provide, and shall contain a waiver of subrogation in favor of Contractor and Owner, and any of their agents and/or employees. The policies required pursuant to this Section, except for Workers Compensation, shall provide such waiver of subrogation by Subcontractor: BB

endorsement or otherwise. Comprehensive General Liability and Automobile Liability insurance shall contain a cross liability endorsement and a severability of interest clause. Above limits shall apply on a per project basis.

(d) Should Subcontractor sublet any of the Work to a third party, Subcontractor shall require such third party to furnish the same insurance and indemnity, and shall require all of its subcontractors to waive their rights of subrogation in each of their respective contracts as required of the Subcontractor hereunder and Subcontractor shall provide evidence thereof prior to allowing any of its subcontractors to commence any of their work.

(e) At any time prior to the Subcontractor's commencement of performance of the Work on the Project, the Contractor shall have the right to require the Subcontractor to furnish a Performance Bond and a Labor and Material Payment Bond, each in an amount equal to the full Subcontract Price, which bonds shall be in a form and with a surety satisfactory to the Contractor. If the Subcontractor was not otherwise required to furnish the performance and payment bonds pursuant to either the Contractor's request for a proposal or Subcontractor's proposal or the Contract Documents, then the Subcontract Price shall be increased by the amount paid by the Subcontractor as the premium for said bonds without any markup for profit or overhead by the Subcontractor.

(f) If Contractor provides the Builders Risk Insurance for the Project, the Subcontractor is responsible for its pro-rata share of the Contractor's deductible under said insurance. Subcontractor's share of the deductible shall be the ratio that its losses covered by the Builder's Risk Insurance bears to the total loss of the occurrence or event covered by said insurance.

SECTION 9. INDEMNIFICATION: For and in consideration of the covenants of Contractor under this Subcontract, and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid to Subcontractor upon the execution hereof, Subcontractor hereby assumes the risk of, and agrees to indemnify, defend and hold harmless the Indemnities against and from all losses, damages, liabilities, costs and expenses (including without limitation, reasonable attorneys' fees) arising out of or resulting from or in any way connected, in whole or in part, with Subcontractor's performance or breach of the provisions or covenants of this Subcontract; provided, however, that this Section shall not be construed to constitute an indemnification against any loss, damage, liability, cost or expense caused solely by the negligence of an Indemnity. Further, Subcontractor agrees to defend, indemnify and save harmless the Contractor from any claims, suits, liability or expense for any alleged or actual infringement or violation of any patent or patent rights, arising out of or in connection with this Subcontract and anything done hereunder. At the election of an Indemnity, Subcontractor, at its own expense, also shall defend such Indemnity against any claim, demand, action or suit for which indemnification is provided hereunder. This indemnification shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Subcontractor under any workers' compensation acts, disability benefits acts or other employee benefits acts and includes any loss or injury suffered by an employee of the Subcontractor or any others who claim to have directly or derivatively sustained injury or damages due to the injury sustained by the Subcontractor's employee. Subcontractor agrees that Ten Dollars (\$10.00) of the Subcontract Price constitutes a separate consideration for Subcontractor's indemnity obligations hereunder. If it shall become necessary for Contractor to employ attorneys to enforce or defend any of its rights or remedies hereunder, Contractor shall be entitled to receive from Subcontractor any reasonable attorney's fees and other legal cost incurred in such connection.

SECTION 10. LABOR CONDITIONS AND SUBCONTRACTORS: Subcontractor agrees that all labor employed by it, its Lower-Tier Subs, or assigns for work on the Project shall be in harmony with and be compatible with all other labor being used by the Contractor or other subcontractors. Subcontractor shall not sublet, assign or transfer this Subcontract or any part hereof, or any sums due or to become due hereunder, without prior written consent of Contractor, and any such assignment without Contractor's written consent shall be void and of no binding effect upon Contractor. Within ten (10) days of the date of this Subcontract, Subcontractor shall furnish to the Contractor a list containing the names, addresses, and telephone numbers of all Lower-Tier Subs that the Subcontractor intends to use in the performance of the Subcontract. Neither the Subcontractor nor any of its Lower-Tier Subs shall employ or continue to employ on the Project any person whose employment on the Project is objected to by the Contractor or the Owner. Subcontractor agrees that if any portion of the Work covered hereby is further subcontracted, such Lower-Tier Subs shall be bound by and observe the provisions of this Section to the same extent as herein required of Subcontractor and that this Section shall be included in any lower-tier subcontract. The Subcontractor agrees that the Contractor has the right to contact any of its Lower-Tier Subs in connection with either the performance of the Subcontractor or the payment of the Lower-Tier Subs by the Subcontractor.

