

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Ashton Park Trace Apartments, LLC, )  
 )  
 Plaintiff, )

v. )

Civil Action File No.  
1:14-cv-04056-MHC

City of Decatur, Georgia; Urban )  
 Redevelopment Agency of the City of )  
 Decatur; The Potts Company, LLC; The )  
 Potts Company, Inc.; Reeves Contracting )  
 Company, Inc.; and Silverman )  
 Construction Program Management, Inc., )  
 )  
 Defendants. )

Reeves Contracting Company, Inc. )  
 )  
 Third Party Plaintiff, )

v. )

Western Oilfields Supply Co., d/b/a )  
 Rain for Rent )  
 )  
 Third Party Defendant. )

**DEFENDANT REEVES CONTRACTING COMPANY, INC.’S THIRD  
PARTY COMPLAINT AGAINST WESTERN OILFIELDS SUPPLY  
COMPANY, d/b/a RAIN FOR RENT**

COMES NOW, Reeves Contracting Company, Inc. (“Reeves”), within  
fourteen (14) days of the filing of its Answer and files this Third Party Complaint

against Western Oilfields Supply Company, d/b/a Rain for Rent (“RFR”) as follows:

### **GENERAL BACKGROUND**

1.

In this case, Plaintiff asserts a variety of allegations that construction activities, including activities of Reeves, adversely impacted its property located immediately adjacent to the construction site at issue. Reeves has filed an Answer denying all liability. However, to the extent Reeves is liable to Plaintiff, then RFR is liable to Reeves for all or part of Plaintiff’s claims against Reeves. Accordingly, Reeves asserts this Third Party Complaint against RFR pursuant to F.R.C.P. 14.

### **PARTIES, JURISDICTION AND VENUE**

2.

Defendant and Third Party Plaintiff Reeves is a Georgia corporation with principle offices in Gwinnett County, Georgia.

3.

Third Party Defendant RFR is believed to be a California resident and corporation maintaining a registered office and agent within the Northern District being as follows: CT Corporation System, 1201 Peachtree Street, NE, Atlanta, GA 30361. RFR also maintains a principal Georgia business office within the Northern District at 2330 Burnt Wood Drive, Kennesaw, GA 30152. Further, RFR

consented and agreed to the jurisdiction of this court in Paragraph 13 of the Subcontract as hereinafter described. Thus, this Court has personal jurisdiction over RFR.

4.

This Court has supplemental jurisdiction over this Third Party Complaint and the Third Party Defendant pursuant to 28 U.S.C.A. § 1367, and the exercise of jurisdiction over RFR does not adversely impact diversity jurisdiction because “Plaintiff” in 28 U.S.C.A. § 1367(b) refers to the original plaintiff and not the third party plaintiff. Plaintiff Ashton Trace is not asserting claims and thus diversity jurisdiction is not destroyed. See State Nat’l Ins. Co. v. Yates, 391 F.3d 577, 580 (5<sup>th</sup> Cir. 2004); Martin v. Fidelity Nat. Title Ins. Co. 2011 WL 4478432 not reported in F. Supp.2d (E.D. La. 2011).

5.

Venue is appropriate in this Court pursuant to 28 U.S.C.A. § 1391 because RFR maintains an office in and conducts business in the Northern District of Georgia and it is the district where the alleged events and conduct of RFR giving rise to Plaintiff’s claims occurred.

### **Facts**

6.

Plaintiff is the owner of an apartment building in the City of Decatur,

Georgia located adjacent to land on which the Beacon Municipal Complex Redevelopment Project is and continues to be constructed. See ¶¶ 13-15 of Plaintiff's First Amended Complaint.

7.

The City of Decatur hired The Potts Company, Inc. to serve as the Construction Manager for the Ebster Park Regional Stormwater Management Facility (the "Project").

8.

The Potts Company, Inc. hired Reeves to perform a scope of work that included the installation of the stormwater structures and dewatering activities needed to execute the work.

9.

Pursuant to a subcontract dated May 10, 2013, Reeves subcontracted a portion of its work to RFR including design aspects, installation and monitoring program for the temporary reduction of the water table during construction (RFR's work as described in the Subcontract is referred to as the "Dewatering Activities"). A copy of the Subcontract with a complete description of RFR's obligations is attached hereto as Exhibit "1" and incorporated herein.

10.

Plaintiff asserts that as a result of the construction of the Project, its building

suffered significant settlement resulting in structural damage requiring immediate remedy. See ¶¶ 30-34 of Plaintiff's First Amended Complaint.

11.

Plaintiff specifically identifies the Dewatering Activities as a construction activity. See ¶¶ 23, 30, 33, and 34 of Plaintiff's First Amended Complaint.

12.

Count Six of Plaintiff's First Amended Complaint asserts that Plaintiff has had its private right of enjoyment of its property interfered with by the construction activities, including the Dewatering Activities performed by RFR that allegedly removed soil support. See ¶ 108 of Plaintiff's First Amended Complaint.

13.

Count Seven of Plaintiff's First Amended Complaint asserts that Reeves failed to exercise ordinary care in construction activities specifically including the Dewatering Activities performed by RFR. See ¶¶ 114-126 of Plaintiff's First Amended Complaint.

14.

Count Ten re-asserts the allegations of Counts Six and Seven and casts the same facts as a Negligence Per Se claim referencing various statutes relating to real property.

15.

Count Ten, reasserts interference with private enjoyment of property in part arising out of the Dewatering Activities performed by RFR.

16.

Count Sixteen of Plaintiff's First Amended Complaint asserts an attorney's fee claim against all parties pursuant to OCGA §13-6-11.

17.

The Subcontract contains the following indemnity in pertinent part in favor of and for the benefit of Reeves:

**Indemnity**

Subcontractor hereby agrees that One Hundred Dollars and No/Cents (\$100.00) and other good and valuable consideration the sufficiency of which is not disputed, paid under the first payment from Contractor under this Subcontract shall constitute separate and valuable consideration for Subcontractor's indemnity obligations as stated herein.

(a) Subcontractor agrees to indemnify, defend, protect and save harmless Contractor and Owner (as well as any other parties which Contractor is required under the Contract Documents to defend, hold harmless and indemnify), and their Officers, directors, agents, and employees, from any and all claims, demands, suits, judgments, penalties, fines, damages, interest, litigation, liabilities, losses and expenses, including court costs and attorney's fees of whatsoever kind or nature when the same, in whole or in part, result from or arise out of: (a) any failure of Subcontractor to fully perform each and every provision of this Subcontract including all warranties made by the Subcontractor herein; (b) any failure of Subcontractor, its lower-tier subcontractors, suppliers, invitees or others acting on behalf of the subcontractor to pay for all labor, materials, services, supplies and

equipment for the nonpayment of which any lien, encumbrance, demand or claim may be made or asserted against Contractor or Owner; (c) alleged patent infringements asserted against Contractor or Owner arising out to the performance of the Subcontractor; (d) Work by Subcontractor, including the use of Subcontractor furnished designs, specifications or methods, but excluding the use of Owner or Contractor-furnished designs, specifications or methods; and (e) arising in whole or in part out of any controversies or disputes between Subcontractor and its lower-tier subcontractors and suppliers.

(a) (sic) To the full extent permitted by law, Subcontractor agrees to indemnify, defend, protect, and hold harmless Contractor and Owner (as well as any other parties which Contractor is required under the Contract Documents to defend, hold harmless and indemnify), and their Officers, directors, agents, and employees from and against any claim, cost, attorneys' fees incurred (including attorneys' fees incurred on any appeal), expense, liability, or damages attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of property (including loss of use thereof), to the extent caused by Subcontractor, its subcontractors or suppliers, or their agents servants, or employees; and damage to property and property rights, including Contractor's and Owner's property rights, to the extent caused by Subcontractor and/or persons employed or utilized by Subcontractor; provided however, Subcontractor's duty hereunder shall not arise if such injury, sickness, disease, death, damage or destruction is caused by the negligence of a party indemnified hereunder. Subcontractor's obligation hereunder shall not be limited by the provisions of any worker's compensation or similar act.

The Parties agree that this indemnification provision should be enforced to the full extent permitted by law and expressly waive any right to challenge the enforceability or validity of this provision. The Parties further agree that it is their intention that this indemnification provision be lawful and enforceable and that if for some reason it is determined not to be enforceable as written, then it shall be construed to be enforceable up to whatever limit is established by applicable law.

## **DEFENSE AND HOLD HARMLESS OBLIGATIONS**

Should Owner or any other person or entity assert a claim or institute a suit, action, or proceeding against Contractor involving the manner or sufficiency of the performance of the Work, Subcontractor shall, upon request of Contractor, promptly assume the defense of such claim, suit, action or proceeding at Subcontractor's expense, and Subcontractor shall indemnify, defend, protect and save harmless Contractor as well as anyone to be defended, indemnified and held harmless by Contractor and its or their agents, servants and employees, from and against any liability, loss, damage, or expense arising out of or related to such claim, suit action, or proceeding. Notwithstanding anything to the contrary contained herein, Contractor, at its option, shall have the right to participate in the defense of any claims asserted against it, approve the selection of counsel and approve the terms of any settlement made in its name or on its behalf.

Collectively the above clause is hereinafter referred to as the "Indemnity and Defense Clause". See pp. 10-11 of Exhibit 1.

18.

By letter dated January 16, 2015, pursuant to the Indemnity and Defense Clause, Reeves demanded that RFR defend indemnify and hold it harmless from claims made by Plaintiff relating to the Dewatering Activities. A copy of such demand is attached hereto as Exhibit 2 and incorporated herein.

19.

As of the date of this filing, RFR has declined to honor its indemnity and defense obligations relating to claims made by Plaintiff relating to the Dewatering Activities.

## COUNT ONE – CONTRACTUAL INDEMNITY

20.

Paragraphs 1 through 19 are incorporated in this count as if fully stated herein.

21.

Plaintiff's First Amended Complaint seeks damages allegedly caused by negligent construction activities, including Dewatering Activities.

22.

RFR performed Dewatering Activities as part of its scope of work as defined by the Subcontract.

23.

Plaintiff's claims (if true) relating to the Dewatering Activities seek damages that in whole or in part result from or arise out of RFR's alleged failure to properly perform its scope of work under the Subcontract. Thus Plaintiff's claims trigger RFR's indemnity and defense obligations under the Indemnity and Defense Clause.

24.

Reeves demanded defense and indemnity pursuant to the Indemnity and Defense Clause.

25.

RFR has not provided a defense and indemnity to Reeves.

26.

RFR is breaching the Subcontract by failing to indemnify Reeves.

27.

RFR is breaching the Subcontract by failing to defend Reeves.

28.

Pursuant to the Subcontract, specifically the Indemnity and Defense Clause, if Plaintiff proves its allegations that all or a portion of its damages are caused by Reeves relating to negligent acts or omissions in relation to the Dewatering Activities, then RFR is liable to Reeves.

29.

Failure to honor the indemnity and defense obligations constitutes a breach of the Subcontract for which Reeves may sustain damages.

30.

All conditions precedent, if any, to Reeves right to assert this claim have occurred or otherwise been waived.

31.

Pursuant to the Indemnity and Defense Clause, Reeves is entitled to have and recover from RFR any and all damages that Plaintiff may prove are owed to it arising out of or relating to the Dewatering Activities.

**PRAYER FOR RELIEF**

Defendant Reeves respectfully requests that this Court enter judgment in its favor and against RFR if Plaintiff proves all or portion of its damages were caused by the acts or omissions of Reeves arising out of or relating to Dewatering Activities on the Project.

DATED: January 28<sup>th</sup>, 2015.

Respectfully submitted,

/s/ Brad C. Parrott

Brad C. Parrott

Georgia Bar No. 595999

Mary Lillian Walker

Georgia Bar No. 732370

**HUDSON PARROTT WALKER, LLC**

Fifteen Piedmont Center

3575 Piedmont Road, Suite L100

Atlanta, GA 30305

(404) 554-8181

*Attorneys for Reeves Contracting Company*

**CERTIFICATE OF FONT SIZE**

I certify that this document has been prepared in Time New Roman font, 14 point, a font that complies with Local Rule 5.1.

/s/ Brad C. Parrott  
Brad C. Parrott  
Georgia Bar No. 595999

**CERTIFICATE OF SERVICE**

This is to certify that I this day served a copy of the foregoing DEFENDANT REEVES CONTRACTING COMPANY, INC.'S THIRD PARTY COMPLAINT AGAINST WESTERN OILFIELDS SUPPLY COMPANY, d/b/a RAIN FOR RENT upon all counsel of record via the CM/ECF System which will automatically send an email notification of such filing to the following counsel of record:

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*Attorney for City of Decatur, Georgia and  
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[jspangler@alston.com](mailto:jspangler@alston.com)  
*Attorney for Silverman Construction Program Management, Inc.*

This 28<sup>th</sup> day of January, 2015.

Respectfully submitted,

/s/ Brad C. Parrott

Brad C. Parrott

Georgia Bar No. 595999

Mary Lillian Walker

Georgia Bar No. 732370

**HUDSON PARROTT WALKER, LLC**

Fifteen Piedmont Center

3575 Piedmont Road, Suite L100

Atlanta, GA 30305

(404) 554-8181

*Attorneys for Reeves Contracting Company*



Contractor Job Number: 131003- 1  
 Subcontract Number: 131003-1-001  
 Subcontract Date 5/10/2013

**Subcontract Agreement**

**CONTRACTOR:** Reeves Contracting Company ("Contractor")  
 1400 Buford Highway, Bldg. C-2  
 Sugar Hill, GA 30518  
 Office: (770) 271-1159 Fax: (770) 271-5856  
 Brian Trotter

**SUBCONTRACTOR:** Rain for Rent ("Subcontractor")  
 P.O. Box 1248  
 Marietta, GA 30061-  
 (678) 594-6601  
 Attn: Brett Stitt  
 BSTITT@rainforrent.com

**SUBCONTRACT WORK:** Dewatering ("Work")

**PROJECT:** Ebster Park Regional Stormwater Management Facility ("Project")

**PROJECT ADDRESS:** 400 West Trinity Ave  
 Decatur GA, 30030

**OWNER:** The City of Decatur ("Owner")

**PRIME CONTRACT DATE:** 4/1/2013 ("Contract")

**ARCHITECT/ENGINEER:** Kimley-Horn and Associates, Inc. ("Architect")  
 2 Sun Court, suite 450  
 Norcorss, GA 30092

**SUBCONTRACT PRICE:** Two Hundred Twenty-Seven Thousand Five Hundred Twenty-Two / ("Price")  
 \$ 227,522.50

**MONTHLY BILLING:** Original Payment Application to be received by Contractor by the 20th of the Month ("Monthly Billing Date")

**RETAINED PERCENTAGE:** ~~10.0000%~~ ("Retained Percentage")

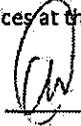
**PAYMENT AND PERFORMANCE BONDS:**  none

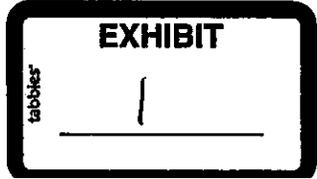
**PAYMENT TERMS:** 120 days or Paid when Paid whichever is quicker

(The above terms are incorporated by reference and are more fully explained below.)

On this 5/10/2013 ("Subcontract Date"), Contractor and Subcontractor, with offices at the addresses shown above, agree for themselves, their successors and assigns as follows:

Subcontract #: 131003-1-001.

Initial Subcontractor:  Reeves: 



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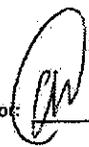
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ARTICLE 3 SUBMITTAL OF INITIAL DOCUMENTS, SCHEDULE OF VALUES AND SCHEDULE OF WORK  
ARTICLE 4 STANDARD PAYMENT CONDITIONS  
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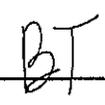
SUBCONTRACT EXHIBITS

EXHIBIT A SUBCONTRACTOR PROJECT SPECIFIC SCOPE OF WORK AND GENERAL JOB REQUIREMENTS  
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Subcontract #: 131003-1-001.

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Initial Subcontractor: 

Reeves: 

**WORK**

Subcontractor shall perform and furnish all labor, supervision, services, materials, equipment, tools, ~~scaffolds, hoisting, transportation, layout, storage and all other things necessary to prosecute and complete the work identified and described in, or which can be reasonably inferred from Exhibit A – Subcontractor Project Specific Scope of Work attached hereto (the "Work"), being a portion of the work required of Contractor under the Contract between Owner and Contractor ("the Contract").~~

The Subcontract Documents which form the Subcontract include the Contract with all general and special provisions, general, special and supplemental conditions, and all amendments and addenda; plans, specifications and drawings ("Contract Documents") applicable to the Subcontract Work; scope of work and subcontract unit pricing; this Subcontract Agreement; all change orders; approved schedules; job site policies and any other job related documents required under the terms of the Contract including but not limited to those identified in Exhibits A and Exhibit B- Contract Documents/Drawing Log attached hereto (collectively the "Subcontract Documents"). The Subcontract Documents shall be read and interpreted together and any conflict regarding Subcontractor's scope of work shall be resolved by having the document requiring the more extensive work prevail unless the Contract directs otherwise. Otherwise this Subcontract shall govern.

Subcontractor shall be bound to Contractor by the terms and conditions of the Contract Documents, as the same shall be applicable to the Work and this Subcontract, and hereby assumes toward Contractor all of the duties, obligations and responsibilities that Contractor has by the Contract Documents assumed toward Owner. The Work shall be performed by Subcontractor in a good and workmanlike manner and strictly in accordance with the Contract Documents.

*(excluding environmental, air quality, or building permits)*

*applicable to Subcontractor's scope of work*

The Contract Documents (redacting financial and pricing information) are available for examination by Subcontractor at all reasonable times at the office of Contractor. Subcontractor represents that it has had the opportunity to carefully inspect the Project site and/or, at its own option, has examined the drawings and specifications and other Subcontract Documents and is familiar with and has satisfied itself as to the nature, location and amount of Subcontractor's Work, Subcontractor's access thereto and ability to perform Work, local code requirements applicable to the Work and requirements of permits and inspections, safety and barricade requirements, ~~the terms and conditions of applicable Project labor and collective bargaining agreements,~~ the terms of this Agreement and all incorporated Contract Documents as well as the quality, quantity and availability of labor, materials, equipment and facilities and other items required for the performance of Subcontractor's Work and the limiting physical and other conditions at the site which may be encountered in the performance of Subcontractor's Work. Subcontractor has notified Contractor in writing of any ambiguities, inconsistencies and omissions, if any, in the Contract Documents deemed relevant to Subcontractor's performance of the Work.

*as applicable to Subcontractor's scope of work*

Subcontractor has determined, by its own investigation and research, all the conditions affecting Subcontractor's Work and materials to be furnished and does not rely upon any representation by Contractor in connection therewith. In performing Subcontractor's Work, Subcontractor accepts the condition of the Project site and locality as-is and assumes all risks there from to the same extent that Contractor assumes such risks in the Contract Documents.

Subcontractor specifically agrees that it is bound by any and all disclaimers in the Contract Documents that related to subsurface conditions, latent conditions, differing conditions, unknown conditions or that otherwise deal with changed conditions at the Project Site as applicable to the Work. ("Differing Conditions"). Should Subcontractor encounter Differing Conditions during performance of the Work it shall promptly call Contractor's attention to the same before conditions are disturbed. Subcontractor shall comply with all Contract Documents' notification, reporting, written proposal and time requirements applicable to requests for Equitable Adjustments to the Contract Price due to Differing Conditions. In no event shall Subcontractor be entitled to compensation or damages for an Equitable Adjustment to the Subcontract Price due to Differing Conditions except to the extent that Contractor shall receive such compensation or damages from Owner.

Those provisions of this Subcontract (including without limitation all guarantees, warranties and indemnities) which by their nature would survive final acceptance shall remain in full force ~~and effect after termination of this Subcontract~~ *during the rental period.*

**PRICE**

Contractor shall pay to Subcontractor, for the satisfactory performance and completion of the Work and performance of all the duties, obligations and responsibilities of Subcontractor under this Subcontract, the sum set forth above as the Subcontract Price, subject only to additions and deductions as expressly provided in this Subcontract. To the extent that the Work is to be performed on a unit price basis, the Subcontract Price shall be computed in accordance with the unit prices set forth herein, based on actual quantities determined in accordance with the Contract Documents and this Subcontract. The Subcontract Price and all unit prices shall be deemed to include all costs of Subcontractor's performance of the Work as set forth in the Contract Documents, including, but not limited to, the costs of labor, supervision, services, materials, equipment, tools, ~~scaffolds, hoisting, transportation, storage, insurance and taxes, and all overhead and profit.~~

Contractor does not expressly or by implication agree that the actual amount of Subcontract Work will correspond with the estimated quantities, but payments by Contractor to Subcontractor will be made only for the quantities of Work performed in accordance with the Contract as approved, accepted, and paid for by Owner.

**SUBMITTAL OF INITIAL DOCUMENTS, SCHEDULE OF VALUES AND SCHEDULE OF WORK**

*in the attached Exhibit A*

Within ten calendar (10) days after the date of transmission of this Subcontract to Subcontractor, Subcontractor shall submit to Contractor for Contractor's approval a detailed Schedule of Values, as represented by Subcontractor's Invoice showing a proper cost breakdown (with a proper share of associated overhead and profit) of the Price according to the various line items, or parts, of the Work, for use only as a basis for verifying Subcontractor's application for Payment (Contractor's Application for Payment = Subcontractor's Invoice) or supporting Contractor's applications for payments under the Contract. This Schedule of Values must be broken down into labor and materials for all activities. (See Exhibit 1- Application for Payment, Schedule of Values & Stored Materials). Subcontractor shall not be entitled to any payment until this Subcontract Agreement has been properly executed and all documents and information to be furnished by Subcontractor have been supplied to Contractor.

initial  
Subcontractor

Recess BT



Payment is due net 120 days from Subcontractor's invoice date. In the event Contractor disputes any portion of an invoice, Contractor shall pay the undisputed portion within the applicable payment period.

Subcontractor's lower tier subcontractors and suppliers ("Claimants"). Subcontractor shall, as often as required by Contractor, provide an affidavit identifying all parties who have furnished or will furnish labor, materials and services to Subcontractor in the performance of Subcontractor's Work, including their addresses, email address, telephone and facsimile numbers, and the amount due or to become due to each.

The current Schedule of Values, utilizing the AIA G703 continuation sheet form; any applicable Certified Payroll, Subcontractor Vendor Certification forms (and project specific interim lien waivers for the current amount requested) must be submitted with each application for payment (invoice).

Contractor may at any time demand written evidence of Subcontractor's payments to such Claimants and of Subcontractor's financial ability to perform all of its other obligations hereunder. Contractor, if it deems itself insecure in the performance of this Subcontract may direct funds otherwise payable to Subcontractor to satisfy obligations of Subcontractor for labor, materials, supplies, rentals on equipment, and the like, furnished or to be furnished by Subcontractor hereunder, or to direct Subcontractor by written notice to make immediate payment of unpaid bills for work done or materials supplied on this Project. Execution by Subcontractor of a lien or bond waiver in connection with a progress or final payment also serves to release Contractor and Owner, and their respective officers, agents, employees, from any and all personal claims related to such progress or final payment except as expressly reserved in such lien or bond waiver.

but no later than 120 days from Subcontractor's invoice date.

Within seven (7) business days after receiving a progress payment from Owner under the Contract, Contractor shall make a progress payment to Subcontractor equal to the value of the Completed Work and Stored Work as of the corresponding Monthly Billing Date, to the extent approved by Contractor and allowed and paid by Owner on account of the Work, and after deducting: (1) all previous payments, (2) current retainage (meaning a reserve equal to the Retained Percentage times the allowed value of Completed Work and Stored Work, plus any additional reserve provided for herein) (3) all charges or back charges for services, materials, equipment, or other items furnished or otherwise chargeable to Subcontractor as identified below.

Progress payment may be withheld in whole or in part by Contractor on account of: (a) defective materials or work, (b) claims or liens or any notice thereof, (c) any breach by Subcontractor of any provision or obligation of this Subcontract, (d) a reasonable doubt that the Subcontract Work can be completed for the balance then unpaid, (e) a reasonable doubt that Subcontractor, for any reason, is able to complete the Subcontract Work, or (f) any debt of any kind whatsoever owed to Contractor by Subcontractor. If the foregoing causes are remedied or adjusted, the withheld payment shall be made promptly. If the causes are not so remedied or adjusted, Contractor may remedy the same for Subcontractor's account and charge the entire cost thereof of the Subcontractor, as provided herein.

~~Subcontractor acknowledges and recognizes that Subcontractor's Work is a portion of the Work and payment for Subcontractor's Work by Contractor is expressly conditioned upon payment for Subcontractor's Work by Owner. Subcontractor warrants and represents that it relies for payment of Subcontractor's Work on the credit and ability to pay of Owner, and not of Contractor, and that Subcontractor undertakes the risk that it shall not be paid for Subcontractor's Work performed under this Agreement in the event Contractor is not paid by Owner for such work. Except for confidential information, Subcontractor may review any information provided by Owner to Contractor relative to Owner's financial ability to pay for the Work. Notwithstanding any contrary provision of the Subcontract Documents, Subcontractor expressly acknowledges and agrees that receipt by Contractor of payment from Owner for Subcontractor's Work shall be a condition precedent to any payment obligation of Contractor for its surety as applicable to Subcontractor under this Agreement. Furthermore, Subcontractor agrees that it will not, under any circumstances, claim against Contractor or its surety for payment of amounts not due to Subcontractor under this Agreement.~~

Contractor reserves the right to make joint check payments to the Subcontractor and any or all of the Subcontractor's subcontractors or suppliers or to directly pay any and all of the Subcontractor's subcontractors or suppliers and to deduct all amounts so paid from the amounts otherwise due Subcontractor. Contractor shall have the right at all times to contact the Subcontractor's lower-tier subcontractors and suppliers to ensure that the same are being paid by the Subcontractor for labor or materials furnished for use in performing the Subcontractor's Work.

Contractor reserves the right to advance the date of any payment (including final payment) due or to become due under this Subcontract if, in its sole judgment, it becomes desirable to do so.

FINAL PAYMENT

A final payment, consisting of the unpaid balance due for satisfactory performance of the Work, shall be made within ~~twenty five (25) business days after the last of the following to occur:~~ (a) satisfactory completion of the Work by Subcontractor, (b) unqualified acceptance of the Work by the Architect/Engineer and Owner, (c) full final payment by Owner to Contractor under the Contract on account of the Work, (d) furnishing of evidence satisfactory to Contractor that there are no claims, obligations, or liens outstanding or unsatisfied for labor, services, materials, equipment, taxes, or other items performed, furnished or incurred in connection with the Work, (e) delivery of all guaranties, warranties, bonds, instruction manuals, performance charts, diagrams, as-built drawings and similar items required of Subcontractor or its suppliers or subcontractors, (f) delivery of lien releases/payment bond releases from Subcontractor and all Claimants including all subcontractors and suppliers and those in privity with such subcontractors and suppliers, (g) delivery of a general release, in a form satisfactory to Contractor, executed by Subcontractor running to and in favor of Contractor and Owner, and such other parties as Contractor may require; and (h) if bonded, a Consent of Surety from Subcontractor's surety. (See Exhibit J-9 - Consent of Surety Company to Final Payment).

TIME

Time is of the essence in the performance of Subcontractor's Work. Subcontractor agrees to perform Subcontractor's Work so that the Work and every portion thereof may be completed in accordance with the Subcontract Documents. Subcontractor shall begin Subcontractor's Work as soon as instructed by Contractor or upon promptly upon execution of this Agreement, whichever first occurs. Subcontractor shall prosecute Subcontractor's Work expeditiously and at such times and in such order as Contractor shall direct to keep it sufficiently in advance of the other parts of the overall Contract Work and so as to avoid any delay or disruption to the overall process or completion of the Contract Work.

120 days from subcontractor's invoice date if the following has occurred

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Subcontractor shall prosecute Subcontractor's Work in a prompt, efficient and workmanlike manner so as to promote the general progress of the entire Project and shall not, by delay or otherwise, interfere with or hinder the operations of Owner or the work of Contractor or its subcontractors. Anytime Subcontractor is behind the Schedule of Work as a result of acts or omissions by Subcontractor or as a result of delays for which Subcontractor is not entitled to a time extension (including, without limitation, delays for which Subcontractor has failed to notify Contractor in accordance with this Agreement), Subcontractor shall, at its own expense, provide Contractor with a recovery schedule on request from Contractor and supply additional labor, supervision and equipment, perform overtime work, and do everything necessary to bring Subcontractor's Work back on schedule pursuant to such recovery schedule.

Contractor shall have the right to decide all matters relative to the timely and orderly conduct of the Work. Contractor shall have the right to decide the time and order of sequencing of the various portions of Subcontractor's Work. ~~Subcontractor understands that the Project may be divided up into multiple phases and that the Work may or may not be performed in a continuous operation. Subcontractor has included the cost of mobilizations required by the construction schedule and site conditions.~~ If requested by Contractor, Subcontractor shall furnish additional workers, additional shifts of labor, work overtime, pay premium costs for materials and for expediting delivery, and make other accommodations to meet the requirements of Subcontractor's Work. If Subcontractor is in default of any provision of this Agreement, or has caused or contributed to a delay to the Project, and Contractor determines that such activities are required to maintain satisfactory job progress, such additional labor, overtime, premium cost, expediting costs and other associated costs shall be at no cost to Contractor. Subcontractor also agrees that Contractor shall have the right, upon 48 hours written notice, to supplement Subcontractor's forces and resources, take over the work or any portion thereof and/or furnish such materials and/or employ such workers as may be necessary to remedy the situation, at the expense of Subcontractor. Should Subcontractor claim that Contractor's request constitutes an unreasonable directive and entitles Subcontractor to an adjustment to the Subcontract Price, Subcontractor shall, nevertheless, proceed as requested by Contractor and shall promptly give written notice of claim as provided in Article 14 hereof.

**DAMAGES DUE TO SUBCONTRACTOR'S DELAYS OR PROBLEMS IN PERFORMANCE OF THE WORK**

Subcontractor <sup>actual</sup> represents that it has satisfied itself as to any provision in the Contract Documents concerning ~~liquidated~~ <sup>actual</sup> damages, and agrees that in the event ~~liquidated~~ <sup>actual</sup> damages are imposed by Owner on Contractor as the result, in whole or part, of the performance or nonperformance of Subcontractor, such ~~liquidated~~ <sup>actual</sup> damages (or a proportionate share thereof) will constitute one element of damages that Contractor shall be entitled to recover from Subcontractor by backcharge or otherwise. Subcontractor also agrees to pay to Contractor any increased costs or other damages Contractor may sustain by reason of delay or nonperformance by Subcontractor, whether or not ~~liquidated~~ <sup>actual</sup> damages are assessed by Owner. The payment of such damages shall not release Subcontractor from its obligation to fully perform this Agreement.

**EXTENSIONS OF TIME**

Should Subcontractor, without any fault or neglect on its own part, be delayed in the completion of the Work by the fault or neglect of Contractor, Owner or Architect/Engineer, Subcontractor, as its sole remedy, shall be entitled to a reasonable extension of time only. Should Subcontractor without any fault or neglect on its own part, be delayed in the completion of the Work by an act of God or such other cause beyond the control of Contractor and Subcontractor which entitles Contractor to an extension of time under the Contract Documents and should Contractor actually receive an extension of time from Owner, Subcontractor shall be entitled to a reasonable extension of time to be determined in accordance with this Subcontract and the Contract Documents. In no event shall Subcontractor be entitled to compensation or damages for any delay in the commencement, prosecution, or completion of the Work or for any schedule adjustments resulting therefrom except to the extent that Contractor shall receive such compensation or damages from Owner or other third party for delays to Subcontractor's portion of the Contract Work, and Subcontractor shall only be entitled to its proportional share of such extension of time as reflects the actual delay to Subcontractor. Notwithstanding anything to the contrary in the Contract Documents or this Subcontract, Subcontractor shall not be entitled to an extension of time unless a written notice of delay shall have been delivered to Contractor within seventy-two (72) hours after commencement of the claimed delay.

Subcontractor's sole and exclusive remedy for any and all impacts, cumulative impacts, delay, disruption, hindrance, interference, inefficiencies, losses of productivity, damages or any other adverse effects to the performance of Subcontractor's Work ("Subcontractor Delays") shall be by adjustment to the Contract Time and/or the Schedule of Work, as provided above, except to the extent that Contractor receives payment for Subcontractor Delays from Owner under the terms of the Contract Documents and Subcontractor shall only be entitled to its proportional share of such payment as reflects the actual delay to Subcontractor.

**CHANGES IN THE WORK AND ADJUSTMENT IN SUBCONTRACT PRICE**

No alterations shall be made in the Work as shown or described in the Contract Documents, except on the written authorization of Contractor, and when so made, the value of the work or materials added or omitted and any extension or deduction from the time of completion necessitated thereby shall be computed and proposed by Subcontractor, subject to the written approval and acceptance by Contractor, and the amount after determination by the Contractor shall be added to (if Subcontractor has not previously agreed to perform the additional work under the terms of this Subcontract) or deducted from the Subcontract Price and time of completion. Any such change in the Subcontract Price may be determined by the Contractor at its sole option in one of the following manners:

- (a) By mutual agreement of a lump sum, properly itemized and supported by sufficient substantiating data to permit evaluation by Contractor.
- (b) <sup>(b)</sup> By unit price stated in this Subcontract or as subsequently agreed upon.
- (c) <sup>(c)</sup> On the basis of the reasonable cost to Subcontractor of such work. Subcontractor shall keep and present in such form as Contractor may request an itemized accounting, together with supporting information, of the costs of such work. Daily work tickets must be signed by Contractor's Project Superintendent each day. Signature is for verification of time or that work was performed and does not constitute acceptance of work, approval of cost, or conformance with the Contract Documents.

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(d) ~~(a)~~ As may be required in the Contract Documents, including but not limited to any provisions for an Equitable Adjustment due to Differing Conditions.