SECTION 11. COMPLIANCE WITH LAWS, SAFETY REGULATIONS, AND POLICIES: (a) In the performance of the Work hereunder, Subcontractor shall comply with all Federal, State and Local laws or regulations relating to nondiscrimination against any employee or applicant for employment because of race, religion, color, national origin, sex or ancestry with

respect to hiring, promotion, demotion, transfer, recruitment, termination, rates of pay or other forms of compensation, and selection for training.

(b) In the performance of the work hereunder, Subcontractor shall comply with all Federal, State and Local laws or regulations relating to verifying the legal status of all employees including the South Carolina Illegal Immigration Reform Act (ACT). The Subcontractor agrees to provide any documentation required to establish the applicability and compliance of these requirements.

(c) In the performance of the Work hereunder, Subcontractor shall comply with all current safety requirements of Federal, State and Local laws or regulations. Subcontractor shall also comply with all safety requirements and rules of the Contractor and the Owner. Compliance to all relative OSHA requirements is the sole responsibility of the Subcontractor. Subcontractor agrees to comply with any Special Conditions and the Clayton Construction Company, Inc. Site/Safety Rules, respectively, for the Project.

(d) It is the sole responsibility of the Subcontractor to make its Lower-Tier Subs aware of any and all laws, safety regulations, and policies required under this Section 11.

SECTION 12. TIME (a): If the Subcontractor's performance of the Work is delayed or interfered with by any condition or action directly caused by Contractor and/or Owner or other conditions beyond the control and without the fault or negligence of Subcontractor, and which was not foreseeable by Subcontractor, Subcontractor shall, within five (5) calendar days of the commencement of any such delay give to Contractor written notice thereof and Subcontractor shall be entitled an extension of time of performance, as a consequence of such delays or interference, but only to the extent that the Contract Documents between the Owner and Contractor entitles the Contractor to an extension of time for such delays and then only to the extent of time extensions that the Contractor does, on behalf of the Subcontractor, actually obtain from the Owner for such delays or interference. Subcontractor shall not be entitled to, and hereby waives any rights to, additional compensation for any interruptions, interferences, inefficiencies, suspensions or delays except to the extent, and only to the extent, such interruptions, interferences, inefficiencies, suspensions or delays were caused by the Owner and compensation for same is recovered from the Owner. The Subcontractor expressly waives any claims for consequential, special or incidental damages resulting from such delays or interference, including, but not limited to, impact or ripple effects, loss of productivity or increased home office overhead expenses. The failure of Subcontractor to provide notice as provided in this Section shall constitute a waiver of any claims for adjustments in both the Subcontract Price and the Subcontract time.

(b) Subcontractor agrees to perform the Work in a manner that will not injure, damage or delay the Project or work of other subcontractors on the Project. If the Subcontractor delays the Project, the Contractor shall be entitled to order the Subcontractor, at the Subcontractor's sole expense, to provide additional labor, to work overtime and additional shifts and to expedite the furnishings of materials or equipment as to avoid or minimize delaying or interfering with the completion of the Project.

(c) Subcontractor agrees and understands that Contractor will sustain actual damages as a result of Subcontractor's delay and the reasonable measure of Contractor's actual damages is equal to Five Ten-Thousandths Percent (0.0005%) of the Subcontract Price per day, plus an administrative burden allowance equal to One Hundred Dollars (\$100.00) per day. Accordingly, if the Subcontractor's performance of the Work is delayed, Contractor is entitled to liquidated damages in the amount of Five Ten-Thousandths Percent (0.0005%) of the Subcontract Price per day, plus an administrative burden allowance equal to One Hundred Dollars (\$100.00) per day.

SECTION 13. TERMINATION: (a) In the event Subcontractor fails to comply or becomes disabled from complying with the provisions of this Subcontract as to character or time of performance, and the failure is not corrected within seventy-two (72) hours after written request is made by Contractor to Subcontractor, or if such default cannot be remedied within such period and Subcontractor does not within said 72 hour period commence and continue such act or acts as shall be necessary to remedy such default or neglect with diligence and promptness, Contractor may take over and complete the performance of this Subcontract (or cause the performance of this Subcontract to be completed) at the expense of Subcontractor, or without taking over the Work, Contractor may furnish the necessary materials and/or employ the workmen necessary to remedy the situation at the expense of Subcontractor. If Contractor takes over the Work pursuant to this paragraph, it is specifically agreed that Contractor may take possession, either in whole or in part, of the Project site and of all materials and equipment of Subcontractor at the Project site for the purpose of completing the Work, and Subcontractor shall not be entitled to receive any further payments until the Work is completed and accepted by both Contractor and Owner. Upon completion and final acceptance of the Work, Contractor will determine the total expense incurred and accrued in completion and/or correcting the Work (including, without limitation, additional overhead and attorneys' fees incurred and accrued by Contractor to effect such takeover and to complete the Work), plus an allowance for an administration burden

Subcontractor: BB

STANDARD SUBCONTRACT TERMS AND CONDITIONS

8/14/2024

equal to Fifteen Percent (15%) of the cost of Subcontractor's Work performed by Contractor or caused to be performed by Contractor. If the balance of the Subcontract Price unpaid at the time the Work is taken over exceed such total expense and administrative burden allowance, the amount of such excess shall be paid to Subcontractor. If the total expense of completing the Work exceed the balance of the Subcontract Price unpaid at the time the Work is taken over, Subcontractor shall pay to Contractor promptly after receipt of an invoice the amount of such excess. Improper termination under this Section 13(a) by Contractor shall be deemed termination under Section 13(b) of this Subcontract.

(b) The performance of Work under this Subcontract may be terminated in whole or in part, at any time at the convenience of the Contractor or the Owner for any reason by written notice. Upon receipt of said notice, Subcontractor shall, unless the notice directs otherwise, immediately discontinue the Work on the date and to the extent specified in the notice; place no further orders or subcontracts for materials, equipment, services or facilities, except as may be necessary for completion of such portion of the Work as is not discontinued; promptly make every reasonable effort to procure cancellation of subcontracts and purchase orders on terms satisfactory to Contractor; promptly delivery all equipment, materials and other goods for which the Subcontractor has received payment to the Contractor at the location(s) directed by Contractor, and shall thereafter do only such work as may be necessary to preserve and protect Work already completed or in progress and to protect materials and equipment on the Project. In such event, the Subcontractor will be entitled to payment for all work satisfactorily completed in an amount equal to the product obtained by multiplying the Subcontract amount by the percent of the work completed as of the effective date of termination, plus reasonable costs associated with such termination. The Subcontractor will not be entitled to and expressly waives any claims for payment for uncompleted Work, or for anticipated profit or unabsorbed overhead on such uncompleted Work, or any other expenses or damages, including any claims for consequential, special or incidental damages, resulting from termination under this Section 13(b).

SECTION 14. WASTE AND DEBRIS: The Subcontractor shall be responsible for keeping the Subcontractor's portion of the project clean and in an orderly fashion to the satisfaction of the Contractor, Owner or Architect/Engineer. At a minimum, the Subcontractor shall, at the end of each day, place all debris and waste generated from its Work into the dumpsters or other waste containers provided by either the Contractor or the Owner and shall leave the portions of the Project on which it worked at least broom clean. The Contractor reserves the right to modify, from time to time, the cleanup and disposal requirements for the Project, modifications shall not entitle the Subcontractor to any increase in the Subcontract Price. Should it become necessary for the Contractor to incur any expense performing cleanup of the Subcontractor's work or removing the Subcontractor's debris from the Project, such expense shall be reimbursed to the Contractor by the Subcontractor or may be deducted by the Contractor from any amount due or to become due to the Subcontractor hereunder.