~~In no event shall Subcontractor's overhead and profit exceed five percent (5%) of the cost of such work (Cost of the Work x 5% overhead and profit) for any Changes in the Work. All change orders issued under this Subcontract shall be subject to all of the terms of this Subcontract and the Contract Documents.~~

Subcontractor's failure to timely submit claims, requests for additional compensation, requests for payment for extra or additional work and requests for time extensions during each period of performance, following Subcontractor's completion of Subcontractor's Work or the portion thereof performed during the period of performance, shall constitute a waiver and release by Subcontractor of any and all claims for payment(s) associated with such performance hereunder, and shall waive, release and forever discharge Contractor from and against any liability or obligation to make any payment(s) therefore.

Contractor may <sup>not</sup> direct Subcontractor to proceed with changes in the work <sup>without a formal, written</sup> prior to issuance of a formal change order. Subcontractor will, upon written direction from the Contractor, perform the changes in the Work. If a dispute should arise regarding the Cost of the Change in the Work Subcontractor agrees to continue to perform the Work despite the existence of disputes. *Subject to the other conditions of this Subcontract, Subcontractor shall have no claim for the cost of additional work or for an extension of time (including, without limitation, claims for impact damages or for costs due to delay) unless such work and the cost and expenses thereof or time is stated on the face of a written change order, approved and accepted by Contractor, ~~accepted and paid for by Owner.~~ Any attempted reservation by Subcontractor of the right to claim subsequently any amount or extension of time which amount or extension of time is not quantified and stated on the face of a written change order approved and accepted by Contractor shall be null and void.*

Notice of any claim not covered by the paragraph above shall be given by Subcontractor to Contractor at the earlier of: (1) within seven (7) calendar days of the event for which such claim is made, and (2) prior to performance of the affected portion of Subcontractor's Work; otherwise, such claim shall be deemed waived.

It is the responsibility of the Subcontractor to review revised Contract Documents and respond in writing within five (5) calendar days, unless an earlier time period is required by Contract Documents, after receipt of such documents concerning changes in the Scope of Work, if any, as well as the corresponding pricing. Failure to respond to revised documents issued to the Subcontractor, in accordance with the conditions set forth herein, will constitute a waiver of any right of Subcontractor to request an adjustment to either the Subcontract Price or Time or Project timetable.

**SUBCONTRACTOR DEFAULT, 48 HOUR NOTICE AND RIGHT TO CURE, TERMINATION, AND REMEDIES FOR DEFAULT**

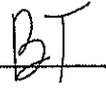
Should Subcontractor at any time: (a) fail to timely supply the labor, materials, equipment, supervision and other things required of it in sufficient quantities and of required quality to perform the Work with the skill, conformity, promptness and diligence required hereunder; (b) cause interference, stoppage or delay to the Project or any activity necessary to complete the Project; (c) become insolvent; or (d) fail in the performance or observance of any of the covenants, conditions, or other terms of this Subcontract; then in any such event, each of which shall constitute a default hereunder by Subcontractor, Contractor shall, after giving Subcontractor notice of default and forty-eight (48) hours within which to cure, have the right to exercise any one or more of the following remedies:

- (a) Require that Subcontractor utilize, at its own expense, overtime labor (including Saturday and Sunday work) and additional shifts as necessary to overcome the consequences of any delay attributable to Subcontractor's default.
- (b) ~~(a)~~ attempt to remedy the default by whatever means Contractor may deem necessary or appropriate, including, but not limited to, correcting, furnishing, performing, or otherwise completing the Work, or any part thereof, by itself or through others (utilizing where appropriate any materials and equipment previously purchased for that purpose by Subcontractor) and deducting the cost thereof (plus an allowance for administrative burden equal to fifteen percent (15%) of such costs) from any monies due or to become due to Subcontractor hereunder.
- (c) ~~(b)~~ after giving Subcontractor an additional (24) hours notice (at any time following the expiration of the initial forty-eight (48) hours notice and curative period), terminate this Subcontract without thereby waiving or releasing any rights or remedies against Subcontractor or its sureties and, by itself or through others, take possession of the Work and ~~all materials, equipment, facilities, plant, tools, scaffolds and appliances of Subcontractor relating to the Work,~~ for the purposes of completing the Work and securing to Contractor the payment of its costs (plus an allowance for administrative burden equal to fifteen percent (15%) of such costs) and other damages under this Subcontract and for the breach thereof, it being intended that Contractor shall, for the stated purposes, be the assignee of, and have a security interest in, the property described above to the extent located on the Project site (and Contractor may at any time file this Subcontract as a financing statement under applicable law).
- (d) ~~(c)~~ recover from Subcontractor all losses, damages, penalties and fines, whether actual or liquidated, direct or consequential (including without limitation any increase in Contractor's cost of insurance resulting from Subcontractor's failure to maintain insurance coverages required hereunder), and all reasonable attorneys' fees, expert witness fees, court costs, and other similar costs suffered or incurred by Contractor by reason of or as a result of Subcontractor's default.

After completion of the Work by the exercise of any one or more of the above remedies and acceptance of the Work by Architect/Engineer ~~and full payment therefore by Owner,~~ Contractor shall promptly pay Subcontractor any undisbursed balance of the Subcontract Price, if any, if the cost of completion of the Work, plus the allowance for administrative burden, together with any other damages or losses sustained or incurred by Contractor, shall exceed the undisbursed balance of the Subcontract Price, Subcontractor and its guarantors, surety, or sureties shall pay the difference within fifteen (15) days of written demand from Contractor.

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Reeves: 

The foregoing remedies shall be considered separate and cumulative and shall be in addition to every other remedy given hereunder or under the Contract Documents or now or hereafter existing at law or in equity. Subcontractor's guarantors, surety, or sureties agree to be bound to Contractor with respect to such remedies notwithstanding any provision of the bonds provided pursuant to Article 16 hereof.

Should this Subcontract be terminated for default, Subcontractor shall assign all purchase orders and subcontracts to Contractor if Contractor, in its sole and absolute discretion, requests such assignments. Subcontractor agrees to incorporate such provisions in its agreements with suppliers and subcontractors to effectuate this provision. Nothing herein shall create any duty on the part of Contractor to accept the assignment of any purchase order or subcontract hereunder.

Upon determination by an arbitrator or court of competent jurisdiction that any termination for default of this Agreement was wrongful or unjustified, then such termination will be deemed converted to a termination for convenience under Article 13 and Subcontractor's rights and remedies shall be limited to those set out herein.

**CONTRACTOR BREACH**

Except as limited by this Subcontract, Subcontractor shall have the rights and remedies available at law or in equity for a breach of this Subcontract by Contractor. Any default by Contractor shall be deemed waived unless Subcontractor shall have given Contractor written notice thereof within five (5) calendar days after the occurrence of such default. Subcontractor shall not be entitled to stop the Work or terminate this Subcontract on account of Contractor's failure to pay an amount claimed due hereunder (including payment for claimed changed Work) so long as Subcontractor shall not have adequately substantiated the amount due or so long as a good faith dispute exists as to the amount due. Subcontractor shall not be entitled to stop the Work on account of a default by Contractor unless such default shall have continued for more than seven (7) calendar days after Contractor's receipt of written notice of such default from Subcontractor, specifying in detail the nature of the default and the steps necessary to cure the claimed default.

Subcontractor shall not be entitled to terminate this Subcontract except for a substantial and material breach by Contractor which shall have continued for a least an additional thirty (30) days after (a) Subcontractor shall have stopped working in accordance with this paragraph, and (b) Contractor shall have received thirty (30) days written notice of Subcontractor's intention to terminate this Subcontract. ~~Notwithstanding the above, payment by Owner to Contractor of any amount claimed due is an absolute condition precedent to any claim of default due to lack of payment made by Subcontractor.~~

Under no circumstances shall Contractor be liable for lost profits, unabsorbed overhead, lost work, lost bonding capacity, or incidental, consequential or special damages of any nature in connection with or related to this Agreement or the breach thereof, such being expressly waived by Subcontractor.

In the event Contractor terminates Subcontractor for default and it is later determined that such termination was not warranted, Contractor's liability to Subcontractor shall be no greater than, and subject to, the same limitations provided in Article 13 hereof, and Subcontractor's termination shall be treated as a termination for convenience.

**TERMINATION FOR CONVENIENCE**

If Owner terminates the Contract or stops the Work, Contractor may terminate this Subcontract or stop the Work for the same reason, and Subcontractor's rights and remedies, including the basis for payment of any unpaid portion of the Subcontract Price, shall be limited to the corresponding rights and remedies available to Contractor under the Contract Documents, and controlled by Article 11 above.

Further, in its sole discretion and without notice to any guarantors, surety, or sureties, Contractor may terminate this Subcontract for its convenience upon the giving of seven (7) calendar days written notice to Subcontractor. Under no circumstances shall Contractor be liable for lost profits, unabsorbed overhead, lost work, lost bonding capacity, or incidental, consequential or special damages of any nature in connection with or related to portions of the Work not yet performed, such being expressly waived by Subcontractor. If terminated for convenience, Subcontractor shall be entitled to be paid: (1) costs of all Work satisfactorily performed up to the date of notice of termination, ~~after Contractor receives payment for the same from Owner;~~ and (2) necessary and unavoidable expenses of termination, if any, as determined by Contractor. "Expenses of Termination" means out-of-pocket, ordinary and necessary costs which are reasonably and unavoidably incurred by Subcontractor after the date of termination solely in connection with the cessation of Work and for which Subcontractor is not otherwise compensated. Payment, if any, shall be made in accordance with and subject to the requirements of Articles 3 through 6.

**CLAIMS**

Subcontractor agrees to make all claims against Contractor for which Owner is or may be liable in the same manner and within the time limits provided in the Contract Documents for like claims by Contractor against Owner. Notice of such claims shall be given by Subcontractor to Contractor at the earlier of: (1) within the time required for Contractor to give Owner any notices required by the Contract Documents; (2) within seven (7) calendar days of the occurrence of the event for which such claim is made; and (3) prior to performance of the affected portion of Subcontractor's Work; otherwise, such claim shall be deemed waived.

Subcontractor shall be entitled to an adjustment to the Subcontract Price or Schedule of Work only for performing and completing that portion of Subcontractor's Work associated with any claim for which Owner is or may be liable, ~~and only to the extent actually granted to Contractor by Owner and paid by Owner.~~ Any decision of Owner or Architect/Engineer with respect to such claims which, under the terms of this Agreement, is binding on Contractor, and any decision in arbitration or litigation between Owner and Contractor which becomes final and binding on Contractor shall likewise be final and binding on Subcontractor. To the extent Contractor prosecutes or defends a claim on behalf of Subcontractor, Subcontractor agrees to: (a) cooperate fully with Contractor; (b) furnish all documents, statements, witnesses and other information required by Contractor, at no cost to Contractor; and (c) reimburse Contractor for all related expenses and costs, including reasonable attorneys' fees.

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Reeves: BT

If any claim forwarded by Contractor to the Owner is rejected by Owner and Subcontractor elects to pursue any administrative, arbitration, judicial or other proceeding, Subcontractor shall provide counsel of its choice and pay its attorneys' fees and other related expenses. Subcontractor acknowledges that Contractor reserves the right to engage counsel of its choice if it is a party to those proceedings and Subcontractor shall reimburse Contractor for its reasonable attorneys' fees, expenses of the proceedings, administrative and related costs. Subcontractor further agrees to indemnify and hold harmless Contractor from any counterclaims, offsets, backcharges, or other liabilities which the Owner may assert against Contractor by reason of the Subcontractor's Work and performance under this Subcontract, including reasonable attorneys' fees, expenses of litigation, and other administrative and attendant costs to defend the same.

Notice of any claim not covered by the paragraph above shall be given by Subcontractor to Contractor at the earlier of: (1) within seven (7) calendar days of the event for which such claim is made, and (2) prior to performance of the affected portion of Subcontractor's Work; otherwise, such claim shall be deemed waived.

If at any time any controversy shall arise between Contractor and Subcontractor with respect to the Work under this Subcontract which the parties are unable to adjust and determine, or which Owner's representative cannot adjust to the satisfaction of both parties hereto, then the determination and written orders of the Contractor shall be followed. Upon completion of the Work and before the final settlement and payment is made, such controversy shall be resolved in the manner described herein and under the Dispute Resolution paragraph. No claim, dispute or controversy shall interfere with the progress of construction, and Subcontractor shall proceed with its work without interruption, deficiency or delay irrespective of any claim, dispute, or controversy which may arise. Subcontractor agrees to continue to perform the Work despite the existence of claims, disputes or the pendency of mediation or arbitration. The existence of an unresolved claim, dispute or the pendency of arbitration shall not be grounds for any failure to perform by Subcontractor nor limit the right of Contractor to proceed, in good faith, to remedy any default by Subcontractor. If any claim or dispute arises regarding this Subcontract, Subcontractor shall immediately make all of its books and records, regarding the Work, available to Contractor for review and audit upon demand.

Under no circumstances shall Contractor be liable for lost profits, unabsorbed overhead, lost work, lost bonding capacity, or incidental, consequential or special damages of any nature in connection with or related to this Agreement or the breach thereof, such being expressly waived by Subcontractor.

It is expressly agreed and understood that as to any and all materials or services furnished or agreed to be furnished by Subcontractor, and as to any and all damages, if any, incurred by Subcontractor in connection with this Project, Contractor shall ~~never~~ be liable to Subcontractor to any greater extent than Owner is liable to Contractor for same. *to the extent caused by Contractor.*

The failure of Subcontractor to initiate legal action regarding any claim arising under this Subcontract within one (1) year after final completion of the Work and acceptance by the Owner shall constitute a full and complete waiver of such claim, regardless of any applicable statute of limitations.

**NOTICES**

All written notices provided for in this Subcontract or in the Contract Documents shall be deemed given if delivered personally to a responsible representative of the party, or sent by facsimile, electronic mail or by regular mail to the party at its address specified herein. Either party may from time to time, by notice to the other as herein provided, designate a different address to which notices to it should be sent.

**BONDS** *N/A*

If so indicated on the front page hereof, Subcontractor shall furnish, within ten (10) calendar days of date of transmission of this Subcontract to Subcontractor, which is included in the Subcontract Price, a performance bond and a payment bond, each in an amount equal to the Subcontract Price, on Contractor's standard form and with surety or sureties satisfactory to Contractor. Subcontractor agrees to notify its surety or sureties of increases in the Subcontract Price and to take such action as is required to have the penal amount of the bonds furnished pursuant to this paragraph increased correspondingly.

**INSURANCE, RISK OF LOSS ACCIDENT PREVENTION PROGRAM AND REPORTING**

Before commencing the Work and until completion and final acceptance thereof by Owner, Subcontractor, its subcontractors, and leased personnel providers shall obtain and maintain, at its expense, at least the following insurance coverages identified in Article 18 in addition to any coverage required by the Contract Documents, all from companies, and in form and substance acceptable to Contractor. (See Exhibit F - Certificate of Liability Insurance).

As between Contractor and Subcontractor, Subcontractor shall be responsible for, and shall bear all risk of loss of or damage to the Subcontract Work and all related materials, appliances, supplies and equipment, ~~until final acceptance thereof, unless such loss or damage results from the direct and sole negligence of Contractor.~~ *to the extent such loss or damage is caused by Subcontractor* Subcontractor agrees to pay for any damage that may be caused to other work of the Project by Subcontractor or by its lower-tier subcontractors, suppliers, invitees and others acting for the benefit of the Subcontractor or by any of their respective agents, servants or employee. Subcontractor agrees to incorporate such provisions in its agreements with its major suppliers and subcontractors to effectuate this provision.

Subcontractor shall comply with Contractor's Standard Accident Prevention Program for Subcontractors. (See Exhibit C). Subcontractor shall, within 24 hours of a jobsite accident or occurrence fill out and send to Contractor a completed Accident Reporting Form (See Exhibit E - Accident Reporting Form) and shall promptly submit to Contractor copies of all police or other reports arising out of any injuries to its employees or those of any independent contractor or subcontractor retained by it, or any property damages, arising or alleged to have arisen on account of the performance of this Agreement.

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Initial Subcontractor: *[Signature]*

Reeves: *[Signature]*

**STANDARD INSURANCE REQUIREMENTS**

Minimum insurance requirements shall be as follows; however Subcontractor shall comply with all Insurance requirements contained in the Contract Documents:

- (a) Worker's Compensation insurance must be provided in accordance with the statutory laws of the state in which work is performed with Employer's Liability limits of not less than \$1,000,000 for bodily injury per accident, \$1,000,000 each employee and limits for bodily injury by disease of \$1,000,000 per employee.
- (a) Commercial General Liability (CGL) Insurance must be provided with limits of not less than \$1,000,000 combined bodily injury and property damage (BIPD) for any one occurrence and \$2,000,000 general aggregate. CGL insurance must provide coverage for the following risks:
  - Broad Form Property Damage- XCU Hazards (explosion, collapse and underground damage)
  - Independent Contractors - Contractual Liability (for indemnity agreement in Subcontract)
  - Completed Operations (coverage must be maintained for 24 months following completion of the Work)
- (b) Comprehensive Automobile Liability must be provided with limits of not less than \$1,000,000 combined bodily injury and property damage for any one occurrence with coverage for the following risks:
  - All owned vehicles - Non-ownership liability -Hired vehicles
- (c) Umbrella/Excess Limit Insurance not less than \$2,000,000; must be provided for subcontracts over \$50,000. Subcontractor agrees to incorporate such requirements in its agreements with its major suppliers and subcontractors to effectuate this provision.

**ADDITIONAL INSURED ENDORSEMENT:** Subcontractor's liability insurance policy shall be endorsed as shown below to afford coverage on behalf of Contractor and Owner for the indemnity obligations contained in Article 19 of this Subcontract:

Both Reeves Contracting Company (Contractor) and the Owner of the Project on which the named insured is performing work shall be covered as additional insured's for all above liability coverages utilizing endorsement CG 20 10 <sup>or equivalent</sup> ~~11-85 or a combination of CG 2010-01 and CG 2037-01 or 04 Editions~~. The Subcontractor's insurance is primary over any other collectible insurance. A thirty (30) day prior written notice of cancellation will be provided to Contractor.

**BUILDER'S RISK INSURANCE:** Builder's Risk Insurance for the Project is being provided as indicated below: *N/A*

- Coverage is furnished by Owner as indicated in the Contract Documents subject to the provisions stated therein.
- All Risks Coverage subject to policy exclusions is furnished by the Contractor with losses subject to deductibles.

In the event that loss or damage to the Work is covered by any Builder's Risk or similar property insurance policy provided by the Contractor or Owner, Subcontractor agrees to pay its pro-rata share of any applicable deductible as the loss to Subcontractor's Work applies to the total loss.

As a condition precedent to any payment for the Work, Subcontractor, its subcontractors, and leased personnel providers shall furnish a certificate, satisfactory to Contractor, from each insurance company showing the required insurance to be in force and stating that the insurance will not be canceled or changed except upon at least thirty (30) calendar days written notice thereof to Contractor or as otherwise required by the Contract Documents.

To the extent that Contractor and Subcontractor maintain insurance coverage for loss or damage to property, each hereby waives subrogation of claims against the other, the Owner, and their agents, employees and servants. Subcontractor acknowledges its sole obligation for any loss to its Work, including stored materials, paid for or not, whether or not such loss is reimbursable by Builder's Risk Insurance. However, nothing contained in this paragraph is intended to prevent or deny Subcontractor from asserting claims for unreimbursed losses against any person or party responsible therefore, except as otherwise provided hereinabove. Subcontractor is completely responsible for all of its own tools and equipment that will not become a permanent part of the Subcontract.

**INDEMNITY**

Subcontractor hereby agrees that One Hundred Dollars and No/Cents (\$100.00), and other good and valuable consideration the sufficiency of which is not disputed, paid under the first payment from Contractor under this Subcontract shall constitute separate and valuable consideration for Subcontractor's indemnity obligations as stated herein.

- (a) Subcontractor agrees to indemnify, defend, protect and save harmless Contractor and Owner (as well as any other parties which Contractor is required under the Contract Documents to defend, hold harmless and indemnify), and their Officers, directors, agents, and employees, from any and all claims, demands, suits, judgments, penalties, fines, damages, interest, litigation, liabilities, losses and expenses, including court costs and attorney's fees, of whatsoever kind or nature when the same, in whole or in part, result from or arise out of: (a) any failure of Subcontractor to fully perform each and every provision of this Subcontract including all warranties made by Subcontractor herein; (b) any failure of Subcontractor, its lower-tier subcontractors, suppliers, invitees or others acting on behalf of the Subcontractor to pay for all labor, materials, services, supplies and equipment for the nonpayment of which any lien, encumbrance, demand or claim may be made or asserted against Contractor or Owner; (c) alleged patent infringements asserted against Contractor or Owner arising out to the performance of the Subcontract; (d) work by Subcontractor, including the use of

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Initial: Subcontractor: *[Signature]* Reeves: *[Signature]*

Subcontractor furnished designs, specifications or methods, but excluding the use of Owner or Contractor-furnished designs, specifications or methods; and (e) arising in whole or in part out of any controversies or disputes between Subcontractor and its lower-tier subcontractors and suppliers.

- (a) To the full extent permitted by law, Subcontractor agrees to indemnify, defend, protect, and hold harmless Contractor and Owner (as well as any other parties which Contractor is required under the Contract Documents to defend, hold harmless and indemnify), and their Officers, directors, agents, and employees from and against any claim, cost, attorneys' fees incurred (including attorneys' fees incurred on any appeal), expense, liability, or damages attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of property (including loss of use thereof), ~~caused by, arising out of, resulting from, or occurring in connection with, in whole or in part, the performance of the Work by Subcontractor, its subcontractors and suppliers, or their agents servants, or employees; and damage to property and property rights, including Contractor's and Owner's property rights, whether arising before or after completion of Subcontractor's Work hereunder, to the extent such arises or is alleged to have arisen out of, or alleged as a result of negligent, reckless, or intentional wrongful misconduct in the performance of Subcontractor's Work by Subcontractor and/or persons employed or utilized by Subcontractor; provided however, Subcontractor's duty hereunder shall not arise if such injury, sickness, disease, death, damage, or destruction is caused by the sole negligence of a party indemnified hereunder. Subcontractor's obligation hereunder shall not be limited by the provisions of any worker's compensation or similar act.~~

*to the extent caused*

*to the extent caused*

The Parties agree that this indemnification provision should be enforced to the full extent permitted by law and expressly waive any right to challenge the enforceability or validity of this provision. The Parties further agree that it is their intention that this indemnification provision be lawful and enforceable and that if for some reason it is determined not to be enforceable as written, then it shall be construed to be enforceable up to whatever limit is established by applicable law.

**DEFENSE AND HOLD HARMLESS OBLIGATIONS**

Should Owner or any other person or entity assert a claim or institute a suit, action, or proceeding against Contractor involving the manner or sufficiency of the performance of the Work, Subcontractor shall, upon request of Contractor, promptly assume the defense of such claim, suit, action or proceeding at Subcontractor's expense, and Subcontractor shall indemnify, defend, protect and save harmless Contractor as well as anyone to be defended, indemnified and held harmless by Contractor and its or their agents, servants and employees, from and against any liability, loss, damage, or expense arising out of or related to such claim, suit action, or proceeding. Notwithstanding anything to the contrary contained herein, Contractor, at its option, shall have the right to participate in the defense of any claims asserted against it, approve the selection of counsel and approve the terms of any settlement made in its name or on its behalf.

**DAMAGES**

~~Contractor shall not be liable or responsible for loss or damage to the equipment, tools, facilities, or other personal property owned, rented, or used by Subcontractor, or anyone employed by or through Subcontractor, in the performance of the Work, and Subcontractor shall maintain such insurance coverages and take such protective action as Subcontractor deems desirable with respect to such property. Except to the extent of any proceeds received by Contractor for the benefit of Subcontractor under a policy of builder's risk or fire insurance, Contractor shall not be liable or responsible for any loss or damage to the Work, and Subcontractor shall be responsible for the correction or restoration of any such loss or damage to the Work, or to the work of Contractor or any other subcontractor, resulting from the operations of Subcontractor, or its subcontractors, agents, servants, or employees hereunder. Subcontractor shall take all reasonable precautions to protect its Work from loss or damage prior to acceptance by Owner. Subcontractor shall be responsible for the correction or restoration of any loss of and all damages to the work of Contractor or any other subcontractor, resulting from the operations of Subcontractor, or its subcontractors, suppliers, agents and employees. \*~~

*Contractor*

*the*

*to the extent caused by Subcontractor*

**SETOFF**

If Subcontractor is, or hereafter begins, performing any work for Contractor other than the Work under the Subcontract and the unpaid balance of the Subcontract Price under this Agreement becomes insufficient to complete the Work or compensate Contractor for any damages or deficiencies by the Subcontractor in the performance of the Work, or any other work, Subcontractor hereby consents and agrees to allow Contractor, in its sole discretion and judgment, to set off any of Contractor's claims against any funds due, or which may become due, Subcontractor under this Agreement or any other agreement with Contractor, or any subcontract on any other project. No refusal or failure of Contractor to exercise its rights hereunder shall constitute the basis of any right or claim against Contractor.

**DISPUTE RESOLUTION**

Any claim, dispute, or controversy between Contractor and Subcontractor shall be conclusively resolved and settled in the manner indicated herein. In the event of any dispute between Owner and Contractor or Subcontractor relating to the Subcontract, the Work, or a breach thereof, Subcontractor agrees to exhaust all remedies available through Contractor under Contractor's Contract with Owner prior to instituting any separate action or, in the event that a separate action is instituted prior to the exhaustion of the aforesaid remedies Subcontractor agrees to stay its action pending the exhaustion of all remedies against the Owner. Subcontractor and its sureties agree to be bound to Contractor to the same extent that Contractor is bound to Owner by the terms of the Contractor's Contract with Owner and by any and all decisions or determinations made thereunder by the party or entity so authorized in Contractor's Contract with Owner. Any arbitration arising out of or relating to this Agreement or the breach thereof may, at Contractor's sole option and election, include by consolidation, joinder or any other manner, any other entities or persons whom Contractor believes to be substantially involved in a common question of fact or law. Contractor, at its sole option and election, is entitled to consolidate any arbitration proceeding between Contractor and Subcontractor with any other arbitration proceeding(s) arising out of the same Project. In any arbitration proceeding involving Owner, Contractor and Subcontractor, Subcontractor agrees to the appointment of arbitrator(s) as may be selected by Contractor and Owner pursuant to the requirements of the arbitration provision in the Contract Documents:

- (a) Any dispute between Subcontractor and Contractor which is not subject to the above stated conditions may at Contractor's sole discretion be submitted to first to mediation which shall occur within 60 days of notification of the dispute, and if mediation is

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Initial Subcontractor: [Signature]

Reeves: [Signature]

*\* Contractor will use Subcontractor's equipment in a careful and proper manner and in accordance with safety rules, industry standards, manufacturer's specifications, recommendations, regulations and applicable laws. Contractor shall be responsible for any loss or damage to Subcontractor's equipment excluding normal wear and tear and excluding loss or damage caused by Subcontractor.*

unsuccessful, at Contractor's sole discretion to arbitration, which shall be conducted in the metro Atlanta, Georgia area. Any such arbitration shall be conducted by one arbitrator and in accordance with the Construction Industry Rules of the American Arbitration Association, and this agreement to arbitrate upon Contractor's exercise of such discretion shall constitute an agreement by Subcontractor to submit such controversy to arbitration enforceable under any applicable arbitration statute.

- (a) If Contractor does not choose to arbitrate the Parties agree (i) to submit to the jurisdiction of the State or Superior Courts of Gwinnett County Georgia or the Northern District of Georgia for the purpose of any suit, action or other proceeding arising out of or based upon this Agreement, (ii) agree not to commence any suit, action or other proceeding arising out of or based upon this Agreement except in the state courts of Georgia. The Parties further expressly waive any right to challenge this provision of the Subcontract or otherwise assert any challenge to the jurisdiction of any state or federal Court located in or covering Gwinnett County, Georgia on the grounds that the court lacks personal jurisdiction or is the improper venue for any action brought under this Subcontract.
- (b) In the event Subcontractor fails to abide by a final binding decision of any arbitrator(s) Contractor shall have the right to enforce the Arbitrator's decision by withholding appropriate sums from any payments that would otherwise be due Subcontractor, or, to the extent the Subcontract balance is insufficient to satisfy Subcontractor's obligation, by legal action; with all costs of such legal action, including Contractor's reasonable attorneys' fees, to be borne by Subcontractor.

**ASSIGNMENT**

Subcontractor shall not assign this Subcontract, or any monies due or to become due hereunder, or subcontract any substantial part of the Work without the prior written consent of Contractor. No assignment by Subcontractor or any right hereunder shall be effective and any such attempt shall be null and void. No third party shall have any right to enforce any right of Subcontractor under this Subcontract. If Contractor gives written consent to an assignment of this Subcontract, in whole or in part, Subcontractor shall not be relieved of its duties and obligations hereunder and shall be and remain fully responsible and liable for the acts and omissions of its assignees. Nothing herein shall prevent Subcontractor from engaging subcontractors to perform a portion of the Work hereunder, subject to any Owner requirements. Subcontractor shall be fully responsible for all persons directly or indirectly employed by such subcontractors, as Subcontractor is for its own acts and omissions and those of its agents, servants and employees. Additionally, nothing herein shall prevent any guarantor or surety of Subcontractor from enforcing any right hereunder after acknowledgment of its obligation as guarantor or surety.

**COMPLIANCE**

*(Excluding environmental, air quality or building permits)*  
Subcontractor shall meet all compliance obligations contained in the Contract Documents, at its own expense, obtain all necessary licenses and permits pertaining to the Work and comply with all statutes, ordinances, rules, regulations and orders of any governmental or quasi-governmental authority having jurisdiction over the Work or the performance thereof, including, but not limited to, those relating to safety, wages, discrimination and equal employment opportunity. Subcontractor shall promptly correct any violations of such statutes, ordinances, rules, regulations and orders committed by Subcontractor, its agents, servants and employees; and Subcontractor shall receive and respond to, and shall defend, indemnify and save harmless Contractor and Owner, as well as anyone to whom Contractor is obligated, and their agents, servants and employees from and against any loss, liability, or expense arising from any such violations and any citations, assessments, fines, or penalties. Subcontractor agrees to incorporate such compliance requirements in its agreements with its suppliers and subcontractors.

**EQUAL OPPORTUNITY**

Subcontractor agrees not to discriminate against any employee or applicant for employment because of age, race, sex, disability or national origin. In connection with the performance of work under this Contract, the Equal Opportunity Clauses as set forth in Section 202 of Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and Section 402 of the Vietnam Era Veterans Readjustment Act of 1974, as amended, are incorporated by reference.

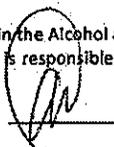
**SAFETY**

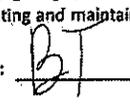
Project Safety: Subcontractor shall maintain its own safety program which shall in all cases meet all applicable federal, state and/or local safety related laws and regulations as well as *Exhibit C - Contractor's Standard Accident Prevention Program* for Subcontractors. Contractor may issue directives to Subcontractor with respect to a safety compliance issue and may require Subcontractor to respond promptly to each directive. Subcontractor's failure to correct the issue, in a prompt manner, authorizes Contractor, at its sole option, to take whatever steps it deems to be necessary to address the issue in order to provide a safe work site for all concerned parties. Contractor shall have no duty to monitor Subcontractor's practices or performance of the Work for safety and shall have no duty to stop Subcontractor's unsafe practices. Any costs, including reasonable attorneys' fees and costs, incurred by Contractor because of any such issue shall be the responsibility of Subcontractor. Subcontractor shall comply with all safety obligations imposed by the Contract Documents, the Underground Gas Pipe Law, The High Voltage Act, the Occupational Safety and Health Act of 1970 and the Construction Safety Act of 1969 A and the regulations issued pursuant to those Acts and all applicable federal, state and local requirements.

Hazard Communication: Subcontractor shall be responsible for implementing and maintaining a Hazard Communication Program as required by law and shall comply with all such obligations imposed by the Contract Documents. This includes, but is not limited to, providing Material Safety Data Sheets (MSDS's) to the Contractor on any hazardous chemicals or materials on the Project Site. Subcontractor shall submit this program for review within ten (10) days of the execution of this Subcontract or ten (10) days before mobilizing on the Project, whichever occurs first. Subcontractor is responsible for any chemicals, which will be used by Subcontractor, that enter the Project Site.

Substance Abuse Program: Subcontractor shall abide by the minimum standards stated in the Alcohol and Drug Testing Program Compliance Policy, (Exhibit D), shall comply with all such obligations imposed by the Contract Documents, and is responsible for implementing and maintaining an

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Reeves: 

effective Substance Abuse Program. Subcontractor is responsible for all costs, including reasonable attorneys' fees and costs, incurred in the adoption, implementation or administration of the Substance Abuse Program.

ENVIRONMENTAL

Throughout performance of Subcontractor's Work, Subcontractor shall conduct all operations in such a way as to minimize impact upon the natural environment and prevent any spread of contaminated or hazardous material. As applicable for its scope of Work Subcontractor shall:

- (a) Provide dust control of its operations within all Project areas under its control and shall coordinate and cooperate with others for dust control in common areas; *N/A*
- (a) Provide working machinery and equipment with efficient noise suppression devices and all other noise and vibration abatement measures necessary for the protection of workers and the public;
- (b) Provide suitable waste, sewage, sanitary and garbage disposal methods and procedures approved by Contractor;
- (c) Provide suitable equipment, facilities and pre-cautions to prevent the discharge of contaminants into the atmosphere, any body of water, or land areas;
- (d) Provide all documentation required by all levels of governing authority over this Agreement concerning environmental requirements; and
- (e) Be responsible for developing and maintaining a written Environmental Compliance Plan (ECP) in accordance with Subcontractor's established practices, including but not limited to compliance with all applicable laws, the Contract Documents and all applicable requirements in the Project Environmental Control Plan. Subcontractor shall have sole responsibility for developing, implementing and enforcing its ECP.

Subcontractor shall submit its written ECP to Contractor for review prior to commencing work at the Project site. Contractor's review of Subcontractor's ECP shall not relieve Subcontractor of its obligations under this Agreement or as imposed by law, and Subcontractor shall be solely responsible for the adequacy of its ECP.

In the event Subcontractor encounters material on the Project Site reasonably believed to be toxic or hazardous material or waste which has not been addressed in this Agreement, Subcontractor shall immediately stop work in the affected area and notify Contractor and Owner of the condition in writing. Pending receipt of written instructions from Contractor, Subcontractor shall not resume work in the affected area.

CLEANING UP

Subcontractor shall comply with the Contract Documents and, at its own expense, (a) keep the premises at all times free from waste materials, packaging and other debris accumulated in connection with the Work by collecting and disposing of such debris to a dumpster provided by Contractor on a daily or other basis requested by Contractor; (b) at the completion of the Work in each area, sweep and otherwise make the Work and its immediate vicinity "broom clean;" (c) remove all of its tools, equipment, ~~scaffolds, temporary structures and surplus materials~~ as directed by Contractor at the completion of the Work; and (d) at final inspection <sup>and</sup> clean and prepare the Work for acceptance by Owner.

During the progress of construction, a composite cleanup crew may be requested by Contractor to perform project cleanup. Participation will be required based on the number of employees Subcontractor has on the Project. If Subcontractor fails to participate in this composite crew, without prior approval of the Project Superintendent, Contractor will provide adequate manpower for this effort and backcharge Subcontractor.

TEMPORARY FACILITIES

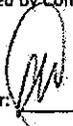
All temporary site facilities, such as storage, sheds, water, heat, light, power, toilets, hoists, elevators, scaffolding, cold weather protection, ventilating, pumps, watchman service, etc., required in performing the Work shall be furnished by Subcontractor except as follows:

- (a) Contractor may furnish temporary power for construction purposes, however; this service may not be available by the start of construction, or if Project Site conditions do not permit temporary power. It will be Subcontractor's responsibility to provide generators for any required power. Power for welders will not be provided.
- (a) Contractor may furnish temporary water for construction purposes depending on Project Site conditions. All drinking water and ice as required for personnel is the sole responsibility of Subcontractor (i.e. containers, cups, and distribution).

All temporary facilities furnished by Contractor shall be without charge to Subcontractor except as otherwise indicated above. Contractor shall designate an area for construction trailers and storage trailers. Locations and scheduled duration shall be coordinated by Contractor. Each Subcontractor has the responsibility to verify that all field offices, trailers and storage sheds shall be in accordance with the applicable local fire marshal's requirements. Each Subcontractor shall arrange and pay for any temporary water, sewer, telephone and electrical hook-up and use fees. Subcontractor shall pay for all power used for the Subcontractor's temporary field office. Subcontractors shall maintain the designated space including removal of debris, trash and clean up of the area after removal of such temporary structures.

Subcontractors will be required to park in designated areas only; spaces to be confirmed by Contractor. If adequate spaces are not available on site, Contractor will not be responsible for providing parking for Subcontractor's employees.

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In connection with its furnishing of the temporary facilities indicated, Contractor shall not be liable for conditions beyond the control of Contractor that may interrupt, delay, or otherwise interfere with the availability of such facilities to Subcontractor. Unless otherwise expressly indicated, the temporary facilities furnished by Contractor shall not be for the exclusive use of Subcontractor, but shall be shared by others performing work on the Project. Contractor has exclusive right to schedule the use of any facilities in accordance with its determinations as to the needs of the Project, and shall incur no liability as a result thereof.

**QUALITY**

*(rental equipment will not be new)*

Subcontractor shall at all times provide first quality, new materials (unless otherwise specified in the Contract Documents) and workmanship conforming to the Contract Document requirements. Subcontractor shall at all times provide proper facilities and an opportunity for the inspection of the Work by Contractor, Architect/Engineer and Owner and their representatives. Subcontractor shall, within twenty-four (24) hours after receiving written notice from Contractor or Architect/Engineer, proceed to take down and remove all portions of the Work which Contractor or Architect/Engineer shall have condemned as unsound, improper, or in any way failing to conform to the Subcontract Documents and shall replace the same with proper and satisfactory Work and make good all work damaged or destroyed thereby. Contractor's failure to discover or notify Subcontractor of defective or nonconforming Work at the time Work, or any portion thereof, is performed or completed shall not relieve Subcontractor of full responsibility for replacement of the defective or nonconforming Work and all damages resulting therefrom. If Owner elects to accept defective or nonconforming Work, Contractor may require an appropriate adjustment in the Subcontract Price to the extent required of Contractor.

**WARRANTY AND GUARANTEES**

*shall*

*done by it under this subcontract against deficiencies and defects in materials and/or workmanship upon the completion of subcontractor's work*

*If applicable*

Subcontractor warrants and guarantees the Work to the full extent provided for in and required by the Contract Documents. Subcontractor shall at its expense and by reason of its express warranty, make good any faulty, defective, or improper parts of the Work discovered within one year from the date of acceptance of the Project by Owner and/or Architect/Engineer or within such longer period as may be provided in the Contract Documents. Subcontractor shall maintain its performance bond for the Project through the end of the warranty period or, substitute a warranty bond therefore to guarantee performance of its warranty obligations for the warranty period. The warranty bond must be in a form, and from a surety, acceptable to Contractor. Subcontractor warrants that all materials furnished hereunder meet the requirements of the Contract Documents and ~~impliedly~~ warrants that they are both merchantable and fit for the purpose for which they are to be used under the Contract Documents. Subcontractor shall properly complete, execute and submit to Contractor the Subcontractor's Warranty Form (see Exhibit K). It is agreed and understood that Subcontractor's obligations under the warranty are in addition to any other warranties as may be applicable under the Contract Documents or applicable law.

*during the rental period*

**SUBMITTALS**

Subcontractor shall immediately prepare or obtain and promptly submit to Contractor shop and erection drawings, samples, product data, catalogue cuts, laboratory and inspection reports and engineering calculations, all as may be required by the Contract Documents or as may be necessary or appropriate to describe the details of the Work. Approval of drawings or other submittals by Contractor or Architect/Engineer shall not relieve Subcontractor of its obligation to perform the Work in strict accordance with the Contract Documents or its responsibility for the proper matching of the Work to contiguous work.

**PERFORMANCE**

The Work shall be performed and furnished to strictly comply with the Contract Documents, under the direction of Architect/Engineer and Contractor, but Subcontractor shall not thereby be relieved of its obligation to supervise the Work, using its best skill and attention, or its obligation to perform the Work as provided for herein. Subcontractor shall be bound by the interpretations and decisions of Architect/Engineer and Owner to the same extent as Contractor may be bound thereby under the Contract Documents.

Subcontractor shall notify and obtain the approval of Contractor before the arrival of forces or delivery of materials and equipment to the project site, before any substantial change in its forces, and before leaving the Project Site for any reason.

*as applicable to Subcontractor's scope of work*

Subcontractor shall promptly and carefully check all Contract Documents and notify Contractor of any discrepancies or conflicts before performing any Work, and Subcontractor shall be responsible for any extra costs resulting from its failure to do so. Subcontractor shall cooperate with Contractor and other subcontractors in the preparation of coordination drawings, where required by Contract Documents.

**LIENS AND PAYMENT BOND CLAIMS**

Subcontractor shall defend, indemnify, protect and save harmless Contractor, Contractor's sureties and Owner from any lien or claim of lien or payment bond claim filed or maintained by any laborer, materialmen, vendor, supplier, subcontractor, or other person or entity directly or indirectly acting for, through, or under Subcontractor, against the Project or any part thereof or any interest therein or against any monies due or to become due from Owner to Contractor or from Contractor to Subcontractor. Subcontractor shall cause any such lien or claim of lien or payment bond claim to be satisfied, removed, or discharged by bond, payment, or otherwise within such time as provided under the Contract Documents or ten (10) calendar days from the date of receipt of notice of the lien or payment bond claim, whichever is shorter. Failure to do so is a breach of the Subcontract whether or not the claim of the party filing the lien is valid.

**PATENTS AND COPYRIGHTS**

Subcontractor shall defend, indemnify, protect and save harmless Contractor and Owner, from and against any claim, cost, expense, or liability (including attorneys' fees) arising out of or resulting from infringement or alleged infringement of any patent rights or copyrights attributable to the Work, except to the extent that Owner may have assumed responsibility under the Contract Documents. Subcontractor shall pay all royalties, license fees and similar charges for patented or copyrighted materials used in or incorporated into the Work.

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Initial Subcontractor: AW

Reeves: BT

**LABOR**

Subcontractor agrees that, where the Work is stopped, delayed or interfered with by strikes, slow-downs, or similar interruptions or disturbances (including cases where Subcontractor's employees are engaged in a work-stoppage solely as a result of a labor dispute involving Contractor or others and not in any manner involving Subcontractor), Contractor shall have the rights and remedies provided in this Subcontract to terminate the Subcontract, supplement Subcontractor's forces and backcharge, or take other steps necessary for the timely progression of the Work. Subcontractor shall maintain and exercise control over all employees engaged in the performance of the Work, and Subcontractor shall, to the extent permitted by law, remove or cause to be removed from the Project any employee whose presence is detrimental to the orderly prosecution of the Work. Subcontractor shall comply with all instructions by Contractor relating to the ingress and egress of its employees, materialmen and suppliers to the Project and shall take all necessary steps to restrain and enjoin any illegal picketing, demonstrating, violence, or similar activity against Subcontractor at the Project.

**USE OF CONTRACTOR'S EQUIPMENT**

If Subcontractor uses the equipment, machinery, tools or materials of Owner, Contractor or other subcontractors or if Contractor performs any of Subcontractor's Work ("collectively Subcontractor Equipment Usage"), Subcontractor agrees to defend, indemnify, protect and hold harmless Contractor, its agents and employees against any claims, demands or lawsuits for loss or damage to property or personal injury which may be made against Contractor arising from or related to Subcontractor's Equipment Usage. Subcontractor expressly walves all rights to Claim against Contractor for any loss, damage or lawsuit incurred by Subcontractor, its agents and employees, which results from Subcontractor Equipment Usage.

**GENERAL JOBSITE RULES**

- (a) Subcontractor's working hours for the Project shall be based on the demands of the overall Project Schedule or Contract Documents.
- (b) Subcontractor's deliveries to the jobsite must be scheduled with the Project Superintendent at least forty-eight (48) hours in advance.
- (c) Subcontractor's employees must comply with the Project Safety Rules posted at the jobsite. Violation of these rules may result in immediate removal of Subcontractor's employees from the Project Site.
- (d) Subcontractor's parking, material storage and office storage buildings shall be located by the Project Superintendent.
- (e) Contractor's representative must be present at all times while this Subcontractor is working onsite. If after hours work becomes necessary, the Project Superintendent must approve it in advance.
- (f) Subcontractor must participate in daily clean up and organization of its work, tools, stored materials, etc.
- (g) Subcontractor must complete Daily Reports, in a form acceptable to Contractor, and submit them to Contractor's office at least weekly for all days on which Subcontractor is working at the Project Site.
- (h) NO SMOKING is permitted on the Project Site. Failure to comply with this rule may result in termination of the Subcontract.
- (i) Additional job specific rules are contained in Exhibit A.

**DIVERSITY AND MWBE COMPLIANCE REQUIREMENTS**

If Subcontractor is to perform as a Local, Disadvantaged, AABE, Small, Minority or Female/Woman Owned Business Enterprise (collectively "MWBE") Subcontractor (i) agrees that all Work required under this Subcontract will be performed, managed and supervised by Subcontractor's own forces, except for Work sub-subcontracted to others with Contractor's prior written consent, (ii) shall do all things necessary to comply with all applicable federal, state, county or municipal laws, rules, regulations or ordinances governing Subcontractor's performance and continuing certification as a MWBE, and (iii) shall perform the Work needed on the Project in such a manner that the Work can be fully counted by Contractor towards applicable MWBE goals for the Project.

If the Contract contains MWBE participation goals, Subcontractor will be required to participate in achieving such MBE participation goal on this Project. Subcontractor agrees, as to its own forces, and its lower tier subcontractors and suppliers, that Subcontractor (i) shall supervise, manage and perform the Work needed on the Project in such a manner that the maximum applicable portion of the Work can be counted by Contractor towards applicable MWBE goals for the Project, and (ii) shall do all things necessary to comply with all applicable federal, state, county or municipal laws, rules, regulations or ordinances governing performance and continuing certification as a MWBE.

**E- VERIFY AND IRCA COMPLIANCE**

Subcontractor is responsible for complying with the Contract Document provisions regarding verification of a workforce legally entitled to work in the United States. Subcontractor shall comply with the Immigration Reform and Control Act of 1986 (IRCA), Georgia Security and Immigration Compliance Act (O.C.G.A. § 13-10-90 and O.C.G.A. § 13-10-91) and Georgia Department of Labor Rules 300-10-.01 and 300-10-1-.02. Subcontract warrants that it is now, and will continue to be, in full compliance with all federal and state immigration requirements, including all I-9 employee verification requirements; E-Verify, and SAVE Affidavits. See Exhibits H-1 and H-2.

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Initial Subcontractor: \_\_\_\_\_  
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Reeves: BT

MISCELLANEOUS

- (a) All matters relating to validity, performance, or interpretation of this Subcontract shall be governed by the law of the State of Georgia without regard to conflict of law principles.
- (a) This Subcontract, including the documents incorporated herein by reference constitutes the entire agreement between Contractor and Subcontractor and supersedes all prior oral and written agreements, discussions, promises, communications, understandings or representations. All bids, or proposals for work, whether verbal or written, which contain any term, condition or provision which purports to modify, conflict with, contradict or add to this Subcontract or the Contract Documents are void and of no force or effect. All changes, additions or deletions must be in writing and signed by an officer of Contractor and Subcontractor.
- (b) No requirement of this Subcontract may be waived except in writing signed by a duly authorized officer of the waiving party.
- (c) If Owner has the right to approve or object to Subcontractor's selection the Subcontract shall not be effective until Owner approves Subcontractor.
- (d) This Subcontract is intended solely for the direct benefit of the parties and there are no third party beneficiaries of this Subcontract.
- (e) The provisions of the Subcontract are severable. Should any provision of the Subcontract or Contract Documents applicable to Subcontractor's work be unenforceable, the remaining provisions will be valid and binding.
- (f) Subcontractor is an independent contractor and there is no joint venture relationship between the parties. Subcontractor must submit *Exhibit G - Request for Taxpayer Identification Number & Certification* before any payment is processed. Subcontractor is responsible for complying with all applicable federal, state and local income tax, payroll tax and social security withholding, reporting and payment obligations and any other government mandated withholding.
- (g) If this Subcontract is for electrical, mechanical, plumbing, fire sprinkler, and/or site work, Subcontractor shall be responsible for; (1) making all final connections to supply lines; (2) excavation, backfill, compaction, and restoration of grades associated with the Work; (3) cutting, patching, dewatering, supports, and penetrations associated with the Work; and (4) fire stop, draft stop, and fireproof of all penetrations so as not to diminish and/or void the fire rating through assemblies in accordance with any applicable building code, rules or regulations. In addition, this Subcontractor agrees to coordinate its work with the other MEP/FP Subcontractors working on the Project to ensure complete and operational systems without additional costs to Contractor.

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IF SUBCONTRACTOR HAS BEEN IN RECEIPT OF THIS SUBCONTRACT AGREEMENT FOR THIRTY (30) CALENDAR DAYS OR HAS COMMENCED WORK ON THE PROJECT IN ANY MANNER, THEN SUBCONTRACTOR SHALL BE DEEMED TO HAVE ACCEPTED AND AGREED TO ALL TERMS AND CONDITIONS OF THIS SUBCONTRACT.

IN WITNESS WHEREOF, the parties have duly executed this Subcontract as of the date first above written.

SUBCONTRACTOR  
By: [Signature]  
(Signature)

REEVES CONTRACTING COMPANY  
By: [Signature]  
(Signature)

Name/Title: Anthony Shaw, CFO  
(Printed Name & Title)

Name/Title: Brian Trotter Project Manager  
(Printed Name & Title)

Date: 5-21-2013

Date: 5-21-2013

Attest: Wanda Brown

Attest: \_\_\_\_\_

**Wanda Brown**  
**Senior Contracts Administrator**

**CORPORATE SEAL**  
\*If no Corporate Seal-Please Notarize

**CORPORATE SEAL**  
\*If no Corporate Seal-Please Notarize

**Notary:**

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
See attached WB 5/21/13  
\_\_\_\_\_  
Notary Republic

My Commission Expires: \_\_\_\_\_

NOTARY SEAL

**Subcontractor Information:**

Check ONE: \_\_\_\_\_ Corporation:  Partnership/Joint Venture \_\_\_\_\_ Individual

Subcontractor's Federal Employer Identification No.: 95-1362750

(Return Exhibit G -- Request for Taxpayer Identification Number & Certification with the executed Subcontract)

If no Federal Employer Identification Number, enter individual business owner's Social Security No.

LICENSING: By executing this Subcontract, Subcontractor affirms that it holds the following license (s) applicable to the Work as required by the state in which the Project is located.

State of \_\_\_\_\_ County of \_\_\_\_\_ Type of License: \_\_\_\_\_

Business License No. \_\_\_\_\_ Expiration Date: \_\_\_\_\_

Payments will not be processed without complete licensing information, Federal Employer Identification Number and a current insurance certificate on file.

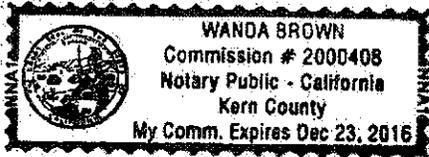
Subcontract #: 131003-1-001

Initial Subcontractor: [Signature]

Reeves: [Signature]

State of California }  
                                  }  
County of Kern        }

Subscribed and sworn to (or affirmed) before me on this **21st** day of **May, 2013**, by **Anthony E. Schoen**, proved to me on the basis of satisfactory evidence to be the person who appeared before me.



Wanda Brown  
Notary Public.

(SEAL)

BT

**EXHIBIT A – SUBCONTRACTOR PROJECT SPECIFIC SCOPE OF WORK**

Please note: Work will not begin "on site" until all required Subcontract documents are received and correct and current. Required Subcontract Documents include the following:

- Insurance Certificate.
- Payment & Performance Bond (if required).
- Company Safety Manual.
- Jobsite Specific Safety Plan.
- Fall Protection Plan
- Hazardous Communication Program:
  - o Chemical List
  - o Material Safety Data Sheets
  - o Written Hazard Communication Program.

Please send all required safety documents and insurance to Attention: Beth Hart, Reeves Contracting Company, 1400 Buford Hwy., Bldg. C-2, Sugar Hill, GA 30518.

Please send the signed Subcontract Agreement, Vendor Certifications and Payment & Performance Bond (if required), to the Project Manager.

**SCOPE OF SUBCONTRACTOR'S WORK**

Subcontractor, as an independent contractor employed by Contractor, agrees to provide and to furnish all labor, supervision materials, scaffolding, equipment, hoisting systems machinery, tools, apparatus, transportation, shop drawing, samples and submittals necessary to provide, furnish and complete the following work, all to be performed in connection with the above described Project.

Subcontractor to mobilize to the jobsite no later than 4/1/2013. All work included in this Subcontract is to be completed in accordance with the milestone and completion dates per the project schedule. *? to be determined*

*what date should be used here? BT*

Furnish and install all Dewatering Scope of Work complete per plans and specifications, including but not limited to the following scope of work description:

Item	Description	Quantity	UM	Unit Price	Extended Price
312319-	- Dewatering	1.000	EA	21,612.50000	21,612.50
312319-	- Dewatering (Rental 28 day cycle)	10.000	MOS	20,591.00000	205,910.00

**Specification Sections:**

- Ebster Park Regional Storm Water Management Facility by Kimley-Horn and Associates, Inc. - Dated 4-12-2013
- Specifically - Section 312319 - Dewatering
- Geotechnical Engineering Evaluation by Geohydro Engineers dated 12-20-2013

In addition to the foregoing, it is further understood and agreed that this Subcontract also includes but is not necessarily limited to the furnishing and installation of the below listed items regardless of whether or not they are in the above specification sections, or any other specifications section of the Contract Documents, or shown on the plans, as listed in Exhibit 'B':

**1. Inclusions:**

- Rain for Rent will be performing the installation and removal a well-point system measuring 1380 linear feet as depicted in their proposal dated 1/11/2013. The scope of work for Rain for Rent is strictly limited to the installation and removal of the well-point equipment and materials, supplied by Rain for Rent, with exception of exclusions noted.  
Includes all Specification Submittals
- The system will be the installation and removal of a 1,380' foot well-point system utilizing 6" header pipe and approximately 276 well-points. The well-points will be 23' feet in length and (4) Well-point pumps will be required. The system setup will be a rectangle style configuration that will surround the construction area estimated @ 380' x 250'..
- Rains for Rent will also water-jet (276) holes 53' feet apart and 23' feet deep for the placement of each 23' well-point. Rain for Rent will then attach 276 swing valves into the header pipe so that the entire construction area will have 100% well-point coverage on all sides.
- Rain for Rent will sub-contract the installation of (4) 50' deep wells with casing sanding from top to bottom. Rain For Rent's estimate includes one installation crew of three installers, a jet rod, 600' feet of 2 1/2" fire hose, a 3" Jet Pump with 40' feet of suction hose and 100' feet of discharge. Installation time after mobilization is estimated at 7 working days for the entire systems. Overall length of rental has not been disclosed to Rain for Rent; the quote reflects one cycle/rental month (28 days) for all four systems and should be tabulated accordingly.
- Quote includes a price for 1 mobilization and demobilization. Any changes to project scope and/or schedules may result in change of price and additional mobilization and de-mobilization costs at the expense of the customer.

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Initial Subcontractor: [Signature]

Reeves: [Signature]

All installation labor is based on five day work week and 10 hour work days, Monday thru Friday. Rain for Rent will hydrostatically test the system prior to bypass commencement and clean & flush the system at the conclusion of the bypass if desired. All permits for the project are responsibility of the customer.

**Rental Items**

Qty	Unit	Duration	Item	Description	Day	Week	*Cycle	Extension
4	Each	1 *Cycle	+812025	PUMP-WELLPOINT RL200 TRLR	\$0.00	\$0.00	\$1,550.00	\$6,200.00
1380	Each	1 *Cycle	MRC	Header system with 20' risers and 3' points and swingers with valves	\$0.00	\$0.00	\$5.25	\$7,245.00
4	Each	1 *Cycle	MRC	G304T well pumps	\$0.00	\$0.00	\$355.00	\$1,420.00
4	Each	1 *Cycle	723426	HOSE SUC PVC BAUER 8x10	\$0.00	\$0.00	\$128.00	\$516.00
22	Each	1 *Cycle	722828	HOSE LAYFLAT YLW BWR 6x50 75#	\$0.00	\$0.00	\$135.00	\$2,970.00
10	Each	1 *Cycle	722826	HOSE LAYFLAT YLW BWR 4x50 100#	\$0.00	\$0.00	\$89.00	\$890.00
1	Each	1 Week	MRC	Jetting Equipment	\$0.00	\$1,350.00	\$0.00	\$1,350.00

**Sale Items**

Qty	Unit	Item	Description	Unit Price	Extension
1	Each	MS	4 - 50' Deep 6" Wells	\$15,987.50	\$15,987.50
1	Each	MS	Dry bulk filter sand #20 no fines	\$5,250.00	\$5,250.00
1	Each	MS	Cabling and PVC to get from deep well to header	\$375.00	\$375.00

**2. Exclusions:**

**Rain for Rent Exclusion:**

- Client will be responsible for ensuring the safety and security of the equipment.
- Client to provide power and electrician for hook up to power electric pumps on site.
- Client will be responsible for supplying water for jetting of all 276 well-points.
- Client is responsible for obtaining and clearing the right of way for installation of well-points and pump locations.
- Client will supply adequate staging areas for equipment and access to the area of work.
- Rain for Rent will not be held responsible for damages to current landscape including but not limited to irrigation systems, vegetation, decorative stones, walkways, bike paths, bridges etc.

• Client must provide a heavy machine such as a track-hoe or crane including an operator to lift the jet-rod 25' above each point in order to water-jet each well-point hole. Any delays caused by machine or operator may result in increased installation or removal costs to the customer.

• The RL-200 pumps must be serviced every 250 hours (oil/oil filters) and at every 300 hours (fuel filters changed). Rain for Rent can perform this service for the client

• The Dewatering system designed for this project was derived from information provided by the customer. Fuel consumption of the RL-200 pump running at 1,800 RPM will be approximately 2.7 gallons per hour. for Rent cannot not guarantee the success of water jetting of well-points, if an auger is needed to accomplish installation additional costs will be passed to the customer.

• Dewatering is not an exact science; if additional equipment is needed Rain for Rent will issue a Change Order to the Customer prior to providing either additional equipment or labor.

• Rain for Rent will require written notice to proceed 7 days prior to any mobilization.

• It is recommended that the system run for 7 days prior to the beginning of excavation.

**Additional Information**

The rental period begins the day the equipment is installed, successfully tested and ready for operation. Should Rain for Rent be obstructed or delayed in the commencement, prosecution or completion of the work beyond the reasonable control of Rain for Rent, then the Client will compensate Rain for Rent for the equipment rental, labor and transportation charges during the delay.

1. Client is responsible for any certifications or permits required for the project.
2. Client will be responsible for security, traffic control and road crossings/bike paths.
3. Client is to supply contact names, phone numbers, and emergency contact number for job superintendent.
4. Client must supply clean water source, meter and any associated permits for well-point jetting.
5. Client shall be responsible for all loss or damage to Rain for Rent's equipment excluding normal wear and tear and excluding loss or damage caused by Rain for Rent.

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- 6. Client will be responsible for any leakage from the well-point system except to the extent caused by Rain for Rent.
- 7. Rain for Rent installation is limited to equipment set up, suction, discharge and pipeline assembly. All trenching, grading, trench plate and associated site construction is the responsibility of the client.

All employees must meet e-verify requirements.

Reeves Contracting Company must have all required insurance documents before any employees can begin onsite work.

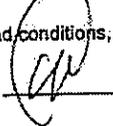
Reeves will provide the following:

We provide:	yes	no
Job water	x	
Temp. toilets		x
Drinking water		x
Material hoisting	x	
Temp. Power	x	
Trash Dumpsters	x	

**Additional Terms**

1. A cycle is defined as 4 weeks. A week is defined as one third of a cycle and a day is one third of a week. Customers will be invoiced at the appropriate cycle, weekly or daily rate based on actual equipment usage except for filtration, pipe, hose and fittings which will be billed at the cycle rates only and will not be pro-rated.
2. The rental rate for pumps and equipment with hour meters are based on an 8 hour day or 48 hour running week. The rental rate will be multiplied by 1.5 for greater than 8 hours per day or 49-96 operating hours per week and multiplied by 2.0 for more than 16 hours per day or 96 operating hours per week. Customer will be invoiced for 24 hours per day if the hour meter has stopped functioning.
3. Overtime will be invoiced at 1.5 times the regular rate for work occurring outside of normally scheduled business hours and 2.0 times the regular rate for work occurring on company recognized holidays.
4. Customer will authorize and pay for any changes to work scope including but not limited to schedule changes, material, labor, third party, permit, fee or service costs. It is the Customer's responsibility to cooperate in the timely processing, approval and payment of any charges within Rain For Rent's invoice terms.
5. Customer is responsible to determine the suitability of equipment for the application.
6. Delivery, Return, Installation and Removal costs are estimated. Customer will be invoiced for actual time. Transportation will be invoiced on a Portal to Portal basis.
7. Customer is responsible for flushing and cleaning tanks, roll off boxes, pipelines, pumps, filters and other Rain for Rent equipment prior to return.
8. Customer is responsible for equipment, repairs, maintenance and damage, excluding normal wear and tear. All returned equipment is subject to inspection by Rain for Rent personnel. Damages and accrued rent will be invoiced to Customer while equipment is out of service for repairs.
9. The Customer cannot alter the equipment without Rain For Rent's prior written approval.
10. Customer will provide "all risk" property insurance for rented equipment.
11. Customer will not allow any equipment to come in contact with any substance that will cause corrosion, damage or leakage.
12. The Customer assumes all risks of loss due to operation and use of the equipment.
13. Customer is responsible to obtain any permits, licenses, certificates, bonds and give all notices required by law.
14. The rental period begins the day the equipment is delivered and continues until returned to Rain For Rent's facility unless written confirmation of the release is provided to the Customer before that time.
15. Rental equipment must be returned to the renting Rain for Rent branch unless agreed to in writing before the rental period begins.
16. All material that comes in contact with Rain For Rent equipment including media is the responsibility of Customer as generator. Rain For Rent shall not be responsible for any fines or sanctions as a result of Customer's use of the equipment.
17. The equipment is sold "AS IS, WHERE IS" in its present condition. Seller makes no warranties, expressed or implied of any kind whatsoever with respect to the equipment. Buyer agrees that buyer has purchased the equipment based on his judgement and evaluation, without reliance upon any statements of representations of seller, and that seller is not responsible for any defects in its operation or for any repairs, parts or services, unless otherwise noted.
18. De-watering, Roll-off, Vacuum boxes and similar equipment are not liquid tight. Rentee accepts full responsibility for all losses, damages and costs caused by or arising out of spills, leakage or discharge from this equipment.
19. Customer will use the equipment in a careful and proper manner and in accordance with safety rules, industry standards, manufacturer's specifications, recommendations, regulations and applicable laws.
20. Customer shall be responsible for environmental fees covering waste fluid, fuel, filter and other disposal costs.
21. A Fuel Surcharge will be calculated and invoiced based on the diesel fuel price as published by the Department of Energy on <http://tonto.eia.doe.gov/oog/info/wohdp/diesel.asp>
22. Customer shall pay Rain For Rent additional expenses caused by site, soil or underground conditions, including, but not limited to, rock

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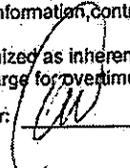
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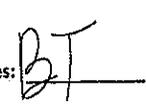
- formations, environmental conditions, regulations or restrictions, hard pan, boulders, cesspools, gas lines, water lines, drain pipes, underground electrical conduits or other above ground or underground obstructions.
23. Customer shall be responsible for acquiring and paying for, if necessary, all public and private property easements required by the project.
  24. The estimated labor component of this quote is based on non-prevailing wage rates. If prevailing wage laws are applicable, Customer must notify Rain For Rent in writing before Rain For Rent estimate completed. If Rain For Rent was not properly notified, Customer shall promptly pay any change orders that adjust wages to prevailing wage rates. Customer is responsible for providing applicable prevailing wage rates to Rain for Rent. Rain For Rent will provide certified payrolls on a bi-weekly basis if notified in writing 10 days before the start of the project.
  25. Customer is prohibited from deducting retention from Rain For Rent invoices and charging Rain for Rent liquidated damages.
  26. Customer is responsible for all routine maintenance including fuel, fluids, lubrication and filters every 150 hours on engine driven equipment. Rain For Rent will charge Customer for servicing any equipment that is on rent or returned that has not been serviced in 150 hours. Rain For Rent can provide field service upon request for an additional service charge. Rain For Rent must be notified 2 business days in advance to schedule required field service.
  27. This estimate excludes any additional costs to Rain For Rent associated with Owner Controlled Insurance (OCIP) or WRAP insurance programs that will be added to Rain For Rent's prices.
  28. Customer is responsible to provide freeze protection for all equipment on site.
  29. This estimate excludes any costs associated with ARRA (American Recovery and Reinvestment Act) reporting requirements that may be flowed down to Rain For Rent.
  30. Customer will be responsible for security, traffic control and road crossings. Traffic control shall meet all applicable Federal, State, and Municipal laws and regulations to assure a safe work environment.
  31. Cold Weather Packages for tanks consist of up to 4 tank heaters and a submersible pump which is designed for use in a non-combustible or corrosive environment.
  32. Tank heaters are operated on 120 volts, 12.5 amps each or 50 amps total. The submersible pump operates at 120 volts, 10 amps.
  33. Customer is responsible for electrical connections and compliance with applicable permits, regulations and code requirements.
  34. Tank Cold Weather Packages are not to be used in combustible or corrosive environments.
  35. Tank Cold Weather Packages are a preventative measure that may keep fluids inside the tank from freezing. RFR will not guarantee fluids from freezing and any resulting damages.
  36. Customer required to verify all components on Rain for Rent equipment meet flammable/hazardous atmosphere requirements.

**JOB SPECIFIC TERMS**

37. Rentee to provide safe, secure access and working conditions so Rentor can complete all aspects of installation, testing, removal and maintenance.
38. Rentee is responsible for supplying Rentor all plans, specifications, soils reports, soil boring logs and any other information that pertains to the project.
39. Rentee to supply water table level or depth from existing ground level.
40. Rentee responsible for contacting "UNDERGROUND ALERT" or respective agencies and supplying the written authorization to drill to Rentor. Any and all utilities must be clearly identified by Rentee before Rentor installs wellpoints.
41. Rentee is responsible for surveying the "improvements" on site for the purpose of properly locating the wellpoint wells.
42. Rentee to provide all earthwork, including, but not limited to, access, egress, road crossings, pipeline burial and any right a ways needed.
43. Rentee to prepare and clear all well locations including but not limited to removal of obstructions, pavement or concrete and any saw cutting necessary to install the wellpoint system.
44. Rentee to supply storm drain, sewer, or suitable discharge site for the wellpoint fluid.
45. Rentee shall be responsible for any permits, licenses and bonds associated with the entire wellpoint project. Rentor will not be responsible for any discharge or other permit violations.
46. Customer will be responsible for security, traffic control and road crossings. Traffic control shall meet all applicable Federal, State, and Municipal laws and regulations to assure a safe work environment.
47. Rentee will operate and maintain the wellpoint system and will promptly notify Rentor of any service or performance related needs.
48. Rentor will not be held liable for any structural or soils subsidence.
49. Wellpoint is not an exact science. Rentor has relied on Rentee provided information to estimate the number of wells, spacing, depth and flow rates. Rentee will pay for additional costs for the actual number of wells, depth, spacing, and the flow rates.
50. Rentee is responsible for any contaminated wellpoint fluid.
51. Rentor has relied on Rentee provided information and specifications for bidding purposes, and shall be entitled to compensation for extra costs encountered in the performance of the work which results from job conditions, inaccurate information, contract documents or geotechnical data. Rentee will pay unforeseen or additional costs ordinarily encountered and generally recognized as inherent in work.
52. This proposal is based on working a straight-time workweek. Premium rates will be charge for overtime.