SECTION 15. EQUIPMENT RENTAL: Contractor's available equipment is available for use by Subcontractor and/or its Lower-Tier Subs pursuant to a separate usage agreement with Contractor. A fuel and service charge in the amount of Five Hundred Dollars (\$500.00) will be applied against Subcontractor's Subcontract balance if: (i) any of Contractor's equipment is used prior to a separate usage agreement being executed between the Contractor and Subcontractor; or (ii) any of Contractor's equipment is used and no usage agreement is executed between the Contractor and Subcontractor.

SECTION 16. MISCELLANEOUS: (a) All of the terms and conditions of this Subcontract, without modification or variation, shall be deemed to be effective and accepted by Subcontractor at the time Subcontractor signs the Subcontract.

(b) The terms and conditions of this Subcontract are to be considered severable and in the event any section, or any part or portion of any section of this Subcontract shall be held to be invalid, void or otherwise unenforceable, such holding shall not affect the remaining part or portions of that section, or any other section hereof.

(c) This Subcontract and the rights of the parties under this Subcontract shall be governed by and construed and enforced in accordance with the laws of the site of the Project.

To be effective immediately, any modifications to these documents must be made and initialed by both parties or part of a subcontract addendum signed by both parties.

Please sign and return one (1) copy of the attached document. Clayton Construction Company, Inc. will return one (1) fully executed copy for your records. If you have questions regarding the attached, please contact our office.

CLAYTON CONSTRUCTION COMPANY, INC. SITE/SAFETY RULES

Revision 4/13/2015

Clayton Construction Company, Inc.'s employees, subcontractors, and visitors are required to operate in strict compliance with all OSHA Rules and Regulations. In addition to the OSHA requirements, these rules and regulations also apply to all jobsite personnel on the Project:

1. Workers must wear hard hats and approved shirts, long pants, safety vest or shirt, appropriate footwear, and any other personal protective equipment to be worn as required by any government regulation at all times.
2. The jobsite is to be cleaned up daily and trash removed to a designated site. Stored materials are to be kept in an orderly fashion.
3. All power tools, equipment and ladders are to be used in a safe manner and in compliance with any government regulations.
4. Guardrail covers and safety barriers are not to be removed without permission from Clayton Construction Company, Inc.'s superintendent or project manager and are to be replaced immediately. Harnesses and lanyards must be used until protection is reinstalled.
5. Only authorized and trained personnel are to operate equipment and vehicles. Operators must have proper operating certification in their possession when operating equipment.
6. Any hazardous condition is to be reported to Clayton Construction Company, Inc.'s superintendent or project manager immediately.
7. All accidents, injuries, and near misses are to be reported to Clayton Construction Company, Inc.'s superintendent or project manager immediately.
8. No personal radios/electronic devices of any kind, minor children, or personal pets are allowed on the jobsite.
9. No loud music is allowed on the jobsite.
10. No hazardous or toxic substances are to be disposed of on the jobsite. All federal, state, and local laws relating to the use of hazardous or toxic materials are to be complied with fully.
11. A written hazard communication program with Material Safety Data Sheets (MSDS) must be on site with a competent person and all hazardous or toxic substances are required to have a MSDS worksheet attached to the container.
12. A written lock and tag procedure must be on site and carried out for hazardous work. Subcontractor must provide this policy to Clayton Construction Company, Inc. in advance of work.
13. A written confined space procedure must be on site and carried out when entering hazardous spaces. Subcontractor must provide this policy to Clayton Construction Company, Inc. in advance of work.
14. The jobsite will be a smoke free environment and the eating/use of any other tobacco products is limited to designated areas.
15. No food or drinks will be allowed inside the construction site.
16. Subcontractor is required to attend the weekly safety meetings at the pre-determined time and place.