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Reeves: 

- 53. Estimate for installation assumes that conditions on site enable us to install a minimum of 30 wellpoints per day.
- 54. Rentee to supply all fuel, filters, lubricating oils, 30 wt. oil for vac pump and routine maintenance for pumps and lines.
- 55. Rentee to supply coarse sand to place around the wellpoints.
- 56. Adequate supply of jetting water is Rentee's responsibility. Rentee to obtain required permits, licenses and approvals for water use prior to Rentor starting jetting work.
- 57. Rentee to supply all lifting, transport and labor as may be necessary for loading, relocating and off loading equipment at job site.
- 58. Rentee to supply a suitable excavator and operator, capable of handling a steel jetting tube during installation, up to approximately 25 ft long.
- 59. Rentee required to pull out riser pipes at end of job.
- 60. Rentee to supply any additional equipment required on site to complete installations, such as an auger for drilling through stiff overlying clay.
- 61. Rentee to supply a 150 cfm or larger air compressor with hoses to assist the jetting process.
- 62. Rentee supplied water will be required for initial jetting. Once 10 to 20 wellpoints have been installed, it may be possible to set up a dewatering line to recycle water back into a tank, for further jetting.
- 63. As water is discharged out of the open end of the jetting tube, the excavator or hydrocrane will lower the tube down into the soil. The water washing away the sub-soils allows the tube to fall into the void created. supply a compressed air line to assist the jetting through any gravel.
- 64. After being inserted, down to the required depth, the jetting water will be turned off and the top of the jetting tube removed. At this point a PVC wellpoint connected to a riser pipe will be lowered inside the jetting tube.
- 65. The jetting tube is then withdrawn and the process repeated at approximately 5ft intervals until all the wellpoints have been installed along the line of the dig.
- 66. As the installation of the wellpoints progresses, each riser pipe will then be connected to a header main via separate adjustable valves with sight glass, which in turn would be attached to a dewatering pump set. The system would be started to progressively lower the water table. The ground water removed by the dewatering system would be piped into the drainage point.
- 67. Following completion of the work, the dewatering will be stopped with the pump and header main removed.
- 68. Rentee is responsible for the cost of an additional sump pumping if required.
- 69. Customer shall hold harmless, indemnify and defend Rain For Rent from any claims whatsoever, arising from or related to (A) any pollution, contamination, environmental impairment and/or similar condition directly or indirectly caused by or resulting in whole or in part from Customer's use of any Equipment or (B) any environmental statutory or regulatory compliance requirements applicable to any equipment (or any use thereof) and required under any and all foreign or domestic federal, state or local laws, ordinances, regulations, codes, or requirements of any governmental authorities which regulate or impose standards of liability or conduct concerning air, water, soils, wetlands and watercourses, solid waste, hazardous waste and/or materials, worker and community right-to-know, noise, resource protection, health protection and similar environmental, health, safety, and land use concerns as may now or at any time hereafter be in effect. This indemnification shall survive the termination of the agreement.
- 70. Rentee to supply an excavator or other equivalent device at Rentor's request to assist in the removal of the well points.
- 71. Operating the pump outside the designated operating parameters could result in damage to the unit and injury to personnel.

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Initial Subcontractor: 

Reeves: 

General Requirements – (IF APPLICABLE)

In accordance with the requirements of the Agreement between **Potts Construction (Owner)**, and **Reeves Contracting Company (Contractor)**, in addition to any other requirements of the General Contract Documents, the following items are specifically incorporated into this Agreement and in case of conflict the more comprehensive provisions shall be followed.

1. Subcontractor will be responsible for its own cleanup on a daily basis. All debris will be deposited into the specified dumpsters on ground level provided by Contractor. In the event that Subcontractor does not properly and timely clean its debris, Subcontractor will reimburse Contractor for costs of the Contractor performing this work.
1. Subcontractor shall be required to participate in a composite cleanup crew for "indefinable trash." The number of Subcontractor employees to participate shall be one individual per twelve field employees. All debris will be deposited into the specified dumpsters on ground level provided by Contractor. In the event that Subcontractor does not participate in the composite cleanup crew, Subcontractor will reimburse Contractor for costs Contractor incurs in performing this work.
2. Subcontractor's field personnel are to take breaks and lunch at the designated areas only. Subcontractor is responsible for the removal of trash and waste to a designated container.
3. Subcontractor shall be responsible for furnishing drinking water, ice and cups for its own employees.
4. "No onsite parking will be allowed or tolerated." Space may be available within close proximity around the site for parking. Subcontractor will be responsible for securing offsite parking and, if required, transportations to and from the Project Site for all of Subcontractor's employees. Subcontractor understands that any offsite parking will not be secured, monitored, patrolled, regulated, granted nor guaranteed by Contractor.
5. Subcontractor shall deliver materials to the jobsite in order to provide for the proper execution of its work in a continuous, uninterrupted fashion. Deliveries shall be scheduled on a "just-in-time" basis for incorporation into the Project. Deliveries shall be scheduled in coordination with Contractor and in complete accordance with the overall Project schedule.
6. All subcontractors, including but not limited to, mechanical, electrical, plumbing, fire sprinkler, drywall, etc. shall coordinate a single source supplier for all fire stopping products. Each Subcontractor is responsible for fire stopping and/or sealing its Work that penetrates a rated wall, roof/ceiling assembly or floor slab. If subcontractors cannot agree on a single source supplier/installer, Contractor shall make the selection per Architect/Engineering product approval.
7. *during the installation, removal and operation of rental equipment*  
While the work of this Agreement is ongoing, this Subcontractor shall have a minimum of one (1) superintendent on site at all times, experienced in this type of construction, who has the authority to make decisions regarding day-to-day operations and make commitments on project scheduling. Subcontractor's superintendent must be approved by Contractor and can be removed by the Contractor at any time during the course of the Project.
8. Subcontractor will provide its foreman/superintendent with a hand-held radio set which includes a channel of Contractor's frequency. While on site, Subcontractor shall continuously monitor Contractor's main channel so that constant communication can be maintained. Cellular phones or two-way cellular radios are not a substitute for maintaining a jobsite radio.
9. Any concentrated deliveries, trucking or other such activities which require a (City/County) policeman to handle traffic; where such is encountered, Subcontractor shall arrange for and pay for any permitting cost, a (City/County) policeman and such traffic barricades as needed. *Subcontractor does not provide traffic control.*
10. In the event Subcontractor needs to close a street and/or public right-of-way, Subcontractor will be responsible for permitting and paying for costs, if any, of closing the road, street or right-of-way. Subcontractor shall be responsible for providing traffic control devices, directional signage, permits, equipment and labor as required to properly control traffic in accordance with all governmental authorities having jurisdiction. *Subcontractor does not provide traffic control*
11. All hoisting is Subcontractor's responsibility. Subcontractor will be responsible for receiving, unloading and storing materials until it is installed and accepted by the Owner.
12. Subcontractor understands that there will be multiple contractors working in, around and adjacent to Owner's property and the Project Site. Subcontractor acknowledges the fact that Contractor has no control over these other contractors, their supervision, subcontractors, and sequences of their work or limits of their construction. Subcontractor has accounted for any and all inefficiencies, hardships, hindrances, annoyances, nuisances, delays and encumbrances associated with the other contractors working within close proximity to this Project Site. Subcontractor is aware of adjacent buildings, existing and proposed new construction, and has taken this into consideration for scheduling, sequencing, lay down areas and location of its Work.
13. Subcontractor understands that Contractor ~~does not provide after hour Security~~. Subcontractor is responsible for security of its temporary office site, stored materials, installed materials, tools, supplies and equipment ~~even after final acceptance from Owner~~. Contractor is not responsible for any loss or damage to the Subcontractor's property or vehicles or contents of vehicles on the Project Site or at any temporary office location.

Subcontract #: 131003-1-001

Initial Subcontractor: *[Signature]*

Reeves: *[Signature]*

14. Subcontractor shall prepare, utilizing Computer Aided Drafting software (CAD), all shop drawings including but not limited to all plans, details, sections and schedules as required by the Contract Documents. In addition to these documents being submitted as drawings, Subcontractor shall submit all shop drawings in AutoCAD format so that it is directly readable, editable and plot-able utilizing AutoCAD R19 software.
15. Subcontractor understands and agrees that all interim and final completion dates will be met as set forth by Contractor's Project Schedule. Work efforts shall be coordinated with the overall Project Schedule as may be posted at the jobsite and/or reviewed during the weekly subcontractor coordination meetings. Subcontractor shall have representation at the weekly coordination meetings immediately prior to and during the performance of its Scope of Work. Subcontractor shall properly man this Project in a manner to maintain and accomplish all the activities as per the overall Project Schedule and Subcontractor agrees to review its manpower requirements with Contractor. Work progress may be evaluated weekly by Contractor to determine if manpower is adequate. Subcontractor is responsible for scheduling and sequencing of all material deliveries in order to maintain the overall Project Schedule. All materials shall be ordered in sufficient time to support the Project Schedule. Subcontractor shall confirm and furnish in writing all ship dates from suppliers and vendors for major materials.
16. Subcontractor shall adhere to all requirements indicated by Contractor's Project Schedules, as revised. Subcontractor understands that the Project Schedule is a working document and Contractor may reschedule construction activities as the overall construction work progresses. Subcontractor agrees to reschedule work activities as directed by Contractor to avoid and/or minimize work-around construction delays. If project conditions warrant, Contractor may direct phasing of work or remobilizations by Subcontractor at no additional cost to the Owner or Contractor. No wording contained herein shall be construed as to relieve Subcontractor from the responsibility to procure, fabricate, install and complete its work in a timely manner as required to meet the Project Schedule. Subcontractor realizes that weekday overtime and weekend work overtime shall be utilized when necessary to maintain or make up for lost time so as to meet critical interim and final completion dates required by the Project Schedule. Saturday is considered a makeup day in the event of inclement weather and/or holidays.
17. Subcontractor shall meet or exceed all performance requirements for all work associated with this Agreement. Installation crews to be used for this Project shall be closely monitored and controlled by Subcontractor's management. All parties are aware of the high level of quality required by Owner for this installation, and Subcontractor agrees to replace all personnel not able to achieve and maintain the required level of quality and previously performed work shall be corrected as necessary.
18. Subcontractor will be responsible for postage and courier charges incurred by Contractor for returning information to the Subcontractor for Subcontractor's benefit of maintaining the schedule.
19. Subcontractor shall be responsible for completing and submitting a monthly Accident and Incident log to Contractor on the form furnished by the Contractor. This report shall be turned in with Subcontractor's monthly Application for Payment.
20. Subcontractor shall coordinate with other subcontractors for rough-in locations of the work involved with this Agreement. Subcontractor shall participate in developing coordination drawings as required by Contractor.
21. Subcontractor will be responsible for restoring all areas adjacent to the site disturbed by material storage, trailers, parking, etc. to their original condition.
22. Schedules and submittals, including reports, shop drawings, calculations, certifications, etc. required by the Contract Documents pertaining to Subcontractor's Work shall begin to be provided within ten (10) days of notice to proceed or such other time frame as may be required by the Project Schedule or Contractor. Resubmission of rejected submittals shall be made within one week of Subcontractor's notification of rejection, or sooner if required.
23. Subcontractor warrants to the Owner that all materials, products and assemblies incorporated or submitted for incorporation into the Project are totally free of asbestos, PCB, or other such hazardous materials. This warranty shall include all materials, products and assemblies specified and otherwise required in the Contract Documents and shall also include all materials, components, and accessories not specifically enumerated or detailed in the Contract Documents but which are required by performance specifications or recommended by manufacturers for complete installation of materials, products and assemblies. If Subcontractor has knowledge that, or believes that an item, component, material or accessory within a product or assembly may contain asbestos, PCB, or other hazardous materials, Subcontractor shall secure a written certification from the manufacturer of any suspected material stating this material is totally free of asbestos, PCB, or other hazardous materials, and shall submit the written certification to Contractor.
24. As a condition of final payment, Contractor shall receive written notice from all applicable authorities having jurisdiction (i.e. State/Federal/Local) that all applicable Federal, State, and Local Sales and Use Taxes for Work covered under this Work Order have been paid for this Project or a bond is on file for the payment of those taxes. Should Subcontractor not be able to provide sufficient proof that taxes have been paid, Contractor shall have the right to make payments on Subcontractor's behalf to any tax collecting authority.
25. Subcontractor agrees and understands that close-out submittals such as sample warranty forms, Operation & Maintenance Manuals, final insurance forms, MSDS, lien waivers, etc., are a portion of the Work to be completed under the scope of this Agreement and must be scheduled for turnover to Contractor prior to billing this Agreement past 75% complete.
26. It is understood that every single condition, connection, transition, etc. cannot be specifically detailed in the Contract Documents. Details are provided for typical conditions and making adjustments to adapt these to the specific conditions throughout the Project is a part of the Scope of Work of this Agreement and does not constitute a change in Subcontractor's Scope of Work. Subcontractor acknowledges that it is the intent of the Project plans and specifications to provide a complete and operational system, including items that may not be specifically indicated in the Contract Documents, *unless agreed to by written change order.*

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- 27. Temporary safety lighting will be provided by Contractor; however, additional or supplemental lighting, whether incandescent, fluorescent, halogen, or other lighting will be provided by Subcontractor to completely perform Subcontractor's Work.
- 28. Subcontractor is responsible for furnishing, installing, adequately covering, protecting and identifying block outs and openings as required by the scope of this Agreement. *N/A*
- 29. Subcontractor is to include bad weather protection for the Scope of Work covered by this Agreement, as defined by the specifications and as required in the performance of the Work.
- 30. Subcontractor understands that this Project may be divided up into multiple phases and that the Work may or may not be performed in a continuous operation. Subcontractor has included the cost of mobilizations required by the construction schedule and site conditions.
- 31. Subcontractor understands and agrees that a normal amount of field modifications and repairs will be expected and has included all cost for the same in this Agreement. *Any repairs or damage not caused by Subcontractor will be the Contractor's responsibility.* Any repair not considered normal by Subcontractor will be reported in writing to Contractor, and Subcontractor shall receive Contractor's written confirmation before any repairs not considered normal are made.
- 32. Subcontractor shall furnish and maintain all equipment, scaffolding, ladders, lifts, staging, or other appliances necessary to completely install all Work covered under the scope of this Agreement. Subcontractor's material and equipment must comply with all OSHA and Contractor's safety policies.
- 33. Subcontractor shall protect all existing items designated to remain, including utilities, structures, light poles, sidewalks, roadways, curbs and vegetation until a complete finished product is provided. Subcontractor shall be responsible for any damage to public property or to utilities *caused by its operations*. The damage shall be corrected by Subcontractor in a manner approved by the Contractor, Architect, Owner, and/or governing authorities at no additional cost to Contractor or Owner.
- 34. *Contractor* Subcontractor is responsible for notifying all utility companies prior to any excavation activity. *This is the Contractor's responsibility*
- 35. Subcontractor is to at all times keep the adjacent streets and sidewalks continuously clean and free from materials or debris resulting from its operations in a manner which is acceptable to Contractor and all governmental jurisdictions.
- 36. Subcontractor shall exercise extreme caution and provide adequate protection to prevent damage to work in place installed by other trades. Subcontractor shall make good any damage to same at no cost to the Owner or Contractor with no delay in the construction schedule.
- 37. Subcontractor shall provide a list of all major sub-trade contractors and suppliers, which lists their names, trade, and addresses. *to the extent caused by Subcontractor* Lien Waivers will be required from each of these lower-tier subcontractors and suppliers at each monthly application for payment. Subcontractor shall not deviate from this list without Contractor's prior written approval.
- 38. Subcontractor shall be responsible for its own material during delivery, unloading, hoisting or while in storage until accepted by Owner.
- 39. PAYMENT OF STORED MATERIALS – If the Owner agrees to pay for store materials, the following shall be the minimum requirements for making payment for materials stored offsite. *N/A*
  - A. Each item of storage must be approved at least ten (10) days prior to the submission of an application for payment covering such stored materials. Fabrication of the material for which payment is being requested must be completed prior to the end of the month that payment is requested.
  - B* ~~A. A Bill of Sale naming the Owner as the Buyer of the materials must accompany the application for payment. *N/A*~~
  - C* ~~B. An insurance certificate clearly identifying the material as being covered and which protects the interests of the Owner and Contractor must accompany the application for payment. This insurance certificate must also include "in transit" coverage during the transport to the jobsite. *Contractor is to provide all tick property insurance on rented equipment.*~~
  - D* ~~C. The goods must be identified for this Project and segregated from the rest of the Seller's Inventory.~~
  - E* ~~D. The materials should be security-stored in a bonded warehouse that is safe from theft, damage, deterioration from weather, etc. *N/A*~~
- 40. Contractor will typically provide document boxes at the jobsite office for Subcontractor. Subcontractor is responsible for monitoring its document box on a daily basis. Subcontractor shall be responsible for all related non-regular mail postage (overnight, express, special handling, telegrams, etc.) If critical items, including submittals, revised drawings, samples, etc. cannot be picked up at the jobsite document box on a daily basis, all such items that Subcontractor requests, or that the Schedule requires to be express mailed, shall be sent at Subcontractor's expense.
- 41. Subcontractor shall provide all layout and surveying required for the complete erection of its own work from base lines and benchmarks provided by Contractor at each level.
- 42. Subcontractor understands that no on-site space or storage space may be available. Subcontractor must make other off-site arrangements for storage and office space. Any on-site temporary staging and lay down is to be coordinated with Contractor's Superintendent. Contractor reserves the right to change trailer locations and/or material lay down areas as may be necessary to facilitate job conditions at no additional cost to Contractor or Owner.

*to the extent caused by Subcontractor*

43. All material escalation cost for the duration of the Project is included in this Agreement. All Exhibits attached to this Agreement are incorporated herein by this reference.

- A. All Contract Documents
- A. Insurance Certificate Requirements
- B. Payment and Performance Bonds
- C. Subcontractor Safety Requirements
- D. Interim Waiver & Release of Liens and Claims by Subcontractor or Materialmen to Contractor
- E. Unconditional Waiver & Release of Liens and Claims by Subcontractor or Materialmen to Contractor
- F. Proof of Sales and Use Tax Certificate issued by the State of Georgia
- G. Job-Specific Hazard Abatement and Hazard Assessment Plan
- H. MWBE Participation Requirements
- I. Wage Rate Requirements

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**EXHIBIT B - CONTRACT DOCUMENTS**

The Contract Documents are defined in the Subcontract Agreement and include the following:

**Plans**

- Ebster Park Regional Storm Water Management Facility Plans by Kimley-Horn and Associates, Inc. - Dated 3-27-2013

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**EXHIBIT C- CONTRACTOR'S STANDARD ACCIDENT PREVENTION PROGRAM FOR SUBCONTRACTORS**

THIS PROGRAM IS MADE AVAILABLE IN ACCORDANCE WITH THE SAFETY CLAUSE OF THE SUBCONTRACT. ALL OR PARTS OF THE CONTENTS OF THIS PROGRAM WILL APPLY TO THE WORK DEPENDING ON THE NATURE OF THE WORK AND THE SEQUENCE OF THE WORK.

**ADVANCE ANALYSIS**

Before starting work on any job, Subcontractor shall make a complete analysis of the plans and specifications in order to determine the exposure to accidents, which may develop on the jobsite. With this information, Subcontractor will be able to make plans to control all exposures before contributing to an accident or loss.

**SAFETY INSTRUCTIONS WITH WORK ASSIGNMENTS**

Any Subcontractor's employee supervising or assigning work to any man or group of men, will in each instance give sufficient caution with the assignment to adequately provide safety in the operation. This same principle will apply when changing personnel from one work area to another. Hazardous chemicals will be discussed with guidelines on use and protective equipment required.

**SAFETY MEETINGS**

- A. Subcontractor shall attend periodic supervisory safety meetings held by the Contractor's Superintendent or his designated representative. (at least monthly)
- A. Subcontractor's foreman shall hold weekly "tool box" safety meetings with their own personnel to encourage employees' interest in safety and to give specific safety instructions relative to existing or expected hazards. Notes and minutes of these meetings shall be recorded, with "sign-in" sheets, and submitted to Contractor's Superintendent and main office each week.

**FIRST AID**

Adequate first aid supplies shall be maintained by Subcontractor. These should be stored in a special kit or box. Treatments shall be administered by the most qualified person appointed by Subcontractor, preferably someone who has completed a Red Cross first aid training course.

**ACCIDENT INVESTIGATION AND REPORTING**

All accidents shall be investigated by Subcontractor and reviewed by the Contractor's Superintendent. Subcontractor will prepare a written report on all accidents, including verification of Post Accident Drug and Alcohol testing, to be submitted to Contractor's Superintendent within 24 hours. Report forms shall be provided by Subcontractor, or the Contractor's Superintendent. A copy of this report as well as all First Report of Injury forms, required by State and local authorities, will be forwarded to the Contractor's main office. These forms shall note the action taken to prevent a recurrence.

**PROTECTIVE EQUIPMENT**

The protective equipment to be furnished by Subcontractor to his employees shall be determined by the advance analysis of the job and by conditions that occur as the work progresses. However, on all jobs the following protective equipment shall be the minimum:

- A. Safety goggles or face shields shall be issued to employees who are engaged in chipping, grinding, or performing any operations where they are exposed to eye hazards. Eye Protection must bear the "Z87" stamp.
- B. Welders' hoods and face shields must be worn only by attaching them to hard hats.
- C. Hard hats are to be worn throughout the jobsite, at all times, start to finish of job.
- D. Subcontractor shall require his employees to wear work shoes in good condition.
- E. Life preservers shall be provided and shall be worn by all employees wherever working over water.
- F. Subcontractor is responsible for enforcing the use of protective equipment worn by its employees.
- G. Hearing protection shall be worn when work involves or is near abnormal noise levels.
- H. Subcontractor is responsible for insuring that Subcontractor's Employees working off the ground are following the most current OSHA Fall Protection Guidelines and are equipped with the proper Fall Protection devices.

THE FOLLOWING PROGRAM ITEMS ARE NOTED AND LISTED FOR SPECIAL EMPHASIS SINCE THEY USUALLY CREATE THE MOST HAZARDOUS CONDITIONS AND ARE MOST LIKELY TO BE CITED BY OSHA.

**HOUSEKEEPING**

- A. Plastic bottles, scraps, paper cups and similar rubbish shall be placed by Subcontractor's employees in trash containers for that purpose. No glass containers are allowed onsite.
- B. Rubbish, debris and waste materials shall be removed from the work area daily by Subcontractor's employees. Form and scrap lumber with protruding nails shall be kept clear from all work areas.
- C. Stairways, ladders, ramps, platforms, walkways and work areas shall be kept clear and clean of loose material and trash by Subcontractor's employees.
- D. All material must be kept back from the outer edge of a building a minimum of 10'-0" at building perimeter and 6'-0" at interior floor openings.

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SCAFFOLDS *N/A*

- A. All scaffolding shall be erected by a competent person. All scaffolding shall be thoroughly checked by the Subcontractor's competent person before and after erection and at least daily while in use. All scaffolding must conform to OSHA standards.
- B. All scaffolding over ten feet in height shall be equipped with guard rails and toeboards. Guard rails must support a 200-pound thrust.
- C. All scaffolding, other than suspended scaffolding, shall be erected on firm level foundations and shall be braced or guyed to the structure.
- D. Planking shall have at least twelve inches of overlap and extend six inches beyond center of support or be cleaned at both ends to prevent sliding off supports. Planking shall be 2 x 10 nominal lumber or greater.
- E. Access ladders permanently secured shall be provided on all scaffolding, and employees will be prohibited from climbing on structural members.
- F. All scaffolding shall have proper access.
- G. Do not ride rolling scaffolds, and remove all material from the platform before moving the scaffold.
- H. Workers on a swinging scaffold shall be tied off to the building with a full body harness with an Independent life line and guardrails. There shall be a safety life line for each person.

LADDERS *N/A*

- A. All ladders shall be inspected at least weekly. Broken and or damaged ladders shall be removed from service immediately and destroyed. All ladders must conform to OSHA standards.
- B. All straight ladders shall be set on firm level foundations at a four (4) to one (1) pitch, have clear access at top and bottom, extend the landing a minimum of 36 inches and be secured against movement while in use. All ladders shall be secured top and bottom. Safety feet will be used on all straight ladders.
- C. Portable metal ladders shall not be used for electrical work or where they might contact electrical conductors.
- D. Single portable ladders over 24 feet in length shall not be used.
- E. A double-gang ladder or two single-gang ladders must be available when 25 or more workers must access each elevated working surface above ground level.

FLOOR OPENINGS AND STAIRWAYS *N/A*

- A. At all unprotected floor openings and stairways, provisions shall be made, by Contractor or erecting Subcontractor, for barriers and toe boards. These shall remain in place until the openings have been closed or permanent stairs installed. When Subcontractor must remove such barriers in the performance of their work, they are responsible for replacing barriers so as to provide maximum protection at all times.
- B. Never, under any circumstance, cover a floor opening with a piece of plywood, sheetrock, or other unsuitable material. All floor coverings must support a minimum of 500 lbs. or twice their intended load, whichever is greater. All floor openings must be marked with the word "Hole" or "Cover" and fully secured.

FIRE PROTECTION

- A. Gasoline or other flammable liquids shall be stored in UL approved safety containers and properly labeled.
- B. Approved heating devices, stove pipes, etc. shall be properly insulated to prevent setting fire to adjacent structures.
- C. Fire extinguishers shall be selected by Subcontractor on the basis of type of fire anticipated. Extinguishers, fire barrels, sand pails, hose lines, etc. shall be located where they are readily accessible and easily visible.
- D. Do not smoke or use an open flame, exposed heating element or any other sources of ignition in areas or rooms where spray painting is done.
- E. A fire extinguisher shall be adjacent to all stairwells and within reasonable travel distance at all times.

POWER TOOLS

- A. Provisions shall be made on each jobsite for the grounding of all fixed and portable electrical tools and equipment.
- B. It shall be the responsibility of Subcontractor to ascertain that all power saws and grinders in use are provided with the proper guards.
- C. Power saws shall be operated only by authorized and qualified personnel.
- D. All extension cords shall be of the rounded type rated for heavy duty use.
- E. Faulty electrical cords shall be removed from service and destroyed immediately.

POWDER ACTUATED TOOLS

- A. Low velocity pistol type tools with a pistol grip shall be used in all cases where applicable.
- B. High velocity tools shall be used only for those applications where low velocity tools will not meet job requirements. When a high velocity tool is no longer required, it shall be removed from the jobsite.
- C. Powder actuated tools shall be used, operated, repaired, serviced, and handled only by authorized personnel who have been trained and certified by the manufacturer and workers must carry the certified "card". Tools will be tested daily and all defects corrected before use.
- D. Tools shall not be loaded until immediately before use. Loaded tools shall not be left unattended.

TRENCHES

- A. Subcontractor shall have an "excavation competent person" onsite during excavation operations.
- B. The sides of trenches five feet (5 ft.) or more in depth entered by personnel shall be sloped, shielded, or shored.
- C. Ladders that extend at least three feet (3 ft.) above the edge of the trench shall be located as to require no more than twenty five feet (25 ft.) lateral travel for rapid exit in case of emergency.

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- D. All equipment and spoils should be kept a minimum of two feet (2 ft.) from the top of slope.

**PUBLIC AND PROPERTY PROTECTION**

- A. Only authorized personnel shall be allowed on the jobsite.
- B. Barricades and warning lights shall be provided on all open ditches and excavations where there is a public exposure.
- C. Blasting, pile driving, underpinning and similar operations may present special exposures to adjoining or adjacent structures. When such operations are planned, it is important that the Subcontractor's foreman or project manager make a preliminary survey of the property to determine structural defects, which exist. If such defects exist and there is a possibility of aggravating them, precise preconstruction surveys should be made to establish that the conditions were not caused by our operations but existed before the job started. Depending on the seriousness of the possible aggravations, these surveys should be made by an independent, qualified professional engineer and may include photographs, which should be made and dated by an impartial commercial photographer.

**PROJECT SAFETY RULES**

- A. THE USE OR POSSESSION OF INTOXICANTS OR NON-APPROVED DRUGS ON OR AROUND THE JOBSITE IS STRICTLY PROHIBITED. NO EMPLOYEE WILL BE ALLOWED TO REPORT FOR WORK WHILE UNDER THE INFLUENCE OF INTOXICANTS OR DRUGS. VIOLATION OF THIS RULE BY ANY EMPLOYEE WILL RESULT IN IMMEDIATE TERMINATION. VIOLATION BY OTHER PERSONS WILL RESULT IN IMMEDIATE, PERMANENT REMOVAL FROM THE JOB.
- B. HARD HATS WILL BE WORN AT ALL TIMES BY ANY PERSON ENTERING THE JOBSITE.
- C. ALL EMPLOYEES ARE REQUIRED TO WEAR SHOES THAT MEET OSHA GUIDELINES. NO TENNIS SHOES ARE ALLOWED.
- D. DRESS ON SITE MUST CONFORM TO OSHA GUIDELINES. SHIRTS OR T-SHIRTS WILL BE WORN AT ALL TIMES. NO CUT OFF SHIRTS WILL BE PERMITTED.
- E. EYE AND EAR PROTECTION IS REQUIRED WHEN WORKING CONDITIONS OR TOOLS BEING USED REQUIRE SUCH PROTECTION.
- F. NO RADIOS, TAPE DECKS, OR CD PLAYERS ARE ALLOWED ON THE JOBSITE.
- G. A COMPLETE FIRST AID KIT IS AVAILABLE AT THE FIELD OFFICE.
- H. NO WEAPONS OR FIREARMS ARE ALLOWED ON THE JOBSITE.
- I. NO GLASS CONTAINERS WILL BE PERMITTED ON THE JOBSITE.
- J. ALL PERSONS AND VEHICLES ENTERING THE PROJECT ARE SUBJECT TO REASONABLE SEARCH UPON ENTERING OR LEAVING.
- K. ALL PERSONS WORKING ABOVE GROUND MUST FOLLOW THE MOST CURRENT OSHA FALL PROTECTION GUIDELINES.
- L. ALL ACCIDENTS MUST BE REPORTED TO THE PROJECT SUPERINTENDENT.
- M. M.S.D.S. INFORMATION IS AVAILABLE AT THE FIELD OFFICE.
- N. ANY PERSON DESIRING TO WORK ON THE PROJECT MUST ATTEND THE PROJECT SAFETY/ORGANIZATIONAL MEETING HELD ON SITE.
- O. A SUPERVISOR MUST BE ON SITE AT ALL TIMES WHILE WORK IS TAKING PLACE. THERE SHALL BE NO AFTER HOUR ADMITTANCE TO THE SITE WITHOUT PRIOR SUPERINTENDENT APPROVAL.

VIOLATION OF THESE RULES BY ANY PERSON WILL BE GROUNDS FOR DISCIPLINARY ACTION, TERMINATION AND/OR REMOVAL FROM THE JOBSITE

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Reeves: 

**EXHIBIT D - ALCOHOL & DRUG TESTING PROGRAM COMPLIANCE**

Subcontractor agrees to be responsible for implementing and maintaining an effective Substance Abuse Program. Should Subcontractor not have a written Substance Abuse Program, it agrees to abide by the minimum standards stated herein. Any costs incurred in the adoption, implementation or administration of the Subcontractor's Substance Abuse Program shall be the responsibility of the Subcontractor.

**Minimum Standards**

The Subcontractor's Substance Abuse Policy prohibits their employees and employees of their Subcontractors or Suppliers, from the following:

1. Reporting to and/or being at work under the influence of illegal drugs, unauthorized controlled substances, alcohol or other intoxicants.
2. The on-premises use, manufacture, distribution, dispensing, possession, sale, or purchase of illegal drugs, drug paraphernalia, or any unauthorized controlled substance.
3. Reporting to and/or being at work under the influence of prescribed or over the counter drugs where such use prevents the employee from performing the duties of the job or poses a safety risk to the employee, other persons or property are prohibited. Legally prescribed drugs may be permitted on the work site or company property provided the drugs are contained in the original prescription container and are prescribed by an authorized medical practitioner for current use by the person in possession. It is the employee's responsibility to inform their supervisor if he is taking a prescribed drug which his attending physician has advised may have adverse side effects.
4. Refusal to comply with authorized search.

Drug and/or Alcohol Testing (urinalysis and/or blood) will be required, but not limited to, the following conditions:

**1. Post Accident**

Employees will be tested after the occurrence of a work place accident or incident resulting in personal injury, injury of co-workers, damage to property or work place circumstances which could have resulted in personal injury or damage to property.

**2. Reasonable Suspicion**

All employees are subject to testing for reasonable suspicion.

**3. Random**

All employees will be subject to unannounced random drug tests.

The following are minimum disciplinary actions to be implemented under Subcontractor's Substance Abuse Program:

**1. Positive Drug Tests**

Any employee who tests positive for an unauthorized, illegal drug or alcohol, as determined by the testing laboratory's testing thresholds, will not be permitted to work on property under the control of Contractor.

**2. Refusal to Comply**

Any employee who refuses to submit a urine or blood sample for testing under this Policy, will be treated as a positive drug test. Any employee who refuses to execute the necessary paperwork, or who fails to disclose ingested drugs, or who refuses to cooperate with a search, or otherwise fails to cooperate with the Substance Abuse Policy will be treated as a positive drug test.

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Reeves: 

Reeves Exhibit #E

**ACCIDENT REPORTING FORM**

**INSTRUCTIONS:** Complete all parts of this form and return form to office. Must be called in to the office within 24 hrs. of accident. Reeves office phone (770) 271-1159. Email: [dwelch@reevescontracting.com](mailto:dwelch@reevescontracting.com)

GENERAL INFORMATION		
Jobsite Name:	Jobsite Address:	
Individual Making Report:	Phone Number:	Date & Time :
INCIDENT INFORMATION		
Date:	Time:	Location: (Address & Description of Manhole, Lift Station, Force Main, etc.)
Employee Name:	Company Name:	Company Address:
Supervisor's Name:	Supervisor's Phone Number:	
Witness(es) Name(s):	Witness(es) Phone Number(s):	
Attach Witness Statement(s) if applicable (Use blank copy of this form -- Witness to complete Witness Name & Phone Number, Incident Description & Sign bottom of form.		
Incident Description: (Include the part of the body affected and left or right side, etc)		
Actions Taken:		
Actions Taken or Planned to Prevent Recurrence:		

(ATTACH ADDITIONAL SHEETS IF NECESSARY)

CERTIFICATION AND SIGNATURE
I certify under penalty of law that this document and all attachments were prepared under my direction:
SIGNATURE: _____ DATE: _____

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Form **W-9**  
 (Rev. December 2011)  
 Department of the Treasury  
 Internal Revenue Service

**Request for Taxpayer  
 Identification Number and Certification**

Give Form to the  
 requester. Do not  
 send to the IRS.

Name (as shown on your income tax return)  
**Western Oilfields Supply Company**

(Business name/disregarded entity name, if different from above)  
**Please see attached Page 2.**

Check appropriate box for federal tax classification:  
 Individual/sole proprietor     C Corporation     S Corporation     Partnership     Trust/estate  
 Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶     Exempt payee  
 Other (see instructions) ▶

Address (number, street, and apt. or suite no.)  
**5101 Office Park Drive, Suite 100**

City, state, and ZIP code  
**Bakersfield, CA 93309**

List account number(s) here (optional)

Requester's name and address (optional)

Print or type  
 See Specific Instructions on page 2.

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note: If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number								
			-			-		

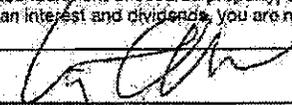
Employer identification number									
9	5	-	1	3	6	2	7	5	0

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here    Signature of U.S. person ▶     Date ▶ **1/3/2015**

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Purpose of Form**

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note: If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

BT

WESTERN OILFIELDS SUPPLY COMPANY  
LIST OF DBA/TRADEMARKS  
FEDERAL IDENTIFICATION NUMBER: 95-1362750

WESTERN OILFIELDS SUPPLY COMPANY - A DELAWARE CORPORATION

Western Oilfields Supply Company  
dba Rain for Rent  
dba Lake Company  
dba Lake Leasing Company  
dba West Side Pump  
dba Lake International  
dba Power Prime Pumps  
dba WOSCO Leasing  
dba Frac Tanks Inc.  
dba Spur Leasing  
dba Hinson Pump Rental, Inc.

BT

EXHIBIT G REQUEST FOR TAXPAYER IDENTIFICATION NUMBER & CERTIFICATION

Form **W-9**  
 (Rev. December 2011)  
 Department of the Treasury  
 Internal Revenue Service

**Request for Taxpayer  
 Identification Number and Certification**

Give Form to the  
 requester. Do not  
 send to the IRS.

Name (as shown on your records/contracts)

Discard name of disregarded entity name, if different from above

Check appropriate tax (or federal tax) classification:

Individual sole proprietor  C Corporation  S Corporation  Partnership  Trust/Venture

Limited liability company. Enter the tax classification (C-C corporation, S-S corporation, P-partnership)  Exempt payee

Other (see instructions)

Address (number, street, and apt. or suite no.) Requester's name and address (optional)

City, state, and ZIP code

Contract number(s) (if any) (optional)

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, if it is your employer identification number (EIN), if you do not have a number, see *How to get a TIN* on page 5.

Note, if the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number								
Employer identification number								

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below).

Certification instructions: You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here Signature of U.S. person Date

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Purpose of Form**

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee; if applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note, if a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

OMB No. 1545-0047 Form W-9 (Rev. 12-31-11)

Subcontract #: 131003-1-001

Initial Subcontractor:  Reeves: 

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EXHIBIT G REQUEST FOR TAXPAYER IDENTIFICATION NUMBER & CERTIFICATION

Form W-9 (Rev. 12-2011)

Page 2

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,
- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS a percentage of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester.
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details).
3. The IRS tells the requester that you furnished an incorrect TIN.
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate instructions for the Requester of Form W-9.

Also see Special rules for partnerships on page 1.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

Partnership, C Corporation, or S Corporation. Enter the entity's name on the "Name" line and any business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

Disregarded entity. Enter the owner's name on the "Name" line. The name of the entity entered on the "Name" line should never be a disregarded entity. The name on the "Name" line must be the name shown on the income tax return on which the income will be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a domestic owner, the domestic owner's name is required to be provided on the "Name" line. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on the "Business name/disregarded entity name" line. If the owner of the disregarded entity is a foreign person, you must complete an appropriate Form W-8.

Note. Check the appropriate box for the federal tax classification of the person whose name is entered on the "Name" line (individual/sole proprietor, Partnership, C Corporation, S Corporation, Trust/estate).

Limited Liability Company (LLC). If the person identified on the "Name" line is an LLC, check the "Limited liability company" box only and enter the appropriate code for the tax classification in the space provided. If you are an LLC that is treated as a partnership for federal tax purposes, enter "P" for partnership. If you are an LLC that has filed a Form 8822 or a Form 2553 to be taxed as a corporation, enter "C" for C corporation or "S" for S corporation. If you are an LLC that is disregarded as an entity separate from its owner under Regulation section 301.7701-3 (except for employment and excise tax), do not check the LLC box unless the owner of the LLC (required to be identified on the "Name" line) is another LLC that is not disregarded for federal tax purposes. If the LLC is disregarded as an entity separate from its owner, enter the appropriate tax classification of the owner identified on the "Name" line.

EXHIBIT G REQUEST FOR TAXPAYER IDENTIFICATION NUMBER & CERTIFICATION

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Page 3

Other entities. Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name/disregarded entity name" line.

**Exempt Payee**

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the "Business name/disregarded entity name," sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

**Note.** If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(c)(3), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2).
2. The United States or any of its agencies or instrumentalities.
3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities.
4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
5. An international organization or any of its agencies or instrumentalities.

Other payees that may be exempt from backup withholding include:

6. A corporation.
7. A foreign central bank of issue.
8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States.
9. A futures commission merchant registered with the Commodity Futures Trading Commission.
10. A real estate investment trust.
11. An entity registered at all times during the tax year under the Investment Company Act of 1940.
12. A common trust fund operated by a bank under section 584(a).
13. A financial institution.
14. A middleman known in the investment community as a nominee or custodian, or
15. A trust exempt from tax under section 664 or described in section 4847.

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 5 and 7 through 12. Also, C corporations.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 7 <sup>2</sup>

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: mortgage and health care payments, attorney's fees, fees/proceeds paid to an attorney, and payments for services paid by a federal executive agency.

**Part I. Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN*, below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note.** See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at [www.ssa.gov](http://www.ssa.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting [IRS.gov](http://IRS.gov) or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note.** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

**Part II. Certification**

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, below, and items 4 and 5 on page 4 indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on the "Name" line must sign. Exempt payees, see *Exempt Payee* on page 3.

**Signature requirements.** Complete the certification as indicated in items 1 through 3, below, and items 4 and 5 on page 4.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

EXHIBIT G REQUEST FOR TAXPAYER IDENTIFICATION NUMBER & CERTIFICATION

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Page 4

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN.
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4775 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at [spam@uce.gov](mailto:spam@uce.gov) or contact them at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 1-877-IDTHEFT (1-877-438-4338).

Visit [IRS.gov](http://IRS.gov) to learn more about identity theft and how to reduce your risk.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN or:
1. Individual	The individual
2. Two or more individuals joint account	The actual owner of the account or, if combined funds, the first individual on the account*
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor*
4. a. The initial, revocable primary trust (grantor is also trustee) b. So-called trust agreement that is not a legal or valid trust under state law	The grantor/trustee  The actual owner*
5. Sole proprietorship or disregarded entity owned by an individual	The owner*
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulation section 1.671-4(b)(2)(v))	The grantor*
For this type of account:	Give name and EIN or:
7. Disregarded entity owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity*
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other not-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or public) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Filer 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulation section 1.671-4(b)(2)(v))	The trust*

\* Use first and (circled) last name of the beneficiary/holder you identify if they are owner of a joint account (have SSN), the person, partner, or grantor/owner.  
 \* Circle the minor's name and furnish the minor's SSN.  
 \* You must show your correct TIN on the form and you may also show your taxpayer ID (TDIN) where the TIN is not shown on the account/contract. You may also show your SSN or EIN if they have one and the TIN is not shown on the account/contract.  
 \* If trust and circle the name of the trust, include, if known, trust EIN and furnish the TIN of the trust, if known, on the account/contract. The TIN of the trust is not determined by the account/contract but the grantor/owner of the trust.  
 \* Note: In order to be valid, please see Form W-9 instructions for more.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required in the information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. (Some uses of this information include giving it to the Department of Justice for tax and criminal justice and for crime, states, the District of Columbia, and U.S. possessions for law enforcement purposes. The information also may be disclosed to other countries or to a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3413, payors must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payor. Certain payors may also apply for providing false or fraudulent information.

Subcontract #: 131003-1-001

Initial Subcontractor:  Page 37 of 51

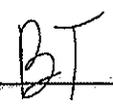
Reeves: 

EXHIBIT H E-VERIFY & S.A.V.E AFFIDAVIT

GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT



Reeves Exhibit #H-1

Subcontractor Name: Western Oilfields Supply Co. dba Rain For Rent

By executing this affidavit, the undersigned person or entity verifies its compliance with O.C.G.A. 13-10-91, affirmatively that the individual, firm, or corporation which is contracting with the Reeves Contracting Company has registered with, is authorized to participate in, and is participating in the federal work authorization program commonly known as E-Verify.\* In accordance with the applicable provisions and deadlines established in O.C.G.A. 13-10-91.

The undersigned person or entity further agrees that it will continue to use the federal work authorization program throughout the contract period, and it will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the undersigned with the information required by O.C.G.A. 13-10-91(b).

The undersigned person or entity further agrees to maintain records of such compliance and provide a copy of each such verification to Reeves Contracting Company at the time the subcontractor(s) is/are retained to perform such service.

254486  
EEV / E-Verify User Identification Number

[Signature]  
By: Authorized Officer or Agent

Date of Authorization

Anthony E. Schoen, CFO  
Printed Name & Title

May 21, 2013  
Date

Western Oilfields Supply Co. dba Rain For Rent  
Name of Business

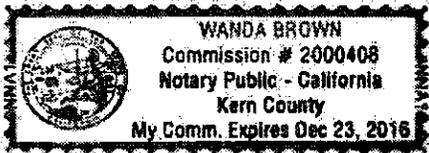
SUBSCRIBED AND SWORN BEFORE ME THIS 5/21/13 DAY OF WB

see attached  
My Commission Expires: \_\_\_\_\_  
Notary Public

\* or any subsequent replacement operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-608.

State of California }  
                                  }  
County of Kern        }

Subscribed and sworn to (or affirmed) before me on this **21st** day of **May 2013**, by **Anthony E. Schoen**, proved to me on the basis of satisfactory evidence to be the person who appeared before me.



Wanda Brown  
Notary Public

(SEAL)

BT

EXHIBIT H E-VERIFY & S.A.V.E AFFIDAVIT



S.A.V.E. AFFIDAVIT

Reeves Exhibit #H-2

Affidavit Verifying Residency Status of an Applicant as Required by the Georgia Security and Immigration Compliance Act

By executing this affidavit under oath, as an applicant as a County Vendor or for other public benefit as referenced in the Georgia Security and Immigration Compliance Act (O.C.G.A. 50-36-1), I am stating the following:

I am a United States citizen OR I am a legal permanent resident 18 years of age or older or I am an otherwise qualified alien or non-immigrant under the Federal Immigration and Nationality Act 18 years of age or older and lawfully present in the United States.

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious or fraudulent statement or representation in an affidavit shall be guilty of a violation of Code Section 16-10-20 of the Official Code of Georgia.

Signature of Applicant, Date, Printed Name & Title, Alien registration number for non-citizens, SUBSCRIBED AND SWORN BEFORE ME THIS DAY OF

Notary Public

My Commission Expires:

\*Note: O.C.G.A. 50-36-1(e)(2) requires that aliens under the Federal Immigration and Nationality Act, Title 8 U.S.C., as amended, provide their alien registration number. Because legal permanent residents are included in the federal definition of "alien", legal permanent residents must also provide their alien registration number.

PLEASE INDICATE THE DOCUMENT VERIFYING YOUR RESIDENCY STATUS AND ATTACH A COPY OF THE DOCUMENT (front and back)

- I-327 (Reentry Permit), I-551 (Permanent Resident Card), I-571 (Refugee Travel Document), I-688 (Temporary Resident Card), I-688A (Employment Authorization Card), I-688B (Employment Authorization Card), I-766 (Employment Authorization Card), Certificate of Citizenship, Naturalization Certificate, Machine Readable Immigrant Visa, Temporary I-551 Stamp (on passport of I-94), I-94 (Arrival/Departure Record), Unexpired Foreign Passport, I-20 (Certificate of Eligibility for Nonimmigrant (F-1) Student Status), DS2019 (Certificate of Eligibility for Exchange Visitor (J-1) Status), Other (Use Document Description)

Subcontract #: 131003-1-001

Initial Subcontractor: [Signature] Reeves: [Signature]

EXHIBIT I                      DAVIS-BACON ACT STANDARD CERTIFIED PAYROLL  
PER JOB REQUIREMENT—IF REQUIRED

Subcontract #: 131003-1-001

Initial Subcontractor:  \_\_\_\_\_  
Page 40 of 51

Reeves:  \_\_\_\_\_

Reeves Exhibit #J-1 AIA & CONT/SCHEDULE OF VALUES

**APPLICATION AND CERTIFICATE FOR PAYMENT**

AIA DOCUMENT G702 (formal)

PAGE OF PAGES

TO CONTRACTOR:  
Reeves Contracting Company  
1400 Buford Hwy., Bldg. C-2  
Sugar Hill, GA 30518

PROJECT:

APPLICATION NO.:  
PERIOD TO:  
PROJECT NOS:

Distribution to:  
 OWNER  
 ARCHITECT  
 CONTRACTOR

FROM SUBCONTRACTOR:  
CONTRACT FOR:

VIA ARCHITECT:

CONTRACT DATE:

**CONTRACTOR'S APPLICATION FOR PAYMENT**

Application is made for payment, as shown below, in connection with the Contract.  
Continuation Sheet, AIA Document G703, is attached.

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner and that current payment shown herein is now due.

- 1. ORIGINAL CONTRACT SUM \_\_\_\_\_
- 2. Net change by Change Orders \_\_\_\_\_
- 3. CONTRACT SUM TO DATE (Line 1 + 2) \_\_\_\_\_
- 4. TOTAL COMPLETED & STORED TO DATE \_\_\_\_\_  
(Column G on G703)
- 5. RETAINAGE: \_\_\_\_\_
  - a. 10% of Completed Work \_\_\_\_\_  
(Columns D + E on G703)
  - b. 0% of Stored Material \_\_\_\_\_  
(Column F on G703)
  - Total Retainage (Line 5a + 5b or  
Total in Column I of G703) \_\_\_\_\_
- 6. TOTAL EARNED LESS RETAINAGE \_\_\_\_\_  
(Line 4 less Line 5 Total)
- 7. LESS PREVIOUS CERTIFICATES FOR PAYMENT \_\_\_\_\_  
(Line 6 from prior Certificate)
- 8. CURRENT PAYMENT DUE \_\_\_\_\_
- 9. BALANCE TO FINISH, INCLUDING RETAINAGE \_\_\_\_\_  
(Line 3 less Line 6)

SUBCONTRACTOR:

By: \_\_\_\_\_ Date: \_\_\_\_\_

County of / State of:  
Subscribed and sworn to before

me this \_\_\_\_\_ day of \_\_\_\_\_

Notary Public:

My Commission expires:

**ARCHITECT'S CERTIFICATE FOR PAYMENT**

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED: \$ \_\_\_\_\_

(Attach explanation if any amount certified differs from the amount applied for. Initial all figures on this application and on the Continuation Sheet that are changed to conform to the amount certified.)

ARCHITECT:

By: \_\_\_\_\_ Date: \_\_\_\_\_

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this contract.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner		
Total approved this Month		
TOTALS		
NET CHANGES by Change Order		

PAYMENT APPLICATIONS AND FORMS MERGE

EXHIBIT J

*[Signature]*  
Reeves:

*[Signature]*

Initial Subcontractor:

Page 41 of 51

Subcontract #: 131003-1-001

Reeves Exhibit #J-1 AIA & CONT/SCHEDULE OF VALUES

**CONTINUATION SHEET/Schedule of Values**

AIA DOCUMENT G703 (format)

AIA Document G702, APPLICATION AND CERTIFICATE FOR PAYMENT, containing Contractor's signed Certification, is attached.  
 In tabulations below, amounts are stated to the nearest dollar.  
 Use Column 1 on Contracts where variable retainage for line items may apply.

APPLICATION NO.:  
 APPLICATION DATE:  
 PERIOD TO:  
 ARCHITECT'S PROJECT NO.:

*[Handwritten Signature]*  
 Reeves:

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	D WORK COMPLETED		F MATERIALS PRESENTLY STORED (NOT IN D OR E)	G TOTAL COMPLETED AND STORED TO DATE (D + E + F)	H % (G / C)	I BALANCE TO FINISH (C - G)	J RETAINAGE (IF VARIABLE RATE)
			D FROM PREVIOUS APPLICATION (D + E)	E THIS PERIOD					
TOTALS:									

*[Handwritten Signature]*  
 Initial Subcontractor:  
 Page 42 of 51





Reeves Exhibit #J-3

**SUBCONTRACTOR'S / VENDOR CERTIFICATION** (Subcontractors's list of their subs, suppliers, equip rental; etc)

Subcontractor: \_\_\_\_\_ Subcontract # \_\_\_\_\_  
 Subcontract #: \_\_\_\_\_

Pay Request #: \_\_\_\_\_ Pay Period Ending: \_\_\_\_\_

Listed below are all material supplier and "lower tier" subcontractors that we will use for the above referenced project:

**I. Items committed to date:**

Name (Vendor/Subcontractor)	Contact Info (Name/Phone #)	Item (Material, etc)	Total \$ Committed	Amount Paid to Date	On Site (Y/N)

**II. Items not committed to date:**

Name (Vendor/Subcontractor)	Contact Info (Name/Phone #)	Item (Material, etc)	Total \$ Committed	Amount Paid to Date	On Site (Y/N)

PM: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

(Corporate Seal)

Witness: \_\_\_\_\_

Subcontract #: 131003-1-001

Initial Subcontractor:   *AW*    
 Page 44 of 51

Reeves:   *BT*



Reeves Exhibit #I-4

### CONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT

(This is between Reeves's Subcontractor and THEIR suppliers, subs, equipment rental, etc)

Upon receipt by the undersigned of a check from \_\_\_\_\_ (Subcontractor) payable to \_\_\_\_\_ (Subcontractor's Supplier Name) and when the check has been properly endorsed and has been paid by the bank upon which it is drawn, this document shall become effective to release any mechanic's lien, stop notice, or bond right the undersigned has on the job of \_\_\_\_\_ located at \_\_\_\_\_ to the following extent. This release covers a progress payment for labor, services, equipment or materials furnished by \_\_\_\_\_ (Subcontractor/Supplier Name) through the date of \_\_\_\_\_ only and does not cover any retention retained before or after the release date; extras furnished before the release date for which payment has not been received; extras or items furnished after the release date.

The undersigned \_\_\_\_\_ (Subcontractor's Supplier) name further states that their account with \_\_\_\_\_ (Reeves' Subcontractor) is currently as follows:

- 1. Subcontract/Purchase Order Total Value: \$ \_\_\_\_\_
- 2. Pending Change Orders/Supplemental Work/Material Order: \$ \_\_\_\_\_
- 3. Total Payments Received to Date Including this Release: \$ \_\_\_\_\_
- 4. Current Amount Due on Account: \$ \_\_\_\_\_

By executing and submitting its Interim Payment Application and the Lien Waiver below, in consideration for the payment described in the lien waiver below, and for the purpose of inducing Owner and Contractor to make this interim payment, the Subcontractor or Supplier, for itself, its employees, subcontractors, sub-subcontractors, mechanics, materialmen and laborers, does hereby represent and warrant as follows:

- 1. **ALL PARTIES PAID:** It has been paid all amounts owed for all materials or labor furnished to the Project through the effective date of the preceding Interim Lien waiver, and that all parties supplying labor or materials to it in connection with the Project have been paid, or will be paid promptly from the proceeds of this progress payment, for all labor, services, equipment or materials furnished with relation to the project.
- 2. **WAIVER OF CLAIMS:** It waives and releases any and all claims, causes of action, suits, damages, judgments, demands of any kind, character and description, whether known or unknown, against the Contractor, the Owner, any construction lender, the Architect, any Construction Manager, and their respective directors, officers, principals, partners, employees, agents, subsidiaries, parent and related firms, successors and assigns, arising out of acts or omissions prior to the effective date of the Interim lien waiver below, with the exception of claims for retainage withheld under the agreement with Contractor or Owner, and those claims described below in an amount not to exceed the stated amount:
- 3. **REPRESENTATIONS:** Subcontractor (if applicable) represents that no contract requirements have been waived or changed except by formal Change Order pursuant to the Subcontract, that required insurance coverages remain in effect and unchanged, that warranty obligations are undiminished by and known conditions or circumstances, and that Subcontractor has secured from all subcontractors and suppliers valid waivers of lien rights with respect to all services, labor, materials or equipment supplied through the date hereof.

IN WITNESS WHEREOF, Subcontractor/Supplier has caused this Conditional Waiver and Release Upon Progress Payment to be executed by its duly authorized owner, partner, agent or officer on the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

STATE OF GEORGIA  
COUNTY OF \_\_\_\_\_

\_\_\_\_\_  
(Name of Subcontractor/Supplier)

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Notary Public (Seal)

Title: \_\_\_\_\_

My Commission Expires:

Subcontract #: 131003-1-001

Initial Subcontractor: \_\_\_\_\_  
Page 45 of 51

Reeves: \_\_\_\_\_



WAIVER AND RELEASE UPON FINAL PAYMENT

Reeves Exhibit #J-6

(This is between Reeve's Subcontractor and THEIR suppliers, subs, equipment rental, etc)

Upon receipt by the undersigned of a check from (Subcontractor) in the sum of \$ payable to (Subcontractor's Supplier Name) and when the check has been properly endorsed and has been paid by the bank upon which it is drawn, this document shall become effective to release any mechanic's lien, stop notice, or bond right the undersigned has on the job of located in to the following extent. This release covers a final payment for labor, services, equipment or materials furnished by (Subcontractor's Supplier Name) does not cover any retention retained before or after the release date; extras furnished before the release date for which payment has not been received, extras or items furnished after the release date.

The undersigned (Subcontractor's Supplier) further states that their account with is currently as follows:

- 1. Subcontract/Purchase Order Total Value: \$
2. Retainage held to date: \$
3. Total Payments Received from: \$

By executing and submitting its Final Payment Application and the Lien Waiver below, in consideration for the payment described in the lien waiver below, and for the purpose of inducing Owner and Contractor to make this interim payment, the Subcontractor or Supplier, for itself, its employees, subcontractors, sub-subcontractors, mechanics, materialmen and laborers, does hereby represent and warrant as follows:

- 1. ALL PARTIES PAID. It has been paid all amounts owed for all materials or labor furnished to the Project through the effective date of the preceding interim lien waiver, and that all parties supplying labor or materials to it in connection with the Project have been paid, or will be paid promptly from the proceeds of this progress payment, for all labor, services, equipment or materials furnished with relation to the project.
2. WAIVER OF CLAIMS. It waives and releases any and all claims, causes of action, suits, damages, judgments, demands of any kind, character and description, whether known or unknown, against the Contractor, the Owner, any construction lender, the Architect, any Construction Manager, and their respective directors, officers, principals, partners, employees, agents, subsidiaries, parent and related firms, successors and assigns, arising out of acts or omissions prior to the effective date of the interim lien waiver below, with the exception of claims for retainage withheld under the agreement with Contractor or Owner, and those claims described below in an amount not to exceed the stated amount.
3. REPRESENTATIONS. Subcontractor (if applicable) represents that no contract requirements have been waived or changed except by formal Change Order pursuant to the Subcontract, that required insurance coverages remain in effect and unchanged, that warranty obligations are undiminished by and known conditions or circumstances, and that Subcontractor has secured from all subcontractors and suppliers valid waivers of lien rights with respect to all services, labor, materials or equipment supplied through the date hereof.

IN WITNESS WHEREOF, Subcontractor/Supplier has caused this Final Conditional Waiver and Release Upon Progress Payment to be executed by its duly authorized owner, partner, agent or officer on the day of 2012.

STATE OF GEORGIA COUNTY OF (Name of Subcontractor/Supplier)

Sworn to before me this day of 2012. By: Name: Title:

Notary Public (Seal)

My Commission Expires:

Subcontract #: 131003-1-001

Initial Subcontractor: Page 46 of 51

Reeves: BT



Reeves Exhibit #I-6

INTERIM LIEN WAIVER AND RELEASE UPON PAYMENT - GEORGIA

STATE OF GEORGIA

COUNTY OF \_\_\_\_\_

THE UNDERSIGNED MECHANIC AND/OR MATERIALMAN HAS BEEN EMPLOYED BY REEVES CONTRACTING COMPANY (NAME OF CONTRACTOR)

TO FURNISH: \_\_\_\_\_ (DESCRIBE MATERIALS AND/OR LABOR) FOR THE

CONSTRUCTION OF IMPROVEMENTS KNOWN AS \_\_\_\_\_ (TITLE OF THE PROJECT OR BUILDING)

WHICH IS LOCATED IN THE CITY OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_ AND IS OWNED BY \_\_\_\_\_

(NAME OF OWNER) AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(DESCRIBE THE PROPERTY UPON WHICH THE IMPROVEMENTS WERE MADE BY USING EITHER, A METES AND BOUNDS DESCRIPTION, THE LAND LOT DISTRICT, BLOCK AND LOT NUMBER, OR STREET ADDRESS OF THE PROJECT.)

UPON THE RECEIPT OF THE SUM OF \$ \_\_\_\_\_, THE MECHANIC AND/OR MATERIALMAN WAIVES AND RELEASES ANY AND ALL LIENS OR CLAIMS OF LIENS IT HAS UPON THE FOREGOING DESCRIBED PROPERTY OR ANY RIGHTS AGAINST LABOR AND/OR MATERIAL BOND THROUGH THE DATE OF \_\_\_\_\_ (DATE) AND EXCEPTING THOSE RIGHTS AND LIENS THAT THE MECHANIC AND/OR MATERIALMAN MIGHT HAVE IN ANY RETAINED AMOUNTS, ON ACCOUNT OF LABOR OR MATERIALS, OR BOTH, FURNISHED BY THE THE UNDERSIGNED TO OR ON ACCOUNT OF SAID CONTRACTOR FOR SAID BUILDING OR PREMISES.

GIVEN UNDER HAND AND SEAL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2012.

\_\_\_\_\_  
(Name of Subcontractor)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_  
My Commission Expires \_\_\_\_\_ (SEAL)

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Address)

NOTICE: WHEN YOU EXECUTE AND SUBMIT THIS DOCUMENT, YOU SHALL BE CONCLUSIVELY DEEMED TO HAVE BEEN PAID IN FULL THE AMOUNT STATED ABOVE, EVEN IF YOU HAVE NOT ACTUALLY RECEIVED SUCH PAYMENT, 60 DAYS AFTER THE DATE STATED ABOVE UNLESS YOU FILE EITHER AN AFFIDAVIT OF NONPAYMENT OR A CLAIM OF LIEN PRIOR TO THE EXPIRATION OF SUCH 60 DAY PERIOD. THE FAILURE TO INCLUDE THIS NOTICE LANGUAGE ON THE FACE OF THE FORM SHALL RENDER THE FORM UNENFORCEABLE AND INVALID AS A WAIVER AND RELEASE UNDER O.C.G.A. SECTION 44-14-366.

Subcontract #: 131003-1-001

Initial Subcontractor: \_\_\_\_\_  
Page 47 of 51

Reeves: \_\_\_\_\_



Reeves Exhibit #1-7

FINAL LIEN AND CLAIM WAIVER UPON FINAL PAYMENT - GEORGIA

Project: \_\_\_\_\_
Address: \_\_\_\_\_
Owner: \_\_\_\_\_
Contractor: \_\_\_\_\_
Releasing Party: \_\_\_\_\_

RELEASING PARTY IS A: (Releasing Party Should Mark One)

- SUBCONTRACTOR
SUB-SUBCONTRACTOR
VENDOR
VENDOR TO THE SUBCONTRACTOR
VENDOR TO A SUB-SUBCONTRACTOR

By executing and submitting its payment application and the lien waiver below, in consideration for the final payment described in the lien waiver below, and for the purpose of inducing owner and subcontractor to make final payment, subcontractor, or supplier, for itself, its employees, subcontractors, sub-subcontractors, mechanics, materialmen and laborers, does hereby represent and warrant as follows:

- 1. ALL PARTIES PAID. It has been paid in full all amounts owed for all materials or labor furnished to the project, and that all parties supplying labor or materials to it in connection with the project have been paid in full for all labor, services, equipment or materials ordered or supplied.
2. WARRANTY OF WORK. It warrants that all work, labor and materials furnished by or through it are free from defects and fully comply with all requirements of the plans, specifications, subcontract and other contract documents.
3. WAIVER OF CLAIMS. It waives and releases any and all claims, causes of action, suits, damages, judgments, demands of any kind, character and description, whether known or unknown, against the contractor, owner, any construction lender, and their respective directors, officers, principals, partners, employees, agents, subsidiaries, parent and related firms, successors and assigns, arising out of or pertaining in any manner to the subcontract, the property described below, or the project.
4. AUTHORIZATION. It warrants that it is the sole owner of the claims released herein, that it has not sold, assigned or conveyed such claims to any other party, and that the individual whose signature appears below has personal knowledge of these matters and is fully authorized and qualified to make these representations on behalf of the subcontractor or supplier.
5. SCOPE OF RELEASE. The representations and release contained hereinafter are independent covenants and operate, and are effective with respect to, all labor, services, materials or equipment provided by or through the subcontractor or supplier, under any agreement, whether oral or written, whether extra or additional to any such agreement, and with respect to any further labor, materials, equipment or services to be furnished with respect to the subcontract, the project or the property.

GIVEN UNDER HAND AND SEAL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2012.

(Name of Subcontractor)

By: \_\_\_\_\_
Name: \_\_\_\_\_
Title: \_\_\_\_\_

Notary Public

My Commission Expires (SEAL)

(Witness)

(Address)

[Handwritten Initials]

[Handwritten Signature]



Reeves Exhibit #LLB

WAIVER AND RELEASE UPON FINAL PAYMENT - GEORGIA

STATE OF GEORGIA
COUNTY OF \_\_\_\_\_

THE UNDERSIGNED MECHANIC AND/OR MATERIALMAN HAS BEEN EMPLOYED BY REEVES CONTRACTING COMPANY (NAME OF CONTRACTOR) TO FURNISH \_\_\_\_\_ (DESCRIBE THE MATERIALS AND/OR LABOR) FOR THE CONSTRUCTION OF IMPROVEMENTS KNOWN AS \_\_\_\_\_ (TITLE OF THE PROJECT OR BUILDING) WHICH IS LOCATED IN THE CITY OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_, AND IS OWNED BY \_\_\_\_\_ (NAME OF OWNER) AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

(DESCRIBE THE PROPERTY UPON WHICH THE IMPROVEMENTS WERE MADE BY USING EITHER A METES AND BOUNDS DESCRIPTION, THE LAND LOT DISTRICT, BLOCK AND LOT NUMBER, OR STREET ADDRESS OF THE PROJECT.)

UPON THE RECEIPT OF THE SUM OF \$ \_\_\_\_\_, THE MECHANIC AND/OR MATERIALMAN WAIVES AND RELEASES ANY AND ALL LIENS OR CLAIMS OF LIENS IT HAS UPON THE FOREGOING DESCRIBED PROPERTY OR ANY RIGHTS AGAINST ANY LABOR AND/OR MATERIAL BOND OR ACCOUNT OF LABOR OR MATERIALS, OR BOTH, FURNISHED BY THE UNDERSIGNED TO OR ON ACCOUNT OF SAID CONTRACTOR FOR SAID PROPERTY.

GIVEN UNDER HAND AND SEAL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2012.

\_\_\_\_\_  
(Name of Subcontractor)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Notary Public  
My Commission Expires \_\_\_\_\_ (SEAL)

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Address)

NOTICE: WHEN YOU EXECUTE AND SUBMIT THIS DOCUMENT, YOU SHALL BE CONCLUSIVELY DEEMED TO HAVE BEEN PAID IN FULL THE AMOUNT STATED ABOVE, EVEN IF YOU HAVE NOT ACTUALLY RECEIVED SUCH PAYMENT, 60 DAYS AFTER THE DATE STATED ABOVE UNLESS YOU FILE EITHER AN AFFIDAVIT OF NONPAYMENT OR A CLAIM OF LIEN PRIOR TO THE EXPIRATION OF SUCH 60 DAY PERIOD. THE FAILURE TO INCLUDE THIS NOTICE LANGUAGE ON THE FACE OF THE FORM SHALL RENDER THE FORM UNENFORCEABLE AND INVALID AS A WAIVER AND RELEASE UNDER O.C.G.A. SECTION 44-14-366.