17. All workers must have a current drug screen before working on the jobsite. The jobsite is a drug and alcohol free area. Subcontractor and its employees may be required to provide certification of drug testing results.
18. Any worker on site showing signs of drug or alcohol will be immediately required to leave the jobsite.
19. Subcontractor, visitors, and vendors must notify Clayton Construction Company, Inc.'s superintendent or project manager immediately upon entering the jobsite.
20. In some cases, a hot work written permit from Clayton Construction Company, Inc. and the Owner may be required before welding or torch cutting. All hot work shall include fire watch and appropriate fire extinguishing equipment; including, but not limited to, a fully charged fire extinguisher. Subcontractors must communicate with Clayton Construction Company, Inc.'s superintendent or project manager prior to performing any welding or torch cutting.
21. A designated jobsite parking area will be identified. All workers will be required to park in this area.
22. Upon written request by Clayton Construction Company, Inc., Subcontractor will provide a copy of any and all safety information including, but not limited to: (1) Subcontractor's written safety program, (2) RIR, (3) EMR and (4) OSHA 200 log.
23. Subcontractor must have a fall protection plan in place for all employees before beginning construction.
24. Fall protection is required when working over four feet (4ft) for most operations.
25. Scaffolds must be fully planked, braced, and guardrails on all sides at ten feet (10ft).
26. Fall protection is required at fifteen feet (15ft) for steel erectors.
27. Extension cords must be 12 gauge, 3 wire, and heavy duty.
28. Portable electrical tools must be grounded or double insulated.
29. Bi-directional equipment and trucks must have working back-up alarms, horns, and functioning seat belts. Seat belts and/or rollover protection must be worn / used at all times.
30. Proof of OSHA required training must be provided. This includes, but is not limited to: Fall Protection, Scaffolding, Trenching, Crane Operation, Rigging, Steel Erection Connecting and Decking, Hazard Communication, Forklifts, Powder Actuated Tools, Lasers and Electrical "Lockout/Tag Out".
31. Subcontractor must provide the name and contact information of two (2) competent people on the jobsite at the start of each work day. One of the foregoing individuals must be present during Subcontractor's activities on the jobsite.
32. A bi-lingual competent person must be on the jobsite for non-english speaking crews.
33. Subcontractor must provide a First Aid Kit.

I have read and understand each of the Site/Safety Rules listed above and agree to comply with them. I further understand that non-compliance with any of the foregoing is a material breach of the Subcontract and may result in termination of the Subcontract.

Witness: *Oris Black*
Oris Black, Corporate Secretary

SUBCONTRACTOR
By: *X Edgar Black*
Edgar Black, Vice President

Subcontractor: *E3*

CLAYTON CONSTRUCTION COMPANY, INC. SITE/SAFETY RULES

WAIVER OF LIEN TO DATE

STATE OF: _____

COUNTY OF: _____

TO WHOM IT MAY CONCERN:

WHEREAS the undersigned has been subcontracted by Clayton Construction Company, Inc. to furnish labor, material and equipment for the premises known as _____ is the owner.

THE undersigned, for and in consideration of _____ and ____/100 (\$_____) Dollars, and other good and valuable considerations, upon the receipt whereof is hereby acknowledged, does hereby waive and release any and all lien or claim of, or right to lien, under the statutes of the State of South Carolina, relating to mechanics' liens, with respect to and on said above-described premises, and the improvements, thereon, and on the material, fixtures, apparatus or machinery furnished, and on the moneys, funds or other considerations due or to become due from the owner, on account of all labor, services, material, fixtures, apparatus or machinery, furnished to this date by the undersigned for the above-described premises, INCLUDING EXTRAS.*

DATE _____

NAME _____

ADDRESS _____

CITY, STATE, ZIP _____

SIGNATURE AND TITLE _____

*EXTRAS INCLUDE BUT ARE NOT LIMITED TO CHANGE ORDERS, BOTH ORAL AND WRITTEN TO THE CONTRACT.