Reeves Exhibit #19 (for bonded jobs)

CONSENT OF SURETY COMPANY TO FINAL PAYMENT

Project: \_\_\_\_\_  
Address: \_\_\_\_\_

To (Contractor): Reeves Contracting Company  
Address 1400 Buford Hwy., Bldg. C-2  
City/State/Zip: Sugar Hill, GA 30518

For (Subcontractor): \_\_\_\_\_  
Address \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_

In accordance with the provisions of the Subcontract between the Contractor and the Subcontractor as indicated above, the

Surety Company, \_\_\_\_\_  
Address \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_

on bond of Subcontractor:

hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall not relieve the Surety Company of any of its obligations to the \_\_\_\_\_, Owner, as set forth in the said Surety Company's bond.

IN WITNESS WHEREOF,  
the Surety Company has hereunto set its hand this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
(Name of Surety Company)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_ (SEAL)

Use if job is bonded

Subcontract #: 131003-1-001

Initial Subcontractor: AW Reeves: BT  
Page 50 of 51

EXHIBIT K SUBCONTRACTOR WARRANTY FORM

Reeves Exhibit #K



Subcontractor Warranty Form

PROJECT:

LOCATION:

CONTRACTOR: Reeves Contracting Company

We, \_\_\_\_\_, (Subcontractor) for

as described in Specification Section(s) \_\_\_\_\_ do hereby warrant that all labor and material furnished and work performed in conjunction with the above referenced project, will be free from defects due to defective materials and/or workmanship for a period of one (1) year from the date of substantial completion.

This warranty commences on Date of Substantial Completion affixed by Architect and expires on 1 year from date of Substantial Completion.

Should any defect develop during the warranty period due to improper materials, workmanship or arrangement, the same, including adjacent work displaced, shall be made good by the undersigned Subcontractor at no expense to the Owner

The Owner will give Subcontractor written notice of defective work. Should Subcontractor fail to correct defective work within 60 days after receiving written notice, the Owner may, at his or her option, correct defect and charge Subcontractor costs for such correction. Subcontractor agrees to pay such charges on demand.

Nothing in the above shall be deemed to apply to work, which has been abused or neglected by the Owner.

REEVES CONTRACTING COMPANY

\_\_\_\_\_  
(Subcontractor)

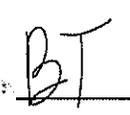
By: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_  
By: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

REEVES CONTRACTING COMPANY

1409 E. 4th Highway, Building C, Suite 200, Sugar Hill, GA 30088  
Phone: 770-271-1100 Fax: 770-271-0888 Web: www.reevescontracting.com

Subcontract #: 131003-1-001

Initial Subcontractor: \_\_\_\_\_  
Page 51 of 51

 Reeves: 



January 16, 2015

**Via Electronic & U.S. Mail**

Brett Stitt  
Rain for Rent  
P.O. Box 1248  
Marietta, Georgia 30061

**RE: Ashton Park Trace Apartments, LLC v. City of Decatur, Georgia; Urban Redevelopment Agency of the City of Decatur; The Potts Company, LLC; The Potts Company, Inc.; Reeves Contracting Company, Inc.; and Silverman Construction Program Management, Inc.**  
United States District Court for the Northern District of Georgia  
Civil Action No.: 1:14-cv-04056-MHC

Dear Mr. Stitt:

Reeves Contracting Company ("Reeves") has retained me and my firm to represent them in the above-referenced litigation (the "Litigation"). Ashton Park Trace Apartments, LLC ("Plaintiff") initiated the Litigation by filing a Complaint on December 23, 2014 and a First Amended Complaint on January 13, 2015. A copy of the First Amended Complaint is attached hereto as Exhibit 1 for your review. In the Complaint and First Amended Complaint, Plaintiff impugns the work that Reeves contracted with Rain for Rent ("Rain") to perform. A copy of the Subcontract Agreement between Reeves and Rain is attached hereto as Exhibit 2.

The Subcontract between Reeves and Rain provides in pertinent part:

**INDEMNITY**

Subcontractor hereby agrees that One Hundred Dollars and No/Cents (\$100.00), and other good and valuable consideration the sufficiency of which is not disputed, paid under the first payment from Contractor under this Subcontract shall constitute separate and valuable consideration for Subcontractor's indemnity obligations as stated herein.

- (a) Subcontractor agrees to indemnify, defend, protect and save harmless Contractor and Owner (as well as any other parties which Contractor is required under the Contract Documents to defend, hold harmless and indemnify), and their Officers, directors, agents, and employees, from any and all claims, demands, suits, judgments, penalties, fines, damages, interest, litigation, liabilities, losses and expenses, including court costs and attorney's fees of whatsoever kind or nature when the same, in whole or in part, result from or arise out of: (a) any failure of Subcontractor to fully perform each and every provision of this Subcontractor including all warranties made by the Subcontractor herein; (b) any failure of Subcontractor,

Fifteen Piedmont Center | 3575 Piedmont Road | Suite L100 | Atlanta, GA 30305  
404 554 8181 (O) | 404 554 8171 (F)  
www.HPWlegal.com



Brett Stitt  
Rain for Rent  
January 16, 2015  
Page 2 of 3

its lower-tier subcontractors, suppliers, invitees or others acting on behalf of the subcontractor to pay for all labor, materials, services, supplies and equipment for the nonpayment of which any lien, encumbrance, demand or claim may be made or asserted against Contractor or Owner; (c) alleged patent infringements asserted against Contractor or Owner arising out to the performance of the Subcontractor; (d) Work by Subcontractor, including the use of Subcontractor furnished designs, specifications or methods, but excluding the use of Owner or Contractor-furnished designs, specifications or methods; and (e) arising in whole or in part out of any controversies or disputes between Subcontractor and its lower-tier subcontractors and suppliers.

(a)(sic) To the full extent permitted by law, Subcontractor agrees to indemnify, defend, protect, and hold harmless Contractor and Owner (as well as any other parties which Contractor is required under the Contract Documents to defend, hold harmless and indemnify), and their Officers, directors, agents, and employees from and against any claim, cost, attorneys' fees incurred (including attorneys' fees incurred on any appeal), expense, liability, or damages attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of property (including loss of use thereof), ~~caused by, arising out of, resulting from, or occurring in connection with, in whole or in part, the performance of the Work to the extent caused by Subcontractor, its subcontractors and suppliers, or their agents servants, or employees; and damage to property and property rights, including Contractor's and Owner's property rights, whether arising before or after completion of Subcontractor's Work hereunder, to the extent such arises or is alleged to have arisen out of, or alleged as a result of negligent, reckless, or intentional wrongful misconduct in the performance of Subcontractor's Work to the extent caused by Subcontractor and/or person employed or utilized by Subcontractor, provided however, Subcontractor's duty hereunder shall not arise if such injury, sickness, disease, death, damage, or destruction is cause by the sole negligence of a party indemnified hereunder, Subcontractor's obligation hereunder shall not be limited by the provisions of any worker's compensation or similar act.~~

The Parties agree that this indemnification provision should be enforced to the full extent permitted by law and expressly waive any right to challenge the enforceability or validity of this provision. The Parties further agree that it is their intention that this indemnification provision be lawful and enforceable and that if for

Brett Stitt  
Rain for Rent  
January 16, 2015  
Page 3 of 3

some reason it is determined not to be enforceable as written, then it shall be construed to be enforceable up to whatever limit is established by applicable law.

#### **DEFENSE AND HOLD HARMLESS OBLIGATIONS**

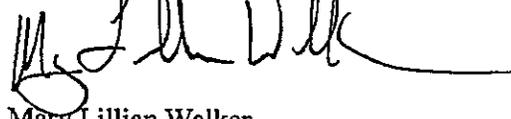
Should Owner or any other person or entity assert a claim or institute a suit, action, or proceeding against Contractor involving the manner or sufficiency of the performance of the Work, Subcontractor shall, upon request of Contractor, promptly assume the defense of such claim, suit, action or proceeding at Subcontractor's expense, and Subcontractor shall indemnify, defend, protect and save harmless Contractor as well as anyone to be defended, indemnified and held harmless by Contractor and its or their agents, servants and employees, from and against any liability, loss, damage, or expense arising out of or related to such claim, suit, action, or proceeding. Notwithstanding anything to the contrary contained herein, Contractor, at its option, shall have the right to participate in the defense of any claims asserted against it, approve the selection of counsel and approve the terms of any settlement made in its name or on its behalf.

Reeves requests that Rain defend and indemnify Reeves against Plaintiff's claims in the Litigation and that you respond to Plaintiff's claims. Please also provide me with certified copies of your Insurance Policies for the Ebster Park Regional Stormwater Management Facility Project.

If you have any questions or would like to discuss this matter with me, please do not hesitate to give me a call.

Best regards,

**HUDSON PARROTT WALKER**



Mary Lillian Walker

MLW:pon  
Enclosures as indicated  
cc: Eric Young

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Ashton Park Trace  
Apartments, LLC,

Plaintiff,

v.

City of Decatur, Georgia; Urban  
Redevelopment Agency of the City of  
Decatur; The Potts Company, LLC;  
The Potts Company, Inc.;  
Reeves Contracting Company, Inc.;  
Silverman Construction Program  
Management, Inc.; Kimley-Horn and  
Associates, Inc.; and Geo-Hydro  
Engineers, Inc.,

Defendants.

Civil Action No.  
1:14-cv-04056-MHC

Jury Trial Demanded

**FIRST AMENDED COMPLAINT**

Plaintiff Ashton Park Trace Apartments, LLC (Park Trace), under Fed. R. Civ. P. 15(a)(1)(A), files its First Amended Complaint against Defendants City of Decatur, Georgia (the City); Urban Redevelopment Agency of the City of Decatur (URA); The Potts Company, LLC and The Potts Company, Inc. (collectively, Potts); Reeves Contracting Company, Inc. (Reeves); Silverman Construction Program Management, Inc.



(Silverman); Kimley-Horn and Associates, Inc. (Kimley-Horn); and Geo-Hydro Engineers, Inc. (Geo-Hydro), and alleges as follows:

### **Statement of the Case**

This is a case about structural damage to Park Trace's apartment building in Decatur, Georgia. The damage—collapsed ceilings, falling concrete, massive cracks in walls, abnormal settling of floor slabs, and substantial sinking and leaning of the building—was caused by the design and construction of the City's \$38-million Beacon Municipal Complex Redevelopment Project.

Park Trace's eight-story apartment building sits on a small hill overlooking and immediately adjacent to the City's construction project. The City and its design professionals and contractors, through their design, excavation, temporary bracing, and dewatering activities, removed the apartment building's soil support. This removal caused the structural damage, which forced Park Trace to evacuate residents and install extensive emergency shoring to prevent further collapse of its building. Park Trace is now in the process of making permanent structural repairs—at its own expense—because the City and its design

professionals and contractors have refused to voluntarily accept responsibility for the damage they have caused.

### **Parties**

1. Plaintiff Park Trace is a limited liability company organized and existing under the laws of Washington with its principal place of business in California. Park Trace has two members;

- a. BLF Holdings, LLC, a Washington limited liability company whose sole member is Brian L. Fitterer Revocable Trust, whose sole member is Brian L. Fitterer who is a citizen of California.
- b. Joseph Sherman who is a citizen of California.

2. Defendant City is a municipal corporation existing by virtue of the laws of the State of Georgia, and is a body corporate subject to suit in this Court.

3. Defendant URA is a public body corporate and politic of the City of Decatur, Georgia, and is subject to suit in this Court.

4. Defendant The Potts Company, LLC is a limited liability company organized and existing under the laws of Georgia with its principal place of business in Georgia. The LLC's members Eric Young,

David Buser, Steve Heyward, Robert Kelly, Jeff Buser, and Mike Potts are all citizens of Georgia.

5. Defendant The Potts Company, Inc. is a Georgia corporation with its principal place of business in Georgia.

6. Defendant Reeves is a Georgia corporation with its principal place of business in Georgia.

7. Defendant Silverman is a Georgia corporation with its principal place of business in Georgia.

8. Defendant Kimley-Horn is a North Carolina corporation with its principal place of business in North Carolina.

9. Defendant Geo-Hydro is a Georgia corporation with its principal place of business in Georgia.

#### **Jurisdiction and Venue**

10. This Court has subject matter jurisdiction over the lawsuit under 28 U.S.C. § 1332(a)(1) because the Plaintiff and Defendants are citizens of different states and the amount in controversy exceeds the sum of \$75,000, excluding interest and costs.

11. This Court has personal jurisdiction over all of the Defendants because each had some interest or involvement with the design, construction management, supervision, or construction of the City's Beacon Municipal Complex Redevelopment Project, which caused damage to Park Trace's apartment building located in Decatur, Georgia. The exercise of jurisdiction over the parties will not violate due process because Park Trace's causes of action grew out of the Defendants' purposeful contact with Georgia through the Beacon Municipal Complex Redevelopment Project, and the defendants reasonably should have anticipated defending suit in this Court.

12. Venue is proper in this District under 28 U.S.C. § 1391(b)(2) because this is the District in which a substantial part of the events or omissions giving rise to Park Trace's claims occurred and is also the District where the Beacon Municipal Complex Redevelopment Project and Park Trace's apartment building are located.

#### **General Allegations**

13. Park Trace is the owner of an eight-story apartment building, known as Park Trace Apartments, which is located at 700

Atlanta Avenue in Decatur, Georgia. The apartment building is on land that is owned by Park Trace.

14. Park Trace's apartment building is adjacent to land that was owned at all relevant times by the City or the URA.

15. The City has a multimillion-dollar construction project—the Beacon Municipal Complex Redevelopment Project (Project)—located on the City's land that adjoins Park Trace's land on which Park Trace's apartments are located.

16. On or about September 26, 2012, the City hired The Potts Company, Inc. as the "Construction Manager as Constructor" for the Project.

17. On or about March 28, 2013, the City hired Silverman for "Construction and Post Construction" management services on the Project. Silverman was hired to, among other things, establish and manage a quality assurance program for all aspects of the Project, including design and construction through the life of the Project, and to monitor the quality of work on the Project.

18. On or about April 8, 2014, The Potts Company, Inc. assigned its contract with the City to The Potts Company, LLC. The City consented to that assignment on or about May 10, 2014.

19. The Project included a significant upgrade to the City's stormwater system. The stormwater system upgrade is known as the Ebster Park Regional Stormwater Management Facility (Stormwater Upgrade), and cost approximately \$10 million.

20. The Stormwater Upgrade portion of the Project included the planning, design, construction management, construction, and supervision of a two-acre stormwater management vault under Ebster Field on the City's land adjoining Park Trace's land.

21. The City hired Kimley-Horn to design the Stormwater Upgrade and to provide professional civil engineering services for the Stormwater Upgrade.

22. The City hired Geo-Hydro to provide professional geotechnical engineering services for the Stormwater Upgrade.

23. The construction of the underground stormwater management vault required excavation, shoring, and dewatering activities on the City's land immediately adjacent to Park Trace's land.

24. The Stormwater Upgrade required a deep excavation to install the stormwater management vault.

25. Upon information and belief, the City's excavation work for the stormwater management vault was started near the east property line of Park Trace's land—where Park Trace's land and the City's land adjoin—along the toe of an existing slope.

26. Upon information and belief, the City's excavation used a steepened slope for approximately the first 15 feet, and was further deepened using temporary excavation bracing.

27. Upon information and belief, the temporary bracing wall consisted of soldier piles and wood lagging.

28. Upon information and belief, the estimated total excavation depth for the stormwater management vault, including the steepened slope and the temporary bracing wall, was about 30 feet.

29. Upon information and belief, the excavation and construction process for the stormwater management vault used a construction dewatering system consisting of continuous (24/7) pumping of groundwater from deep wells located along the edge of the stormwater management vault.

30. After the City's excavation, bracing, and dewatering activities on the Stormwater Upgrade began, Park Trace's apartment building suffered structural damage—including collapsed ceilings, falling concrete, significant interior and exterior cracking of walls, significant settling of the building's floor slabs, and substantial sinking and leaning of the building (Property Damage).

31. Dozens of the apartment building's residents had to be evacuated because of the Property Damage.

32. The apartment building continues to sustain additional damage.

33. Following the City's excavation, bracing, and dewatering activities, Park Trace's apartment building experienced a significant tilt downward on the east end of the building—the end nearest the City's

adjoining land where the City's excavation, bracing, and dewatering activities on the Stormwater Upgrade took place.

34. The City's design, engineering, excavation, bracing, and dewatering construction activities on the Stormwater Upgrade caused, among other things, a drawdown of the groundwater table and loss of soil support beneath Park Trace's apartment building, which resulted in the Property Damage.

35. After the Property Damage was noticed, Park Trace sent multiple written notices to the City and Potts regarding the Property Damage.

36. Park Trace provided written notice to the City as required by O.C.G.A. § 36-33-5.

37. In response to Park Trace's written notices, City representatives visited the apartment building and viewed the Property Damage.

38. Despite the notices and repeated visits to the apartment building by City representatives, the City has refused to accept

responsibility for the damages and has refused to act upon Park Trace's claim for damages.

39. More than 30 days have passed since Park Trace presented its claim to the City.

40. Park Trace has incurred, and will continue to incur, substantial damages resulting from the City's design and construction of the Project, which removed Park Trace's apartment building's soil support.

#### CAUSES OF ACTION

##### **Count One - Breach of Contract Against the City of Decatur**

41. Park Trace incorporates by reference the allegations in Paragraphs 1 through 40 as if fully set forth herein.

42. On February 19, 2013, Park Trace and the City entered into a Right-of-Entry Agreement (Agreement). A true and correct copy of the Agreement is attached as **Exhibit A** and incorporated herein by reference.

43. The Agreement states that "the City is undertaking a construction project known as Beacon Municipal Complex," which "is

located adjacent to” Park Trace’s apartment building property. Ex. A, p. 1.

44. Under the Agreement, the City requested that Park Trace allow the City to install on Park Trace’s apartment building property a groundwater monitoring well for the purpose of ensuring that the City’s construction of its Project did not adversely affect Park Trace. *Id.*

45. Under the Agreement, Park Trace gave the City permission to access Park Trace’s property to install the groundwater monitoring well. *Id.*

46. Under the Agreement, the City promised that “[a]ll work shall be performed in a good, substantial and workmanlike manner.” *Id.* ¶ 1.

47. Under the Agreement, the City promised that “[d]uring construction, the City shall ensure that the Property [*i.e.*, Park Trace’s property] will be maintained at all hours of operation for” Park Trace’s “tenants.” *Id.* ¶ 2.

48. Under the Agreement, the City further promised that “[d]uring construction, the City shall minimize any interruption of or

interference with [Park Trace's] use and enjoyment of [Park Trace's] property." *Id.* ¶ 3.

49. Implied in the Agreement is a legal duty to perform the Agreement skillfully, carefully, and in good faith.

50. Park Trace faithfully, properly, and fully performed its obligations under the Agreement.

51. The City breached the Agreement by failing during construction to ensure that Park Trace's property was maintained for Park Trace's tenants. The City failed to maintain Park Trace's property for its tenants because the City's construction caused tenants to be displaced when their apartments were damaged by the City's construction activities on the Project.

52. The City breached the Agreement by failing during construction to minimize any interruption of or interference with Park Trace's use and enjoyment of its property. The City's construction activities on the Project caused substantial interruption and interference with Park Trace's use and enjoyment of its apartment building because the City's construction activities caused Property

Damage—resulting in tenants being evacuated and emergency measures being taken to stabilize the building.

53. The City breached the Agreement by failing to perform the work in a good, substantial, and workmanlike manner by either failing to install the groundwater monitoring well in a timely fashion or failing to properly monitor the groundwater after the installation of the well, which resulted in a substantial drawdown of the groundwater level, which removed soil support from Park Trace's apartment building, which resulted in the apartment building's Property Damage.

54. Park Trace has been damaged by the City's breaches of the Agreement.

55. The City is liable to Park Trace for all damages arising from the City's breaches of the Agreement in an amount to be proven at trial.

56. All conditions precedent to the bringing of this claim and to the recovery of the damages and other relief sought have been satisfied, waived, excused, or otherwise discharged.

**Count Two – Violation of O.C.G.A. § 44-9-3  
Against the City of Decatur and the URA**

57. Park Trace incorporates by reference the allegations in Paragraphs 1 through 56 as if fully set forth herein.

58. Under O.C.G.A. § 44-9-3, the City and the URA, as the owners of the land adjoining the land owned by Park Trace, had a legal duty to Park Trace to maintain the support of Park Trace's soil.

59. Upon information and belief, the City/URA and Park Trace each derived title for its land from a common grantor, the Housing Authority of the City of Decatur.

60. Upon information and belief, the City transferred the land where the Project is located to the URA sometime during construction of the Project, and the land is to be transferred back to the City after the Project has been completed.

61. Consequently, at all relevant times the Project land adjoining Park Trace's land was owned by either the City or the URA.

62. The City/URA failed to exercise ordinary care and reasonable precautions to sustain Park Trace's land during the

excavation, temporary bracing, and dewatering activities for the Stormwater Upgrade.

63. The City/URA's failures were a breach of its legal duty to maintain support for Park Trace's land.

64. The excavation, temporary bracing, and dewatering activities for the Stormwater Upgrade inflicted damage upon Park Trace's adjoining land by withdrawing the support of the soil for the apartment building, which resulted in the apartment building's Property Damage.

65. As a result of the City/URA's failure to exercise ordinary care and reasonable precautions to sustain the support of Park Trace's land during the planning, design, construction management, supervision, and construction of the Stormwater Upgrade, Park Trace's apartment building sustained substantial damage, in an amount to be proven at trial.

66. Under O.C.G.A. § 44-9-3, the City/URA is liable to Park Trace in tort for the damages to Park Trace's apartment building, which resulted from the City/URA's failure to exercise ordinary care and

reasonable precautions to sustain the land of adjoining landowner Park Trace.

67. All conditions precedent to the bringing of this claim and to the recovery of the damages and other relief sought have been satisfied, waived, excused, or otherwise discharged.

**Count Three – Negligence  
Against the City of Decatur**

68. Park Trace incorporates by reference the allegations in Paragraphs 1 through 67 as if fully set forth herein.

69. The City owed Park Trace the duty to design and construct the Project in a non-negligent manner so as not to harm Park Trace.

70. The City had a legal duty to conform to the standard of conduct or care expected of those performing design, excavation, temporary bracing, and dewatering work to ensure that these activities did not impact Park Trace or cause damage to Park Trace's apartment building.

71. The City acted negligently and breached its legal duty by not timely and properly monitoring the design, excavation, temporary bracing, and dewatering work taking place on the Project in a manner

so that Park Trace's adjoining land would not be damaged by having its soil support removed.

72. The City breached its duties in the planning, design, construction management, supervision, and construction of the Stormwater Upgrade because the City failed to exercise ordinary care and reasonable precautions in those activities, which resulted in Property Damage to Park Trace's apartment building.

73. The City's negligence was the direct cause of the Property Damage to Park Trace's apartment building.

74. The City is liable to Park Trace for all damages arising from the City's negligence in an amount to be proven at trial.

75. All conditions precedent to the bringing of this claim and to the recovery of the damages and other relief sought have been satisfied, waived, excused, or otherwise discharged.

**Count Four – Inverse Condemnation  
Against the City of Decatur**

76. Park Trace incorporates by reference the allegations in Paragraphs 1 through 75 as if fully set forth herein.

77. The City, through its planning, design, engineering, construction management, supervision, and construction of the Stormwater Upgrade, created a condition on Park Trace's private property that amounts to a taking without compensation under Georgia law.

78. The City's engineering, excavation, temporary bracing, and dewatering activities on its Stormwater Upgrade caused Property Damage to Park Trace's apartment building.

79. The work on the Stormwater Upgrade was being done at the direction of the City.

80. The City's liability is primary and absolute because the damage to Park Trace's property resulted from the City's work on the Stormwater Upgrade.

81. Park Trace is entitled to recover just compensation from the City for damages to Park Trace's property that resulted from the City's work on its Stormwater Upgrade. Damages are in an amount to be proven at trial.

82. All conditions precedent to the bringing of this claim and to the recovery of the damages and other relief sought have been satisfied, waived, excused, or otherwise discharged.

**Count Five – Nuisance  
Against the City of Decatur**

83. Park Trace incorporates by reference the allegations in Paragraphs 1 through 82 as if fully set forth herein.

84. The City had a duty not to create a nuisance by which third parties may be injured.

85. “A nuisance is anything that causes hurt, inconvenience, or damage to another and the fact that the act done may otherwise be lawful shall not keep it from being a nuisance.” O.C.G.A. § 41-1-1.

86. The City caused hurt, inconvenience, and damage to Park Trace through the City’s planning, design, engineering, construction management, supervision, and construction of the Stormwater Upgrade, which resulted in Property Damage to Park Trace’s apartment building.

87. The City caused hurt, inconvenience, and damage to Park Trace through the City’s engineering, excavation, temporary bracing,

and dewatering activities on the Stormwater Upgrade, which caused the groundwater table to drop and a loss of soil support, which resulted in Property Damage to Park Trace's apartment building.

88. The City exercised its planning, design, engineering, construction management, supervision, and construction activities on the Stormwater Upgrade in an unreasonable manner by failing to properly monitor the groundwater table.

89. The City's construction activities on the Stormwater Upgrade had a duration of many weeks with continuous dewatering, which would require continuous monitoring of the groundwater table.

90. The City had knowledge of the dangerous condition—the lowering of the groundwater table—as evidenced by the City entering into the Agreement with Park Trace under which the City was to install a groundwater monitoring well to prevent from happening exactly what happened. That is, the City knew it should monitor the groundwater table during construction of the Project to avoid lowering the groundwater table and damaging Park Trace.

91. The City failed to act within a reasonable time to prevent its dewatering activities from lowering the groundwater table and damaging Park Trace.

92. The City had a legal duty to terminate its dewatering activities before those activities adversely affected the groundwater table and removed Park Trace's soil support.

93. The City failed to terminate its dewatering activities before the groundwater table was lowered, which caused loss of soil support and Property Damage to Park Trace's apartments.

94. The nuisance created by the City caused Property Damage to Park Trace's apartments.

95. Park Trace is entitled to recover its damages from the City in an amount to be proven at trial.

96. All conditions precedent to the bringing of this claim and to the recovery of the damages and other relief sought have been satisfied, waived, excused, or otherwise discharged.

**Count Six – Interfering with Enjoyment of Private Property  
(Violation of O.C.G.A. § 51-9-1)  
Against All Defendants**

97. Park Trace incorporates by reference the allegations in Paragraphs 1 through 96 as if fully set forth herein.

98. “The right of enjoyment of private property being an absolute right of every citizen, every act of another which unlawfully interferes with such enjoyment is a tort for which an action shall lie.” O.C.G.A. § 51-9-1.

99. Park Trace has an absolute right of enjoyment of its private property located at 700 Atlanta Avenue in Decatur, Georgia.

100. The Defendants’ acts in the planning, design, engineering, construction management, supervision, and construction activities on the Stormwater Upgrade unlawfully interfered with Park Trace’s enjoyment of its private property by lowering the groundwater table and removing soil support, which caused Property Damage to Park Trace’s apartment building.

101. The Defendants’ acts in the engineering, excavation, temporary bracing, and dewatering activities on the Stormwater

Upgrade unlawfully interfered with Park Trace's enjoyment of its private property by lowering the groundwater table and removing soil support, which caused Property Damage to Park Trace's apartment building.

102. The City, as the owner of the land, the Project, and the Stormwater Upgrade, violated O.C.G.A. § 51-9-1 through its acts in the planning, design, construction management, supervision, and construction activities on the Stormwater Upgrade, which unlawfully interfered with Park Trace's enjoyment of its private property by lowering the groundwater table and removing soil support, which caused Property Damage to Park Trace's apartment building.

103. The City, as the owner of the land, the Project, and the Stormwater Upgrade, violated O.C.G.A. § 51-9-1 through its acts in the design, excavation, temporary bracing, and dewatering activities on the Stormwater Upgrade, which unlawfully interfered with Park Trace's enjoyment of its private property by lowering the groundwater table and removing soil support, which caused Property Damage to Park Trace's apartment building.

104. Silverman, as the City's agent and the City's Program Manager for Construction and Post Construction Phase services, violated O.C.G.A. § 51-9-1 through its acts of failing to establish and manage an adequate quality assurance program for the design, construction management, supervision, and construction activities on the Stormwater Upgrade, which unlawfully interfered with Park Trace's enjoyment of its private property by lowering the groundwater table and removing soil support, which caused Property Damage to Park Trace's apartment building.

105. Silverman, as the City's agent and the City's Program Manager for Construction and Post Construction Phase services, violated O.C.G.A. § 51-9-1 through its acts of failing to establish and manage an adequate quality assurance program for the design, excavation, temporary bracing, and dewatering activities on the Stormwater Upgrade, which unlawfully interfered with Park Trace's enjoyment of its private property by lowering the groundwater table and removing soil support, which caused Property Damage to Park Trace's apartment building.

106. Potts, as the City's agent and the City's Construction Manager as Constructor, violated O.C.G.A. § 51-9-1 through its acts of failing to properly manage and supervise the construction activities on the Stormwater Upgrade, which unlawfully interfered with Park Trace's enjoyment of its private property by lowering the groundwater table and removing soil support, which caused Property Damage to Park Trace's apartment building.

107. Potts, as the City's agent and the City's Construction Manager as Constructor, violated O.C.G.A. § 51-9-1 through its acts of failing to properly manage and supervise the excavation, temporary bracing, and dewatering activities on the Stormwater Upgrade, which unlawfully interfered with Park Trace's enjoyment of its private property by lowering the groundwater table and removing soil support, which caused Property Damage to Park Trace's apartment building.

108. Reeves, as Potts' subcontractor responsible for the construction of the Stormwater Upgrade, violated O.C.G.A. § 51-9-1 through its acts of performing the excavation, temporary bracing, and dewatering activities on the Stormwater Upgrade in such a way that

these activities unlawfully interfered with Park Trace's enjoyment of its private property by lowering the groundwater table and removing soil support, which caused Property Damage to Park Trace's apartment building.

109. Kimley-Horn, as the design professional responsible for the design of the Stormwater Upgrade, violated O.C.G.A. § 51-9-1 through its acts of performing the dewatering design on the Stormwater Upgrade in such a way that these activities unlawfully interfered with Park Trace's enjoyment of its private property by lowering the groundwater table and removing soil support, which caused Property Damage to Park Trace's apartment building.

110. Geo-Hydro, as the geotechnical engineer responsible for the geotechnical engineering services on the Stormwater Upgrade, violated O.C.G.A. § 51-9-1 through its acts of performing the geotechnical engineering services on the Stormwater Upgrade in such a way that these activities unlawfully interfered with Park Trace's enjoyment of its private property by lowering the groundwater table and removing soil

support, which caused Property Damage to Park Trace's apartment building.

111. The Defendants' acts in lowering the groundwater table caused a substantial drop in the groundwater level beneath Park Trace's apartment building, which resulted in, among other things, loss of soil support and Property Damage to the apartment building.

112. The Defendants' violations of O.C.G.A. § 51-9-1 were the direct cause of Park Trace's damages, in an amount to be proven at trial.

113. All conditions precedent to the bringing of this claim and to the recovery of the damages and other relief sought have been satisfied, waived, excused, or otherwise discharged.

**Count Seven – Negligent Construction  
Against Potts and Reeves**

114. Park Trace incorporates by reference the allegations in Paragraphs 1 through 113 as if fully set forth herein.

115. Potts and Reeves had a duty implied by law to perform the work on the Project in accordance with industry standards.

116. Potts was hired by the City as Construction Manager as Constructor for the Project.

117. Reeves was hired by Potts to construct the Stormwater Upgrade.

118. Potts and Reeves are building contractors and performed as building contractors on the Project.

119. The law imposes upon Potts and Reeves the obligation to exercise a reasonable degree of care, skill, and ability that, under similar conditions, is ordinarily employed by other building contractors.

120. Potts failed to exercise a reasonable degree of care, skill, and ability in its construction management, supervision, and construction of the Stormwater Upgrade because the excavation, temporary shoring, and dewatering activities on the Stormwater Upgrade caused an unreasonable drop in the groundwater table and a loss of soil support, which resulted in Property Damage to Park Trace's apartment building.

121. Reeves failed to exercise a reasonable degree of care, skill, and ability in its construction of the Stormwater Upgrade because the excavation, temporary shoring, and dewatering activities on the

Stormwater Upgrade caused an unreasonable drop in the groundwater table and loss of soil support, which resulted in Property Damage to Park Trace's apartment building.

122. Potts and Reeves acted negligently and breached their legal duties by improperly performing skilled services on the Stormwater Upgrade.

123. Potts and Reeves failed to perform work in accordance with industry standards because the excavation, temporary shoring, and dewatering activities on the Stormwater Upgrade caused an unreasonable drop in the groundwater table and a loss of soil support, which resulted in Property Damage to Park Trace's apartment building.

124. Potts and Reeves did not exercise a reasonable degree of care, skill, and ability on the Stormwater Upgrade as evidenced by Park Trace's loss of soil support and the Property Damage to Park Trace's property, which is immediately adjacent to the Stormwater Upgrade.

125. Potts' and Reeves' failure to perform work in accordance with industry standards and failure to exercise the requisite degree of

care, skill, and ability resulted in damages to Park Trace, in an amount to be proven at trial.

126. All conditions precedent to the bringing of this claim and to the recovery of the damages and other relief sought have been satisfied, waived, excused, or otherwise discharged.

**Count Eight – Negligence  
Against Potts and Silverman**

127. Park Trace incorporates by reference the allegations in Paragraphs 1 through 126 as if fully set forth herein.

128. Potts, as the Construction Manager as Constructor, and Silverman, as the Program Manager for Construction and Post Construction Phase services, performed skilled services on the Project.

129. The law imposes upon those performing skilled services—and therefore upon Potts and Silverman—the obligation to exercise a reasonable degree of care, skill, and ability, which is generally taken and considered to be such a degree of care and skill as, under similar conditions and like surrounding circumstances, is ordinarily employed by others of the same professions.

130. Potts performed the skilled services of managing and supervising the construction of the Stormwater Upgrade.

131. Silverman performed the skilled services of establishing and managing a quality assurance program for the design and construction of the Stormwater Upgrade, and monitoring the quality of the work on the Stormwater Upgrade.

132. Potts and Silverman failed to exercise a reasonable degree of care, skill, and ability in performing their skilled services because they allowed the excavation, temporary shoring, and dewatering activities on the Stormwater Upgrade to cause an unreasonable drop in the groundwater table, resulting in a loss of soil support and Property Damage to Park Trace's apartment building.

133. Potts' and Silverman's breach of their duties was the direct cause of the damage to Park Trace's apartment building.

134. Potts and Silverman are liable to Park Trace for all damages arising from Potts' and Silverman's negligence, in an amount to be proven at trial.

135. All conditions precedent to the bringing of this claim and to the recovery of the damages and other relief sought have been satisfied, waived, excused, or otherwise discharged.

**Count Nine - Negligence Per Se  
Against the City of Decatur**

136. Park Trace incorporates by reference the allegations in Paragraphs 1 through 135 as if fully set forth herein.

137. The City violated the following Georgia statutes: O.C.G.A. §§ 12-5-90 to -107; O.C.G.A. § 44-9-3; O.C.G.A. § 51-1-6; O.C.G.A. § 51-9-1; and O.C.G.A. § 51-9-9.

138. O.C.G.A. §§ 12-5-90 to -107 is the Groundwater Use Act of 1972.

139. Upon information and belief, the City violated the Groundwater Use Act in the construction of its Stormwater Upgrade by groundwater withdrawals in excess of those allowed by the Environmental Protection Division or the City's approved water conservation plan. See O.C.G.A. § 12-5-96.

140. Under Georgia law, a landowner who makes excavations that cause injury to the adjoining property is liable for damages.

O.C.G.A. § 44-9-3.

141. The City violated O.C.G.A. § 44-9-3 as explained above in Paragraphs 57–67.

142. O.C.G.A. § 51-1-6 requires the City to refrain from doing an act which may injure another.

143. The City violated O.C.G.A. § 51-1-6 and breached its legal duty in its planning, design, construction management, construction, and supervision of the Stormwater Upgrade because these acts injured Park Trace by causing Property Damage to Park Trace's apartments.

144. O.C.G.A. § 51-9-1 prohibits the City from interfering with enjoyment of private property.

145. The City violated O.C.G.A. § 51-9-1 as explained above in Paragraphs 97–113.

146. "The owner of realty has title downwards and upwards indefinitely; and an unlawful interference with his rights, either below or above the surface, gives him a right of action." O.C.G.A. § 51-9-9.

147. Park Trace, as the owner of realty, has title downwards and upwards indefinitely on its apartment building property.

148. The City violated O.C.G.A. § 51-9-9 by unlawfully interfering with Park Trace's rights below the surface by drawing down the groundwater table below the surface of Park Trace's realty, which resulted in loss of soil support and caused Property Damage to Park Trace's apartment building.

149. Park Trace has been damaged, in an amount to be proven at trial, by the City's negligence per se.

150. All conditions precedent to the bringing of this claim and to the recovery of the damages and other relief sought have been satisfied, waived, excused, or otherwise discharged.

**Count Ten – Negligence Per Se  
Against Potts and Reeves**

151. Park Trace incorporates by reference the allegations in Paragraphs 1 through 150 as if fully set forth herein.

152. Potts and Reeves violated the following Georgia statutes: O.C.G.A. § 51-1-6; O.C.G.A. § 51-9-1; and O.C.G.A. § 51-9-9.

153. O.C.G.A. § 51-1-6 requires Potts and Reeves to refrain from doing an act which may injure another.

154. Potts and Reeves violated O.C.G.A. § 51-1-6 in their construction management, construction, and supervision of the Stormwater Upgrade because these acts injured Park Trace by causing Property Damage to Park Trace's apartment building.

155. O.C.G.A. § 51-9-1 prohibits Potts and Reeves from interfering with enjoyment of private property.

156. Potts and Reeves violated O.C.G.A. § 51-9-1 as explained above in Paragraphs 97–113.

157. "The owner of realty has title downwards and upwards indefinitely; and an unlawful interference with his rights, either below or above the surface, gives him a right of action." O.C.G.A. § 51-9-9.

158. Park Trace, as the owner of realty, has title downwards and upwards indefinitely on its apartment building property.

159. Potts and Reeves violated O.C.G.A. § 51-9-9 by unlawfully interfering with Park Trace's rights below the surface by drawing down the groundwater table below the surface of Park Trace's realty, which

caused a loss of soil support and Property Damage to Park Trace's apartment building.

160. Park Trace has been damaged, in an amount to be proven at trial, by Potts' and Reeves' negligence per se.

161. All conditions precedent to the bringing of this claim and to the recovery of the damages and other relief sought have been satisfied, waived, excused, or otherwise discharged.

**Count Eleven – Negligence Per Se  
Against Silverman**

162. Park Trace incorporates by reference the allegations in Paragraphs 1 through 161 as if fully set forth herein.

163. Silverman violated the following Georgia statutes: O.C.G.A. § 51-1-6; O.C.G.A. § 51-9-1; and O.C.G.A. § 51-9-9.

164. O.C.G.A. § 51-1-6 requires Silverman to refrain from doing an act which may injure another.

165. Silverman violated O.C.G.A. § 51-1-6 in its acts of managing a quality assurance program for the design and construction of the Stormwater Upgrade and monitoring the quality of the work on the

Stormwater Upgrade because these acts injured Park Trace by causing Property Damage to Park Trace's apartment building.

166. O.C.G.A. § 51-9-1 prohibits Silverman from interfering with enjoyment of private property.

167. Silverman violated O.C.G.A. § 51-9-1 as explained above in Paragraphs 97-113.

168. "The owner of realty has title downwards and upwards indefinitely; and an unlawful interference with his rights, either below or above the surface, gives him a right of action." O.C.G.A. § 51-9-9.

169. Park Trace, as the owner of realty, has title downwards and upwards indefinitely on its apartment building property.

170. Silverman violated O.C.G.A. § 51-9-9 by unlawfully interfering with Park Trace's rights below the surface by failing to prevent the drawdown of the groundwater table below the surface of Park Trace's realty, which caused a loss of soil support and Property Damage to Park Trace's apartment building.

171. Park Trace has been damaged, in an amount to be proven at trial, by Silverman's negligence per se.

172. All conditions precedent to the bringing of this claim and to the recovery of the damages and other relief sought have been satisfied, waived, excused, or otherwise discharged.

**Count Twelve – Professional Malpractice  
Against Kimley-Horn**

173. Park Trace incorporates by reference the allegations in Paragraphs 1 through 172 as if fully set forth herein.

174. Kimley-Horn was the design professional responsible for the design of the Stormwater Upgrade.

175. Kimley-Horn performed professional engineering design services for the Stormwater Upgrade.

176. Kimley-Horn performed civil engineering services for the Stormwater Upgrade.

177. Kimley-Horn had a duty imposed by law—a professional obligation of care—to exercise a reasonable degree of skill and care, as determined by the degree of skill and care ordinarily employed by engineers under similar conditions and like surrounding circumstances.

178. Kimley-Horn designed the construction dewatering for the Stormwater Upgrade as detailed in the Ebster Park Regional

Stormwater Management Facility Technical Specifications, Section 31  
2319 Dewatering.

179. Kimley-Horn's design of the construction dewatering was defective because the design failed to accomplish dewatering without damaging Park Trace's apartment building, which is adjacent to the Stormwater Upgrade construction excavation and dewatering.

180. Kimley-Horn's design of the construction dewatering was defective because the design allowed drawdown of the groundwater on Park Trace's property, which resulted in the loss of soil support for Park Trace's apartment building, which resulted in the apartment building's Property Damage.

181. Kimley-Horn's construction dewatering specification requires the prompt repair of "damages to adjacent facilities caused by dewatering operations." Spec. Section 31 2319, Part 3.02(G).

182. Kimley-Horn failed to ensure that "damages to adjacent facilities" were repaired, promptly or otherwise, as evidenced by Park Trace's Property Damage caused by the dewatering operations.

183. Kimley-Horn also designed the permanent dewatering system for the Stormwater Upgrade's stormwater detention vault as detailed in Kimley-Horn's engineering design drawings, sheet numbers S1-01 through S1-11.

184. Kimley-Horn's permanent dewatering design was defective because the design allowed, and continues to allow, the drawdown of the groundwater in such a manner as to adversely impact Park Trace's adjoining land, this has contributed to the apartment building's Property Damage, which is ongoing.

185. Kimley-Horn's dewatering designs failed to address Georgia's Groundwater Use Act, O.C.G.A. §§ 12-5-90 to -107.

186. Kimley-Horn breached its professional obligation of care as detailed in Paragraphs 174-185.

187. Kimley-Horn's breaches resulted in Park Trace's loss of soil support, which caused the Property Damage to Park Trace's apartment building, in an amount to be proven at trial.

188. Kimley-Horn is liable to Park Trace for all damages arising from Kimley-Horn's breaches of its professional obligation of care, in an amount to be proven at trial.

189. All conditions precedent to the bringing of this claim and to the recovery of the damages and other relief sought have been satisfied, waived, excused, or otherwise discharged.

**Count Thirteen – Professional Malpractice  
Against Geo-Hydro**

190. Park Trace incorporates by reference the allegations in Paragraphs 1 through 189 as if fully set forth herein.

191. Geo-Hydro performed geotechnical engineering services for the Stormwater Upgrade.

192. Geo-Hydro performed a subsurface exploration and geotechnical engineering evaluation for the Stormwater Upgrade.

193. Geo-Hydro prepared a geotechnical engineering report for the Stormwater Upgrade.

194. Geo-Hydro prepared an "Evaluation of Potential Impact of Large-Scale Dewatering Ebster Park Regional Stormwater Detention Facility," dated June 13, 2013.

195. Geo-Hydro provided recommendations for the control of groundwater during construction and on a permanent basis for the Stormwater Upgrade.

196. Geo-Hydro was responsible for obtaining groundwater readings for the Stormwater Upgrade.

197. Geo-Hydro has a duty imposed by law—a professional obligation of care—to exercise a reasonable degree of skill and care, as determined by the degree of skill and care ordinarily employed by geotechnical engineers under similar conditions and like surrounding circumstances.

198. Geo-Hydro breached its legal duty because its subsurface exploration and geotechnical engineering evaluation failed to properly identify the groundwater issues for the Stormwater Upgrade.

199. Geo-Hydro breached its legal duty because its June 13, 2013 evaluation failed to properly identify the risks of ground subsidence and settlement on Park Trace's property as a result of the dewatering associated with the stormwater detention vault.

200. Geo-Hydro breached its legal duty because it failed to provide proper recommendations for the control of groundwater during construction and on a permanent basis for the Stormwater Upgrade.

201. Geo-Hydro breached its legal duty by failing to adequately obtain and monitor groundwater readings.

202. Geo-Hydro breached its legal duty by failing to address Georgia's Groundwater Use Act, O.C.G.A. §§ 12-5-90 to -107.

203. Geo-Hydro breached its professional obligation of care as detailed in Paragraphs 191–202.

204. Geo-Hydro's breaches resulted in Park Trace's loss of soil support, which caused the Property Damage to Park Trace's apartment building, in an amount to be proven at trial.

205. Geo-Hydro is liable to Park Trace for all damages arising from Geo-Hydro's breaches of its professional obligation of care, in an amount to be proven at trial.

206. All conditions precedent to the bringing of this claim and to the recovery of the damages and other relief sought have been satisfied, waived, excused, or otherwise discharged.

**Count Fourteen – Negligence Per Se  
Against Kimley-Horn**

207. Park Trace incorporates by reference the allegations in Paragraphs 1 through 206 as if fully set forth herein.

208. Kimley-Horn violated the following Georgia statutes: O.C.G.A. § 51-1-6; O.C.G.A. § 51-9-1; and O.C.G.A. § 51-9-9.

209. O.C.G.A. § 51-1-6 requires that Kimley-Horn refrain from doing an act which may injure another.

210. Kimley-Horn violated O.C.G.A. § 51-1-6 through its act of engineering design of the Stormwater Upgrade because this act injured Park Trace by causing Property Damage to Park Trace's apartment building.

211. O.C.G.A. § 51-9-1 prohibits Kimley-Horn from interfering with enjoyment of private property.

212. Kimley-Horn violated O.C.G.A. § 51-9-1 as explained above in Paragraphs 97–113.

213. "The owner of realty has title downwards and upwards indefinitely; and an unlawful interference with his rights, either below or above the surface, gives him a right of action." O.C.G.A. § 51-9-9.

214. Park Trace, as the owner of realty, has title downwards and upwards indefinitely on its apartment building property.

215. Kimley-Horn violated O.C.G.A. § 51-9-9 by unlawfully interfering with Park Trace's rights below the surface by designing a Stormwater Upgrade that allowed the drawdown of the groundwater below the surface of Park Trace's realty, which resulted in a loss of soil support and Property Damage to Park Trace's apartment building.

216. Park Trace has been damaged, in an amount to be proven at trial, by Kimley-Horn's negligence per se.

217. All conditions precedent to the bringing of this claim and to the recovery of the damages and other relief sought have been satisfied, waived, excused, or otherwise discharged.

**Count Fifteen – Negligence Per Se  
Against Geo-Hydro**

218. Park Trace incorporates by reference the allegations in Paragraphs 1 through 217 as if fully set forth herein.

219. Geo-Hydro violated the following Georgia statutes: O.C.G.A. § 51-1-6; O.C.G.A. § 51-9-1; and O.C.G.A. § 51-9-9.

220. O.C.G.A. § 51-1-6 requires that Geo-Hydro refrain from doing an act which may injure another.

221. Geo-Hydro violated O.C.G.A. § 51-1-6 through its acts of geotechnical engineering services on the Stormwater Upgrade because these acts injured Park Trace by causing Property Damage to Park Trace's apartment building.

222. O.C.G.A. § 51-9-1 prohibits Geo-Hydro from interfering with enjoyment of private property.

223. Geo-Hydro violated O.C.G.A. § 51-9-1 as explained above in Paragraphs 97–113.

224. "The owner of realty has title downwards and upwards indefinitely; and an unlawful interference with his rights, either below or above the surface, gives him a right of action." O.C.G.A. § 51-9-9.

225. Park Trace, as the owner of realty, has title downwards and upwards indefinitely on its apartment building property.

226. Geo-Hydro violated O.C.G.A. § 51-9-9 by unlawfully interfering with Park Trace's rights below the surface through Geo-Hydro's geotechnical engineering services that allowed the drawdown of

the groundwater below the surface of Park Trace's realty, which resulted in a loss of soil support and Property Damage to Park Trace's apartment building.

227. Park Trace has been damaged, in an amount to be proven at trial, by Geo-Hydro's negligence per se.

228. All conditions precedent to the bringing of this claim and to the recovery of the damages and other relief sought have been satisfied, waived, excused, or otherwise discharged.

**Count Sixteen – Attorney's Fees and Expenses of Litigation  
Against All Defendants Under O.C.G.A. § 13-6-11**

229. Park Trace incorporates by reference the allegations in Paragraphs 1 through 228 as if fully set forth herein.

230. The Defendants, by refusing to pay or compensate Park Trace for the damages sustained to Park Trace's apartment building, caused by the Defendants' breaches and negligence as detailed above, have acted in bad faith, been stubbornly litigious, or caused Park Trace unnecessary trouble and expense.

231. Under O.C.G.A. § 13-6-11, Park Trace is entitled to recover its reasonable attorney's fees and other expenses of litigation from all the Defendants on Park Trace's claims detailed above.

232. All conditions precedent to the bringing of this claim and to the recovery of the damages and other relief sought have been satisfied, waived, excused, or otherwise discharged.

**Count Seventeen - Punitive Damages  
Against All Defendants Under O.C.G.A. § 51-12-5.1**

233. Park Trace incorporates by reference the allegations in Paragraphs 1 through 232 as if fully set forth herein.

234. The negligence of the Defendants as described above, clearly and convincingly demonstrates willful misconduct, malice, wantonness, oppression, and an entire want of care giving rise to the presumption of conscious indifference to the consequences of their actions which resulted in substantial damage to the Park Trace's apartments, thus warranting an award of punitive damages against the Defendants under O.C.G.A. § 51-12-5.1.

235. An award of punitive damages against the Defendants is necessary to punish and penalize the Defendants and to prevent them

from engaging in similar conduct in the future; the amount of punitive damages to be awarded is to be determined by the enlightened consciousness of the jury.

236. All conditions precedent to the bringing of this claim and to the recovery of the damages and other relief sought have been satisfied, waived, excused, or otherwise discharged.

**Prayer for Relief**

**WHEREFORE**, Park Trace respectfully requests that this Court:

- a. Enter judgment in favor of Park Trace on Count One against the City in an amount to be proven at trial;
- b. Enter judgment in favor of Park Trace on Count Two against the City and the URA in an amount to be proven at trial;
- c. Enter judgment in favor of Park Trace on Count Three against the City in an amount to be proven at trial;
- d. Enter judgment in favor of Park Trace on Count Four against the City in an amount to be proven at trial;

e. Enter judgment in favor of Park Trace on Count Five against the City in an amount to be proven at trial;

f. Enter judgment in favor of Park Trace on Count Six against all Defendants in an amount to be proven at trial;

g. Enter judgment in favor of Park Trace on Count Seven against Potts and Reeves in an amount to be proven at trial;

h. Enter judgment in favor of Park Trace on Count Eight against Potts and Silverman in an amount to be proven at trial;

i. Enter judgment in favor of Park Trace on Count Nine against the City in an amount to be proven at trial;

j. Enter judgment in favor of Park Trace on Count Ten against Potts and Reeves in an amount to be proven at trial;

k. Enter judgment in favor of Park Trace on Count Eleven against Silverman in an amount to be proven at trial;

l. Enter judgment in favor of Park Trace on Count Twelve against Kimley-Horn in an amount to be proven at trial;

m. Enter judgment in favor of Park Trace on Count Thirteen against Geo-Hydro in an amount to be proven at trial;

n. Enter judgment in favor of Park Trace on Count Fourteen against Kimley-Horn in an amount to be proven at trial;

o. Enter judgment in favor of Park Trace on Count Fifteen against Geo-Hydro in an amount to be proven at trial

p. Enter judgment in favor of Park Trace on Count Sixteen against all Defendants and award Park Trace its attorney's fees and other expenses of litigation under O.C.G.A. § 13-6-11;

q. Enter an award of punitive damages in favor Park Trace on Count Seventeen against all Defendants in an amount to be determined by the enlightened consciousness of the jury; and

r. Award Park Trace such other and further relief as the Court deems just and proper.

### **Jury Demand**

Pursuant to Federal Rule of Civil Procedure 38(b), Park Trace demands a jury trial for all claims and issues so triable.

Dated: January 13, 2015

Respectfully submitted,

*/s/ John M. Mastin, Jr.*

John M. Mastin, Jr.

Georgia Bar No. 300123

Joseph J. Dinardo

Georgia Bar No. 302914

**Smith, Currie & Hancock LLP**

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245 Peachtree Center Avenue NE

Atlanta, GA 30303-1227

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Fax: 404-688-0671

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*Attorneys for Plaintiff*

*Ashton Park Trace Apartments, LLC*

# Exhibit

# A

**RIGHT-OF-ENTRY AGREEMENT BETWEEN  
ASHTON PARK TRACE APARTMENTS AND  
CITY OF DECATUR REGARDING THE  
BEACON MUNICIPAL COMPLEX**

This agreement is made and entered into this 19 day of February, 2013, by and between Ashton Park Trace Apartments ("Owner") and the City of Decatur, Georgia, a municipal corporation of the State of Georgia (the "City").

WHEREAS, Owner owns property known as Park Trace, 700 Atlanta Avenue, Decatur, Georgia 30030, which is identified more specifically on the attached Exhibit A and identified as parcel X (the "Property");

WHEREAS, the Property is located adjacent to property on which the City is undertaking a construction project known as the Beacon Municipal Complex;

WHEREAS, the City has requested that Owner allow the City to install on the Property a ground water monitoring well (the "Work"), for the purpose of ensuring the consistent improvement of and coordinating of the Owner's building construction and the project area;

NOW, THEREFORE, Owner hereby grants a license to the City to access the Property to perform the Work, subject to the following conditions:

1. All work shall be performed in a good, substantial and workmanlike manner at no cost to the Owner. After completion of the activities performed by the City, the work area shall be left in a clean and good condition, with all debris removed therefrom.
2. During construction, the City shall ensure that the Property will be maintained at all hours of operation for Owner's customers and tenants.
3. During construction, the City shall minimize any interruption of or interference with Owner's use and enjoyment of Owner's property.
4. To the fullest extent permitted by law, the City shall defend, indemnify and hold the Owner harmless from any and all claims, damages, losses or expenses (including reasonable attorney's fees and legal expenses) arising out of injury to persons (including sickness, disease and death) or property to the extent caused by the negligent acts or omissions or willful misconduct of the City or any of its contractors, sub-contractors or consultants while performing the Work.
5. The City shall ensure that any contractor performing work on behalf of the City will maintain worker's compensation insurance as required by applicable law and commercial general liability insurance insuring against claims on account of death, bodily injury or property damage that may arise from or are occasioned by such activities. Such liability insurance shall

be obtained and maintained in a reputable insurance company or companies qualified to do business in the State of Georgia, and shall afford protection to limits not less than \$1,000,000.00 per occurrence for bodily injury to or personal injury or death of any person and any consequential damage therefrom, and for property damage arising out of any one occurrence.

6. The license will terminate upon completion of the Work, which is presently anticipated to be on or around June 30, 2014.

So agreed:

CITY OF DECATUR

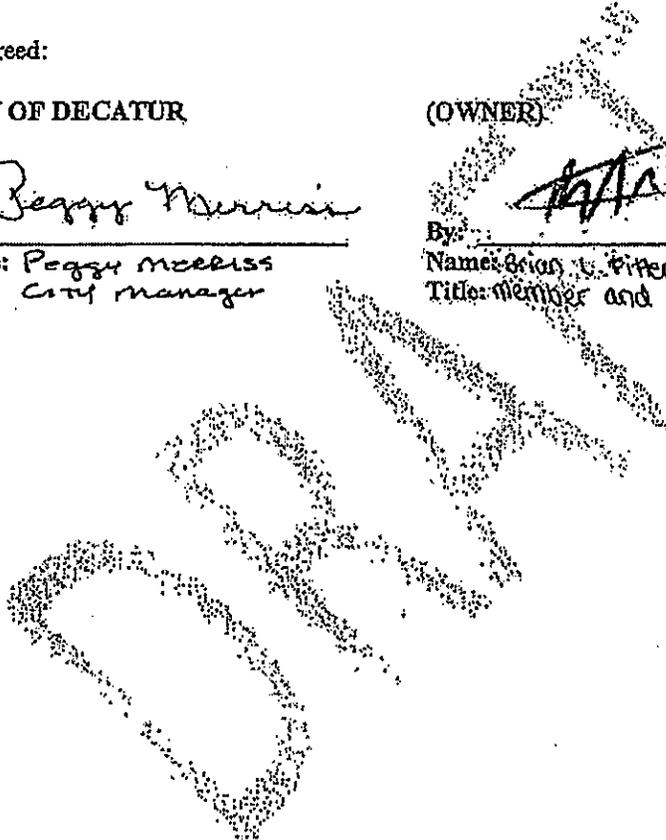
(OWNER)

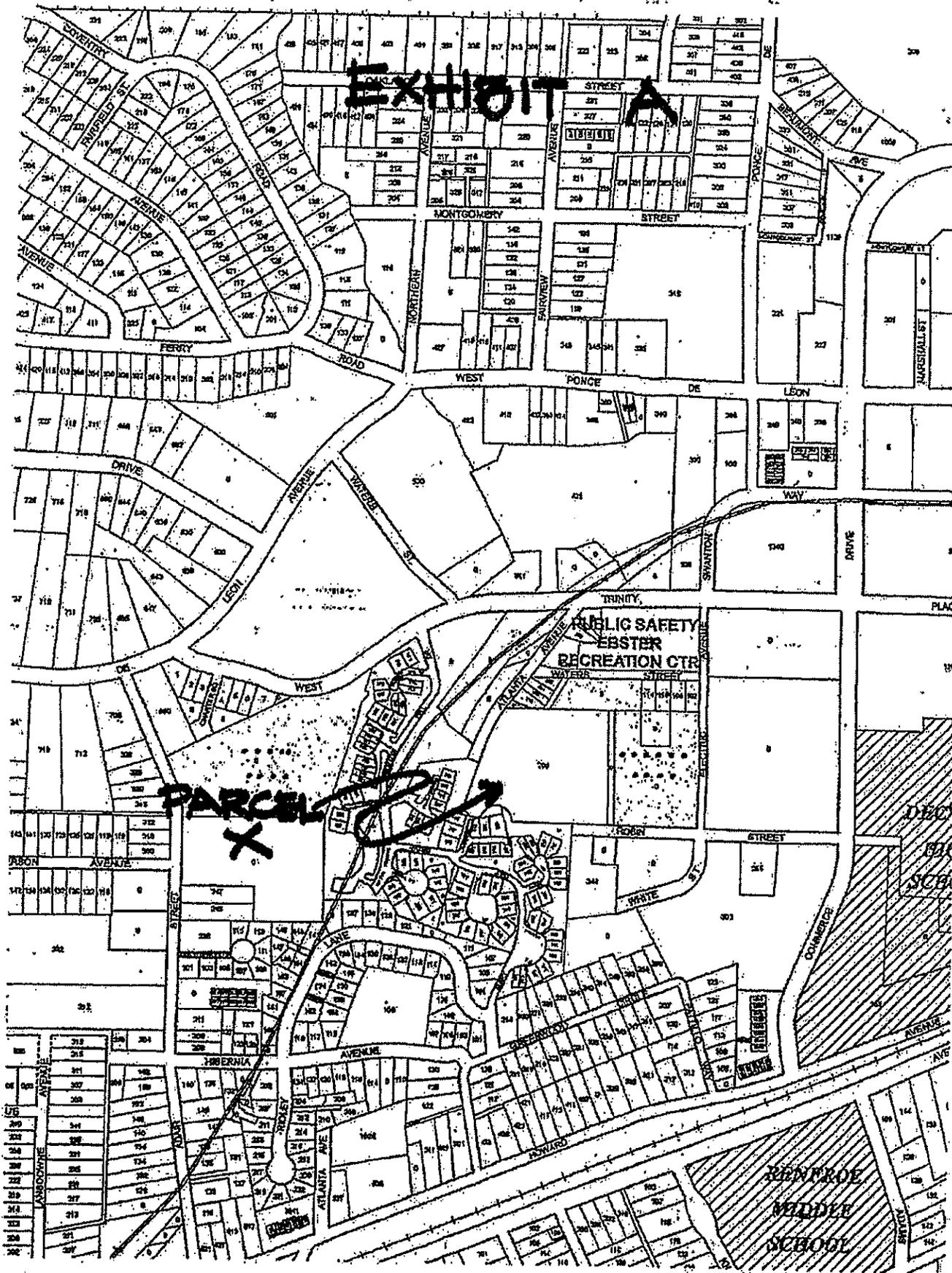
*Peggy Morris*

*[Signature]*

By: \_\_\_\_\_  
Name: *Peggy Morris*  
Title: *City manager*

By: \_\_\_\_\_  
Name: *Brian L. Pitterer*  
Title: *member and manager*







Contractor Job Number:	131003-1
Subcontract Number:	131003-1-001
Subcontract Date:	5/10/2013

**Subcontract Agreement**

**CONTRACTOR:** Reeves Contracting Company ("Contractor")  
1400 Buford Highway, Bldg. C-2  
Sugar Hill, GA 30518  
Office: (770) 271-1159 Fax: (770) 271-5856  
Brian Trotter

**SUBCONTRACTOR:** Rain for Rent ("Subcontractor")  
P.O. Box 1248  
Marietta, GA 30061  
(678) 594-6601  
Attn: Brett Stitt  
BSTITT@rainforrent.com

**SUBCONTRACT WORK:** Dewatering ("Work")

**PROJECT:** Ebster Park Regional Stormwater Management Facility ("Project")

**PROJECT ADDRESS:** 400 West Trinity Ave.  
Decatur GA, 30030

**OWNER:** The City of Decatur ("Owner")

**PRIME CONTRACT DATE:** 4/1/2013 ("Contract")

**ARCHITECT/ENGINEER:** Kimley-Horn and Associates, Inc. ("Architect")  
2 Sun Court, suite 450  
Norcross, GA 30092

**SUBCONTRACT PRICE:** Two Hundred Twenty Seven Thousand Five Hundred Twenty Two & ("Price")  
\$ 227,522.50

**MONTHLY BILLING:** Original Payment Application to be received by ("Monthly Billing Date")  
Contractor by the 20th of the Month

**RETAINED PERCENTAGE:** ~~10.000%~~ ("Retained Percentage")

**PAYMENT AND PERFORMANCE BONDS:**  none

**PAYMENT TERMS:** 120 days or Paid when Paid whichever is quicker

(The above terms are incorporated by reference and are more fully explained below.)

On this 5/10/2013 ("Subcontract Date"), Contractor and Subcontractor, with offices at the addresses shown above, agree for themselves, their successors and assigns as follows:

Subcontract #: 131003-1-001

Page 1 of 51

Initial Subcontractor: [Signature]

Reeves: [Signature]



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WORK

Subcontractor shall perform and furnish all labor, supervision, services, materials, equipment, tools, scaffolding, hoisting, transportation, layout, storage and all other things necessary to prosecute and complete the work identified and described in, or which can be reasonably inferred from Exhibit A - Subcontractor Project Specific Scope of Work attached hereto (the "Work"), being a portion of the work required of Contractor under the Contract between Owner and Contractor ("the Contract").

The Subcontract Documents which form the Subcontract include the Contract with all general and special provisions, general, special and supplemental conditions, and all amendments and addenda, plans, specifications and drawings ("Contract Documents") applicable to the Subcontract Work; scope of work and subcontract unit pricing; this Subcontract Agreement; all change orders; approved schedules; job site policies and any other job-related documents required under the terms of the Contract including but not limited to those identified in Exhibits A and Exhibit B - Contract Documents/Drawing Log attached hereto (collectively the "Subcontract Documents"). The Subcontract Documents shall be read and interpreted together and any conflict regarding Subcontractor's scope of work shall be resolved by having the document requiring the more extensive work prevail, unless the Contract directs otherwise. Otherwise this Subcontract shall govern.

Subcontractor shall be bound to Contractor by the terms and conditions of the Contract Documents, as the same shall be applicable to the Work and this Subcontract, and hereby assumes toward Contractor all of the duties, obligations and responsibilities that Contractor has by the Contract Documents assumed toward Owner. The Work shall be performed by Subcontractor in a good and workmanlike manner and strictly in accordance with the Contract Documents.

*(excluding environmental, air quality, or building permits)*

*applicable to Subcontractor's scope of work*

The Contract Documents (including financial and pricing information) are available for examination by Subcontractor at all reasonable times at the office of Contractor. Subcontractor represents that it has had the opportunity to carefully inspect the Project site and/or, at its own option, has examined the drawings and specifications and other Subcontract Documents and is familiar with and has satisfied itself as to the nature, location and amount of Subcontractor's Work, Subcontractor's access thereto and ability to perform Work, local code requirements applicable to the Work and requirements of permits and inspections, safety and health requirements, the terms and conditions of applicable Project labor and collective bargaining agreements, the terms of this Agreement and all incorporated Contract Documents as well as the quality, quantity and availability of labor, materials, equipment and facilities and other items required for the performance of Subcontractor's Work and the limiting physical and other conditions at the site which may be encountered in the performance of Subcontractor's Work. Subcontractor has notified Contractor in writing of any ambiguities, inconsistencies and omissions, if any, in the Contract Documents deemed relevant to Subcontractor's performance of the Work.

*as applicable to Subcontractor's scope of work*

Subcontractor has determined, by its own investigation and research, all the conditions affecting Subcontractor's Work and materials to be furnished and does not rely upon any representation by Contractor in connection therewith. In performing Subcontractor's Work, Subcontractor accepts the condition of the Project site and locality as is and assumes all risks therefrom to the same extent that Contractor assumes such risks in the Contract Documents.

Subcontractor specifically agrees that it is bound by any and all disclaimers in the Contract Documents that related to subsurface conditions, latent conditions, differing conditions, unknown conditions or that otherwise deal with changed conditions at the Project Site as applicable to the Work ("Differing Conditions"). Should Subcontractor encounter Differing Conditions during performance of the Work it shall promptly call Contractor's attention to the same before conditions are disturbed. Subcontractor shall comply with all Contract Documents' notification, reporting, written proposal and time requirements applicable to requests for Equitable Adjustments to the Contract Price due to Differing Conditions. In no event shall Subcontractor be entitled to compensation or damages for an Equitable Adjustment to the Subcontract Price due to Differing Conditions except to the extent that Contractor shall receive such compensation or damages from Owner.

Those provisions of this Subcontract (including, without limitation all guarantees, warranties and indemnities) which by their nature would survive final acceptance shall remain in full force and effect after termination of this Subcontract *during the rental period.*

PRICE

Contractor shall pay to Subcontractor, for the satisfactory performance and completion of the Work and performance of all the duties, obligations and responsibilities of Subcontractor under this Subcontract, the sum set forth above as the Subcontract Price, subject only to additions and deductions as expressly provided in this Subcontract. To the extent that the Work is to be performed on a unit price basis, the Subcontract Price shall be computed in accordance with the unit prices set forth herein, based on actual quantities determined in accordance with the Contract Documents and this Subcontract. The Subcontract Price and all unit prices shall be deemed to include all costs of Subcontractor's performance of the Work as set forth in the Contract Documents, including, but not limited to, the costs of labor, supervision, services, materials, equipment, tools, scaffolding, hoisting, transportation, storage, insurance and taxes, and all overhead and profit.