CONTRACTOR'S AFFIDAVIT

STATE OF: _____

COUNTY OF: _____

TO WHOM IT MAY CONCERN:

THE undersigned, (Name) _____ being duly sworn, deposes and says that he or she is (Position) _____ of (Company Name) _____ who is the contractor furnishing _____ on the _____ building located at _____ owned by _____.

That the total amount of the contract including extras* is \$_____ on which he or she has received payment of \$_____ prior to the payment. That all waivers are true, correct and genuine and delivered unconditionally and that there is no claim either legal or equitable to defeat the validity of said waivers. That the following are the names and addresses of all parties who have furnished material or labor, or both, for said work and all parties having contracts or sub contracts for specific portions of said work or for material entering into the construction thereof and the amount due or to become due to each, and that the items mentioned include all labor and material required to complete said work according to plans and specifications.

That there are no other contracts for said work outstanding, and that there is nothing due or to become due to any person for material, labor or other work of any kind done or to be done upon or in connection with said work other than above stated.

DATE _____

SIGNATURE _____

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF _____

NOTARY PUBLIC _____

NOTICE OF FURNISHINGS

NAME OF VENDOR/SUPPLIER/SUB	PHONE NUMBER	WHAT FOR	CONTRACT PRICE INCLDG EXTRAS*	AMOUNT PAID	THIS PAYMENT	BALANCE DUE
TOTAL LABOR AND MATERIAL INCLUDING EXTRAS* TO COMPLETE.						

FINAL WAIVER OF LIEN

STATE OF: _____

COUNTY OF: _____

TO WHOM IT MAY CONCERN:

WHEREAS the undersigned has been subcontracted by Clayton Construction Company, Inc. to furnish labor, material and equipment for the premises known as _____ is the owner.

THE undersigned, for and in consideration of _____ and ____/100 (\$_____) Dollars, and other good and valuable considerations, upon the receipt whereof is hereby acknowledged, does hereby waive and release any and all lien or claim of, or right to lien, under the statutes of the State of South Carolina, relating to mechanics' liens, with respect to and on said above-described premises, and the improvements, thereon, and on the material, fixtures, apparatus or machinery furnished, and on the moneys, funds or other considerations due or to become due from the owner, on account of all labor, services, material, fixtures, apparatus or machinery, furnished to this date by the undersigned for the above-described premises, INCLUDING EXTRAS.*

DATE _____

NAME _____

ADDRESS _____

CITY, STATE, ZIP _____

SIGNATURE AND TITLE _____

*EXTRAS INCLUDE BUT ARE NOT LIMITED TO CHANGE ORDERS, BOTH ORAL AND WRITTEN TO THE CONTRACT.

CONTRACTOR'S AFFIDAVIT

STATE OF: _____

COUNTY OF: _____

TO WHOM IT MAY CONCERN:

THE undersigned, (Name) _____ being duly sworn, deposes and says that he or she is (Position) _____ of (Company Name) _____ who is the contractor furnishing _____ on the _____ building located at _____ owned by _____.

That the total amount of the contract including extras* is \$_____ on which he or she has received payment of \$_____ prior to the payment. That all waivers are true, correct and genuine and delivered unconditionally and that there is no claim either legal or equitable to defeat the validity of said waivers. That the following are the names and addresses of all parties who have furnished material or labor, or both, for said work and all parties having contracts or sub contracts for specific portions of said work or for material entering into the construction thereof and the amount due or to become due to each, and that the items mentioned include all labor and material required to complete said work according to plans and specifications.

That there are no other contracts for said work outstanding, and that there is nothing due or to become due to any person for material, labor or other work of any kind done or to be done upon or in connection with said work other than above stated.

DATE _____

SIGNATURE _____

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF _____

NOTARY PUBLIC _____

NOTICE OF FURNISHINGS

NAME OF VENDOR/SUPPLIER/SUB	PHONE NUMBER	WHAT FOR	CONTRACT PRICE INCLDG EXTRAS*	AMOUNT PAID	THIS PAYMENT	BALANCE DUE
TOTAL LABOR AND MATERIAL INCLUDING EXTRAS* TO COMPLETE.						