Contractor does not expressly or by implication agree that the actual amount of Subcontract Work will correspond with the estimated quantities, but payments by Contractor to Subcontractor will be made only for the quantities of Work performed in accordance with the Contract as approved, accepted, and paid for by Owner.

SUBMITTAL OF INITIAL DOCUMENTS, SCHEDULE OF VALUES AND SCHEDULE OF WORK

*in the attached Exhibit A*

Within ten calendar (10) days after the date of transmission of this Subcontract to Subcontractor, Subcontractor shall submit to Contractor, for Contractor's approval a detailed Schedule of Values, as represented by Subcontractor's Invoice showing a proper cost breakdown (with a proper share of associated overhead and profit) of the Price according to the various line items, or parts, of the Work for use only as a basis for verifying Subcontractor's application for Payment (Contractor's Application for Payment - Subcontractor's Invoice) or supporting Contractor's applications for payments under the Contract. This Schedule of Values must be broken down into labor and materials for all activities. (See Exhibit I - Application for Payment Schedule of Values & Stored Materials). Subcontractor shall not be entitled to any payment until this Subcontract Agreement has been properly executed and all documents and information to be furnished by Subcontractor have been supplied to Contractor.

initial  
Subcontractor *[Signature]*  
Revised *[Signature]*

Contractor may prepare a construction schedule for the Work or any portion thereof. Such schedule (the "Schedule of Work") shall be generally consistent with the schedule requirements, time limitations, and other milestones for performance of the Work, which are specified in the Subcontract Documents. Subcontractor shall promptly provide all scheduling information required by Contractor for Subcontractor's Work within ten (10) days of execution of this Agreement, or earlier if directed by Contractor. The Schedule of Work, which may be supplemented by near term and detailed sub-schedules, may be updated, supplemented, or revised at appropriate intervals by Contractor as required by the progress of Subcontractor's Work and/or any changes or modifications in the requirements of the Subcontract Documents. Subcontractor shall cooperate and participate with Contractor in preparing, updating, supplementing and revising the Schedule of Work. Such Schedule of Work shall be available for review by Subcontractor. Subcontractor shall monitor progress of the Work and shall conform Subcontractor's Work, including scheduling of activities and their duration, sequences of operation and performance, and delivery of equipment and materials, to the requirements of the Subcontract Documents and the Schedule of Work. Should Contractor not prepare a Schedule of Work, or should such Schedule of Work not indicate time of performance of all or part of Subcontractor's Work, then to that extent Subcontractor shall schedule and perform Subcontractor's Work consistent with the directions of Contractor as modified from time to time.

The initial Schedule of Work sets forth the required durations of activities. In the event job progress begins to improve on those activity completion dates for any reason such as better weather, material deliveries, performance by subcontractors, and/or fewer design problems, both the intermediate and final completion dates may be adjusted by the amount of time gained, as reflected in the Near Term Schedules. Unless Subcontractor provides reasonable written objection, its completion time will be established by these Schedules and Subcontractor will meet such Schedules even though such scheduled time for performance may be shorter than the original referenced completion dates. These Schedules, as modified during the job and as defined by Contractor, provide the only dates for intermediate and final completion dates irrespective of anything to the contrary. The revising of the Near Term Schedule by Contractor to reflect the failure of Subcontractor to meet the previous schedule does not constitute an agreement by Contractor that Subcontractor is entitled to an extension of time, nor is Subcontractor relieved of liability for such failure.

**STANDARD PAYMENT CONDITIONS:**

Subcontractor shall, as often as requested by Contractor, furnish such information, evidence and substantiation as Contractor may require with respect to the extent and value of current progress and the nature and extent of all obligations incurred by Subcontractor in connection with the Work and all payments made by Subcontractor on account thereof. (Exhibits C & D Subcontractor/Vendor Certification and Exhibit I Certified Payroll); Subcontractor shall also furnish, as required by Contractor in its sole discretion, such partial or final lien waivers or releases as Contractor deems necessary to ensure that Subcontractor has paid claimants and all persons furnishing any labor, material, or services in furtherance of any Work furnished hereunder. (Exhibits F & G). If required by Contractor, the furnishing of such lien waivers and releases shall be a condition precedent to any payment hereunder. Nothing herein shall constitute any requirement that Contractor exercise its discretionary option to require such releases and waivers. Moreover, no prior failure of Contractor to require such releases and waivers shall limit Contractor's right to require them subsequently.

Subcontractor will receive each progress payment and final payment made by Contractor and Subcontractor will hold such payments as a trust fund to be applied first to the payment of laborers, suppliers, subcontractors and others responsible for the Work for which such payments are made ("Claimants"), including sufficient funds to ensure that all taxes and insurance applicable thereto are also paid. All sums tentatively earned by Subcontractor by the partial or complete performance of the Subcontract Work and any balance of unearned Subcontract funds shall constitute a fund for the purpose(s) of (1) first, full completion of the Subcontract Work; (2) second, payment of any back charges or claims due Contractor from Subcontractor; (3) third, payment to the lower-tier subcontractors, laborers and suppliers of Subcontractor who have apparently valid claims against Subcontractor or the Project; and such tentative earnings shall not be due or payable to Subcontractor, or anyone else claiming in Subcontractor's place and stead, until and unless such Subcontract Work is fully and satisfactorily completed and such Claimants are fully paid and satisfied.

Contractor reserves the right to withhold, as an additional reserve and without limiting its other rights and remedies, an amount sufficient: (a) to defend, satisfy and discharge any asserted claim that Subcontractor (or anyone providing any of the Work hereunder) has failed to make payment for labor, services, materials, equipment, taxes, or other items or obligations furnished or incurred in connection with the Work or has caused damage to the Work or to any other work on the Project; (b) to complete the Work if it appears that funds remaining in the Subcontract, including retainage, and exclusive of back charges are insufficient to complete the Work; (c) to reimburse Contractor for any back charges incurred as a result of or any act or omission by Subcontractor hereunder; (d) to protect Contractor from the possible consequences of any other breach or default by Subcontractor hereunder; or (e) to secure Contractor with respect to any breach or default by Subcontractor or its affiliates, parent company and subsidiaries under any other agreement.

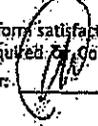
Payment hereunder shall not be evidence of the proper performance or progress of the Work and no payment shall be construed to be acceptance of defective, faulty or improper work or materials. Subcontractor agrees that it shall not be entitled to receive payment until Owner pays Contractor for that portion of the Subcontract Work to which Subcontractor's payment request applies.

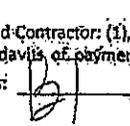
If Contractor mistakenly pays Subcontractor twice for the same invoice, or makes payment on duplicate invoices, Subcontractor agrees that the overpayment shall be deducted from the next progress or final payment or that Subcontractor shall refund the excess immediately upon request.

**PROGRESS PAYMENTS**

On or before each Monthly Billing Date, Subcontractor shall submit to Contractor, in such form and supported by such data as the Contract Documents and Contractor may require, a progress payment application ("Subcontractor's Application for Payment" Form No. SAF) showing the value of the Work installed ("Completed Work"), plus the value of the material and equipment for incorporation in the Work suitably stored (to the satisfaction of Contractor and Architect/Engineer) at the Project site if, and only if, the Contract Documents provide for payments to Contractor on that basis, as of such date. Request for stored materials must be accompanied by: (1) copies of actual manufacturer's and/or supplier's invoices showing quantities, description and actual cost of materials to Subcontractor; (2) insurance certificates for materials stored including until such times as materials arrive at the project site (including delivery); (3) bill of sale for stored materials and affidavit stating location and (4) condition of material being stored.

As a condition precedent to each progress payment, Subcontractor shall provide, in a form satisfactory to Owner and Contractor: (1) partial waivers of lien or bond waiver claim; (2) affidavits of payment from Subcontractor and, if required by Contractor, (3) affidavits of payment from Subcontractor # 131003-1-001

Initial Subcontractor: 

Reeves: 

(initials)

Payment is due net 120 days from subcontractor's invoice date. In the event Contractor disputes any portion of an invoice, Contractor shall pay the undisputed portion within the applicable payment period.

Subcontractor's lower-tier subcontractors and suppliers ("Claimants"). Subcontractor shall, as often as required by Contractor, provide an affidavit identifying all parties who have furnished or will furnish labor, materials and services to Subcontractor in the performance of Subcontractor's Work, including their addresses, email address, telephone and facsimile numbers, and the amount due or to become due to each.

The current Schedule of Values, utilizing the AIA G703 continuation sheet Form, any applicable Certified Payroll, Subcontractor Vendor Certification forms (and project specific Interim Lien waivers for the current amount requested) must be submitted with each application for payment.

Contractor may at any time demand written evidence of Subcontractor's payments to such Claimants and of Subcontractor's financial ability to perform all of its other obligations hereunder. Contractor, if it deems itself insecure in the performance of this Subcontract may direct funds otherwise payable to Subcontractor to satisfy obligations of Subcontractor for labor, materials, supplies, rentals or equipment, and the like, furnished or to be furnished by Subcontractor hereunder, or to direct Subcontractor by written notice to make immediate payment of unpaid bills for work done or materials supplied on this Project. Execution by Subcontractor of a lien or bond waiver in connection with a progress or final payment also serves to release Contractor and Owner, and their respective officers, agents, employees, from any and all personal claims related to such progress or final payment, except as expressly reserved in such lien or bond waiver.

but no later than 120 days from subcontractor's invoice date.

Within seven (7) business days after receiving a progress payment from Owner under the Contract, Contractor shall make a progress payment to Subcontractor equal to the value of the Completed Work and Stored Work as of the corresponding Monthly Billing Date, to the extent approved by Contractor and allowed and paid by Owner on account of the Work, and after deducting: (1) all previous payments, (2) current retainage (meaning a reserve equal to the Retained Percentage times the allowed value of Completed Work and Stored Work, plus any additional reserve provided for herein), (3) all charges or back charges for services, materials, equipment, or other items furnished or otherwise chargeable to Subcontractor as identified below.

Progress payment may be withheld in whole or in part by Contractor on account of: (a) defective materials or work, (b) claims or liens or any notice thereof, (c) any breach by Subcontractor of any provision or obligation of this Subcontract, (d) a reasonable doubt that the Subcontract Work can be completed for the balance then unpaid, (e) a reasonable doubt that Subcontractor, for any reason, is able to complete the Subcontract Work, or (f) any debt of any kind whatsoever owed to Contractor by Subcontractor. If the foregoing causes are remedied or adjusted, the withheld payment shall be made promptly. If the causes are not so remedied or adjusted, Contractor may remedy the same for Subcontractor's account and charge the entire cost thereof to the Subcontractor, as provided herein.

Subcontractor acknowledges and recognizes that Subcontractor's Work is a portion of the Work and payment for Subcontractor's Work by Contractor is expressly conditioned upon payment for Subcontractor's Work by Owner. Subcontractor warrants and represents that it relies for payment of Subcontractor's Work on the credit and ability to pay of Owner, and not of Contractor, and that Subcontractor undertakes the risk that it shall not be paid for Subcontractor's Work performed under this Agreement in the event Contractor is not paid by Owner for such work. Except for confidential information, Subcontractor may review any information provided by Owner to Contractor relative to Owner's financial ability to pay for the Work. Notwithstanding any contrary provision of the Subcontract Documents, Subcontractor expressly acknowledges and agrees that receipt by Contractor of payment from Owner for Subcontractor's Work shall be a condition precedent to any payment obligation of Contractor for its surety (if applicable) to Subcontractor under this Agreement. Furthermore, Subcontractor agrees that it will not, under any circumstances, claim against Contractor or its surety for payment of amounts not due to Subcontractor under this Agreement.

Contractor reserves the right to make joint check payments to the Subcontractor and any or all of the Subcontractor's subcontractors or suppliers or to directly pay any and all of the Subcontractor's subcontractors or suppliers and to deduct all amounts so paid from the amounts otherwise due Subcontractor. Contractor shall have the right at all times to contact the Subcontractor's lower-tier subcontractors and suppliers to ensure that the same are being paid by the Subcontractor for labor or materials furnished for use in performing the Subcontractor's Work.

Contractor reserves the right to advance the date of any payment (including final payment) due or to become due under this Subcontract if, in its sole judgment, it becomes desirable to do so.

FINAL PAYMENT

A final payment, consisting of the unpaid balance due for satisfactory performance of the Work, shall be made within twenty-five (25) business days after the last of the following to occur: (a) satisfactory completion of the Work by Subcontractor, (b) unqualified acceptance of the Work by the Architect/Engineer and Owner, (c) final payment by Owner to Contractor under the Contract on account of the Work, (d) furnishing of evidence satisfactory to Contractor that there are no claims, obligations, or liens outstanding or unsatisfied for labor, services, materials, equipment, taxes, or other items performed, furnished or incurred in connection with the Work; (e) delivery of all guarantees, warranties, bonds, instruction manuals, performance charts, diagrams, as-built drawings and similar items required of Subcontractor or its suppliers or subcontractors, (f) delivery of lien releases/payment bond releases from Subcontractor and all Claimants including all subcontractors and suppliers and those in privity with such subcontractors and suppliers, (g) delivery of a general release, in a form satisfactory to Contractor, executed by Subcontractor running to and in favor of Contractor and Owner and such other parties as Contractor may require; and (h) if bonded, a Consent of Surety from Subcontractor's surety. (See Exhibit L9 - Consent of Surety Company to Final Payment).

TIME

Time is of the essence in the performance of Subcontractor's Work. Subcontractor agrees to perform Subcontractor's Work so that the Work and every portion thereof may be completed in accordance with the Subcontract Documents. Subcontractor shall begin Subcontractor's Work as soon as instructed by Contractor or upon promptly upon execution of this Agreement, whichever first occurs. Subcontractor shall prosecute Subcontractor's Work expeditiously and at such times and in such order as Contractor shall direct to keep it sufficiently in advance of the other parts of the overall Contract Work and so as to avoid any delay or disruption to the overall process or completion of the Contract Work.

Subcontract #: 131003-4-001

Initial Subcontractor: [Signature]

Reeve: [Signature]

120 days from subcontractor's invoice date if the following has occurred

(d) ~~As may be required in the Contract Documents, including but not limited to any provisions for an Equitable Adjustment due to Differing Conditions.~~

~~In no event shall Subcontractor's overhead and profit exceed five percent (5%) of the cost of such work. (Cost of the Work x 5% = overhead and profit for any changes in the Work). All change orders issued under this Subcontract shall be subject to all of the terms of this Subcontract and the Contract Documents.~~

Subcontractor's failure to timely submit claims, requests for additional compensation, requests for payment for extra or additional work and requests for time extensions during each period of performance, following Subcontractor's completion of Subcontractor's Work or the portion thereof performed during the period of performance, shall constitute a waiver and release by Subcontractor of any and all claims for payment(s) associated with such performance hereunder, and shall waive, release and forever discharge Contractor from and against any liability or obligation to make any payment(s) therefore.

Contractor may <sup>not</sup> direct Subcontractor to proceed with changes in the work <sup>without a formal, written</sup> prior to issuance of a formal change order. Subcontractor will, upon written direction from the Contractor, perform the changes in the Work. If a dispute should arise regarding the Cost of the Change in the Work Subcontractor agrees to continue to perform the Work despite the existence of disputes. Subject to the other conditions of this Subcontract, Subcontractor shall have no claim for the cost of additional work or for an extension of time (including, without limitation, claims for impact damages or fair costs due to delay) unless such work and the cost and expenses thereof or time is stated on the face of a written change order, approved and accepted by Contractor, ~~accepted and paid for by Owner~~. Any attempted reservation by Subcontractor of the right to claim subsequently any amount or extension of time which amount or extension of time is not quantified and stated on the face of a written change order approved and accepted by Contractor shall be null and void.

Notice of any claim not covered by the paragraph above shall be given by Subcontractor to Contractor at the earlier of: (1) within seven (7) calendar days of the event for which such claim is made, and (2) prior to performance of the affected portion of Subcontractor's Work; otherwise, such claim shall be deemed waived.

It is the responsibility of the Subcontractor to review revised Contract Documents and respond in writing within five (5) calendar days, unless an earlier time period is required by Contract Documents, after receipt of such documents concerning changes in the Scope of Work, if any, as well as the corresponding pricing. Failure to respond to revised documents issued to the Subcontractor, in accordance with the conditions set forth herein, will constitute a waiver of any right of Subcontractor to request an adjustment to either the Subcontract Price or Time or Project timetable.

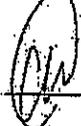
**SUBCONTRACTOR DEFAULT, 48 HOUR NOTICE AND RIGHT TO CURE, TERMINATION, AND REMEDIES FOR DEFAULT**

Should Subcontractor at any time: (a) fail to timely supply the labor, materials, equipment, supervision and other things required of it in sufficient quantities and of required quality to perform the Work with the skill, conformity, promptness and diligence required hereunder; (b) cause interference, stoppage or delay to the Project or any activity necessary to complete the Project; (c) become insolvent; or (d) fail in the performance or observance of any of the covenants, conditions, or other terms of this Subcontract, then in any such event, each of which shall constitute a default hereunder by Subcontractor, Contractor shall, after giving Subcontractor notice of default and forty-eight (48) hours within which to cure, have the right to exercise any one or more of the following remedies:

- (a) Require that Subcontractor utilize, at its own expense, overtime labor (including Saturday and Sunday work) and additional shifts as necessary to overcome the consequences of any delay attributable to Subcontractor's default;
- (b) attempt to remedy the default by whatever means Contractor may deem necessary or appropriate, including, but not limited to, correcting, furnishing, performing, or otherwise completing the Work, or any part thereof, by itself or through others (utilizing where appropriate any materials and equipment previously purchased for that purpose by Subcontractor) and deducting the cost thereof (plus an allowance for administrative burden equal to fifteen percent (15%) of such costs) from any monies due or to become due to Subcontractor hereunder;
- (c) after giving Subcontractor an additional (24) hours notice (at any time following the expiration of the initial forty-eight (48) hours notice and curative period), terminate this Subcontract without thereby waiving or releasing any rights or remedies against Subcontractor or its sureties and, by itself or through others, take possession of the Work and all materials, equipment, facilities, plant, tools, scaffolds and appliances of Subcontractor relating to the Work, for the purposes of completing the Work and securing to Contractor the payment of its costs (plus an allowance for administrative burden equal to fifteen percent (15%) of such costs) and other damages under this Subcontract and for the breach thereof; it being intended that Contractor shall, for the stated purposes, be the assignee of, and have a security interest in, the property described above to the extent located on the Project site (and Contractor may at any time file this Subcontract as a financing statement under applicable law);
- (d) recover from Subcontractor all losses, damages, penalties and fines, whether actual or liquidated, direct or consequential (including without limitation any increase in Contractor's cost of insurance resulting from Subcontractor's failure to maintain insurance coverages required hereunder), and all reasonable attorneys' fees, expert witness fees, court costs, and other similar costs suffered or incurred by Contractor by reason of or as a result of Subcontractor's default.

After completion of the Work by the exercise of any one or more of the above remedies and acceptance of the Work by Architect/Engineer and full payment therefore by Owner, Contractor shall promptly pay Subcontractor any undisbursed balance of the Subcontract Price, if any, if the cost of completion of the Work, plus the allowance for administrative burden, together with any other damages or losses sustained or incurred by Contractor, shall exceed the undisbursed balance of the Subcontract Price. Subcontractor and its guarantors, surety, or sureties shall pay the difference within fifteen (15) days of written demand from Contractor.

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Initial Subcontractor:   
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Reeves: 

The foregoing remedies shall be considered separate and cumulative and shall be in addition to every other remedy given hereunder or under the Contract Documents or now or hereafter existing at law or in equity. Subcontractor's guarantors, surety, or sureties agree to be bound to Contractor with respect to such remedies notwithstanding any provision of the bonds provided pursuant to Article 16 hereof.

Should this Subcontract be terminated for default, Subcontractor shall assign all purchase orders and subcontracts to Contractor if Contractor, in its sole and absolute discretion, requests such assignments. Subcontractor agrees to incorporate such provisions in its agreements with suppliers and subcontractors to effectuate this provision. Nothing herein shall create any duty on the part of Contractor to accept the assignment of any purchase order or subcontract hereunder.

Upon determination by an arbitrator or court of competent jurisdiction that any termination for default of this Agreement was wrongful or unjustified, then such termination will be deemed converted to a termination for convenience under Article 13 and Subcontractor's rights and remedies shall be limited to those set out herein.

**CONTRACTOR BREACH**

Except as limited by this Subcontract, Subcontractor shall have the rights and remedies available at law or in equity for a breach of this Subcontract by Contractor. Any default by Contractor shall be deemed waived unless Subcontractor shall have given Contractor written notice thereof within five (5) calendar days after the occurrence of such default. Subcontractor shall not be entitled to stop the Work or terminate this Subcontract on account of Contractor's failure to pay an amount claimed due hereunder (including payment for claimed changed Work) so long as Subcontractor shall not have adequately substantiated the amount due, or so long as a good faith dispute exists as to the amount due. Subcontractor shall not be entitled to stop the Work on account of a default by Contractor unless such default shall have continued for more than seven (7) calendar days after Contractor's receipt of written notice of such default from Subcontractor, specifying in detail the nature of the default and the steps necessary to cure the claimed default.

Subcontractor shall not be entitled to terminate this Subcontract except for a substantial and material breach by Contractor which shall have continued for a least an additional thirty (30) days after (a) Subcontractor shall have stopped working in accordance with this paragraph, and (b) Contractor shall have received thirty (30) days written notice of Subcontractor's intention to terminate this Subcontract. Notwithstanding the above, payment by Owner to Contractor of any amount claimed due is an absolute condition precedent to any claim of default due to lack of payment made by Subcontractor.

Under no circumstances shall Contractor be liable for lost profits, unabsorbed overhead, lost work, lost bonding capacity, or incidental, consequential or special damages of any nature in connection with or related to this Agreement or the breach thereof, such being expressly waived by Subcontractor.

In the event Contractor terminates Subcontractor for default and it is later determined that such termination was not warranted, Contractor's liability to Subcontractor shall be no greater than, and subject to, the same limitations provided in Article 13 hereof, and Subcontractor's termination shall be treated as a termination for convenience.

**TERMINATION FOR CONVENIENCE**

If Owner terminates the Contract or stops the Work, Contractor may terminate this Subcontract or stop the Work for the same reason, and Subcontractor's rights and remedies, including the basis for payment of any unpaid portion of the Subcontract Price, shall be limited to the corresponding rights and remedies available to Contractor under the Contract Documents, and controlled by Article 11 above.

Further, in its sole discretion and without notice to any guarantors, surety, or sureties, Contractor may terminate this Subcontract for its convenience upon the giving of seven (7) calendar days written notice to Subcontractor. Under no circumstances shall Contractor be liable for lost profits, unabsorbed overhead, lost work, lost bonding capacity, or incidental, consequential or special damages of any nature in connection with or related to portions of the Work not yet performed, such being expressly waived by Subcontractor. If terminated for convenience, Subcontractor shall be entitled to be paid: (1) costs of all Work satisfactorily performed up to the date of notice of termination, after Contractor receives payment for the same from Owner; and (2) necessary and unyieldable expenses of termination, if any, as determined by Contractor. "Expenses of Termination" means out-of-pocket, ordinary and necessary costs which are reasonably and unavoidably incurred by Subcontractor after the date of termination solely in connection with the cessation of Work and for which Subcontractor is not otherwise compensated. Payment, if any, shall be made in accordance with and subject to the requirements of Articles 3 through 6.

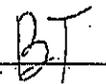
**CLAIMS**

Subcontractor agrees to make all claims against Contractor for which Owner is or may be liable in the same manner and within the time limits provided in the Contract Documents for like claims by Contractor against Owner. Notice of such claims shall be given by Subcontractor to Contractor at the earlier of: (1) within the time required for Contractor to give Owner any notices required by the Contract Documents; (2) within seven (7) calendar days of the occurrence of the event for which such claim is made; and (3) prior to performance of the affected portion of Subcontractor's Work, otherwise, such claim shall be deemed waived.

Subcontractor shall be entitled to an adjustment to the Subcontract Price or Schedule of Work only for performing and completing that portion of Subcontractor's Work associated with any claim for which Owner is or may be liable, and only to the extent actually granted to Contractor by Owner and paid by Owner. Any decision of Owner or Architect/Engineer with respect to such claims which, under the terms of this Agreement, is binding on Contractor, and any decision in arbitration or litigation between Owner and Contractor which becomes final and binding on Contractor shall likewise be final and binding on Subcontractor. To the extent Contractor prosecutes or defends a claim on behalf of Subcontractor, Subcontractor agrees to: (a) cooperate fully with Contractor; (b) furnish all documents, statements, witnesses and other information required by Contractor, at no cost to Contractor; and (c) reimburse Contractor for all related expenses and costs, including reasonable attorneys' fees.

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Reeves: 

If any claim forwarded by Contractor to the Owner is rejected by Owner and Subcontractor elects to pursue any administrative, arbitration, judicial or other proceeding, Subcontractor shall provide counsel of its choice and pay its attorneys' fees and other related expenses. Subcontractor acknowledges that Contractor reserves the right to engage counsel of its choice if it is a party to those proceedings and Subcontractor shall reimburse Contractor for its reasonable attorneys' fees, expenses of the proceedings, administrative and related costs. Subcontractor further agrees to indemnify and hold harmless Contractor from any counterclaims, offsets, backcharges, or other liabilities which the Owner may assert against Contractor by reason of the Subcontractor's Work and performance under this Subcontract, including reasonable attorneys' fees, expenses of litigation, and other administrative and attendant costs to defend the same.

Notice of any claim not covered by the paragraph above shall be given by Subcontractor to Contractor at the earlier of: (1) within seven (7) calendar days of the event for which such claim is made, and (2) prior to performance of the affected portion of Subcontractor's Work; otherwise, such claim shall be deemed waived.

If at any time any controversy shall arise between Contractor and Subcontractor with respect to the Work under this Subcontract which the parties are unable to adjust and determine, or which Owner's representative cannot adjust to the satisfaction of both parties hereto, then the determination and written orders of the Contractor shall be followed. Upon completion of the Work and before the final settlement and payment is made, such controversy shall be resolved in the manner described herein and under the Dispute Resolution paragraph. No claim, dispute or controversy shall interfere with the progress of construction, and Subcontractor shall proceed with its work without interruption, deficiency or delay irrespective of any claim, dispute, or controversy which may arise. Subcontractor agrees to continue to perform the Work despite the existence of claims, disputes or the pendency of mediation or arbitration. The existence of an unresolved claim, dispute or the pendency of arbitration shall not be grounds for any failure to perform by Subcontractor nor limit the right of Contractor to proceed, in good faith, to remedy any default by Subcontractor. If any claim or dispute arises regarding this Subcontract, Subcontractor shall immediately make all of its books and records, regarding the Work, available to Contractor for review and audit upon demand.

Under no circumstances shall Contractor be liable for lost profits, unabsorbed overhead, lost work, lost bonding capacity, or incidental, consequential or special damages of any nature in connection with or related to this Agreement or the breach thereof, such being expressly waived by Subcontractor.

It is expressly agreed and understood that as to any and all materials or services furnished or agreed to be furnished by Subcontractor, and as to any and all damages, if any, incurred by Subcontractor in connection with this Project, Contractor shall never be liable to Subcontractor to any greater extent than Owner is liable to Contractor for same. *to the extent caused by Contractor*

The failure of Subcontractor to institute legal action regarding any claim arising under this Subcontract within one (1) year after final completion of the Work and acceptance by the Owner shall constitute a full and complete waiver of such claim, regardless of any applicable statute of limitations.

**NOTICES**

All written notices provided for in this Subcontract or in the Contract Documents shall be deemed given if delivered personally to a responsible representative of the party, or sent by facsimile, electronic mail or by regular mail to the party at its address specified herein. Either party may from time to time, by notice to the other as herein provided, designate a different address to which notices to it should be sent.

**BONDS** *N/A*

If so indicated on the front page hereof, Subcontractor shall furnish, within ten (10) calendar days of date of transmission of this Subcontract to Subcontractor, which is included in the Subcontract Price, a performance bond and a payment bond, each in an amount equal to the Subcontract Price, on Contractor's standard form and with surety or sureties satisfactory to Contractor. Subcontractor agrees to notify its surety or sureties of increases in the Subcontract Price and to take such action as is required to have the penal amount of the bonds furnished pursuant to this paragraph increased correspondingly.

**INSURANCE, RISK OF LOSS ACCIDENT PREVENTION PROGRAM AND REPORTING**

Before commencing the Work and until completion and final acceptance thereof by Owner, Subcontractor, its subcontractors, and leased personnel providers shall obtain and maintain, at its expense, at least the following insurance coverages identified in Article 18 in addition to any coverage required by the Contract Documents, all from companies, and in form and substance acceptable to Contractor. *(See Exhibit F - Certificate of Liability Insurance)*

As between Contractor and Subcontractor, Subcontractor shall be responsible for, and shall bear all risk of loss of or damage to the Subcontract Work and all related materials, appliances, supplies and equipment, until final acceptance thereof, unless such loss or damage results from the direct and sole negligence of Contractor. Subcontractor agrees to pay for any damage that may be caused to other work of the Project by Subcontractor or by its lower-tier subcontractors, suppliers, invitees and others acting for the benefit of the Subcontractor or by any of their respective agents, servants or employees. Subcontractor agrees to incorporate such provisions in its agreements with its major suppliers and subcontractors to effectuate this provision. *to the extent such loss or damage is caused by Subcontractor*

Subcontractor shall comply with Contractor's Standard Accident Prevention Program for Subcontractors. (See Exhibit C). Subcontractor shall, within 24 hours of a jobsite accident or occurrence fill out and send to Contractor a completed Accident Reporting Form (See Exhibit E - Accident Reporting Form) and shall promptly submit to Contractor copies of all police or other reports arising out of any injuries to its employees or those of any independent contractor or subcontractor retained by it, or any property damages, arising or alleged to have arisen on account of the performance of this Agreement.

Subcontract #: 131003-1-001

Initial Subcontractor: *[Signature]*  
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Reeves: *[Signature]*

**STANDARD INSURANCE REQUIREMENTS**

Minimum insurance requirements shall be as follows; however Subcontractor shall comply with all insurance requirements contained in the Contract Documents:

- (a) Worker's Compensation Insurance must be provided in accordance with the statutory laws of the state in which work is performed with Employer's Liability limits of not less than \$1,000,000 for bodily injury per accident, \$1,000,000 each employee and limits for bodily injury by disease of \$1,000,000 per employee.
- (a) Commercial General Liability (CGL) Insurance must be provided with limits of not less than \$1,000,000 combined bodily injury and property damage (BIPD) for any one occurrence and \$2,000,000 general aggregate. CGL Insurance must provide coverage for the following risks:
  - Broad Form Property Damage - XCU Hazards (explosion, collapse and underground damage)
  - Independent Contractors - Contractual Liability (for Indemnity agreement in Subcontract)
  - Completed Operations (coverage must be maintained for 24 months following completion of the Work)
- (b) Comprehensive Automobile Liability must be provided with limits of not less than \$1,000,000 combined bodily injury and property damage for any one occurrence with coverage for the following risks:
  - All owned vehicles - Non-ownership liability - Hired vehicles
- (c) Umbrella/Excess Limit Insurance not less than \$2,000,000 must be provided for subcontracts over \$50,000. Subcontractor agrees to incorporate such requirements in its agreements with its major suppliers and subcontractors to effectuate this provision.

**ADDITIONAL INSURED ENDORSEMENT:** Subcontractor's liability insurance policy shall be endorsed as shown below to afford coverage on behalf of Contractor and Owner for the indemnity obligations contained in Article 19 of this Subcontract:

Both Reeves Contracting Company (Contractor) and the Owner of the Project on which the named insured is performing work shall be covered as additional insureds for all above liability coverages utilizing endorsement CG 20 30 ~~45~~ <sup>or equivalent</sup> or a combination of CG 2010 01 and CG 2037 01 or 04 conditions. The Subcontractor's insurance is primary over any other collectible insurance. A thirty (30) day prior written notice of cancellation will be provided to Contractor.

**BUILDER'S RISK INSURANCE:** Builder's Risk Insurance for the Project is being provided as indicated below: *N/A*

- Coverage is furnished by Owner as indicated in the Contract Documents subject to the provisions stated therein.
- All Risks Coverage subject to policy exclusions is furnished by the Contractor with losses subject to deductibles.

In the event that loss or damage to the Work is covered by any Builder's Risk or similar property insurance policy provided by the Contractor or Owner, Subcontractor agrees to pay its pro-rata share of any applicable deductible as the loss to Subcontractor's Work applies to the total loss.

As a condition precedent to any payment for the Work, Subcontractor, its subcontractors, and leased personnel providers shall furnish a certificate satisfactory to Contractor, from each insurance company showing the required insurance to be in force and stating that the insurance will not be canceled or changed except upon at least thirty (30) calendar days written notice thereof to Contractor or as otherwise required by the Contract Documents.

To the extent that Contractor and Subcontractor maintain insurance coverage for loss or damage to property, each hereby waives subrogation of claims against the other, the Owner, and their agents, employees and servants. Subcontractor acknowledges its sole obligation for any loss to its Work, including stored materials, paid for or not, whether or not such loss is reimbursable by Builder's Risk Insurance. However, nothing contained in this paragraph is intended to prevent or deny Subcontractor from asserting claims for unreimbursed losses against any person or party responsible therefore, except as otherwise provided hereinabove. Subcontractor is completely responsible for all of its own tools and equipment that will not become a permanent part of the Subcontract.

**INDEMNITY**

Subcontractor hereby agrees that One Hundred Dollars and No/Cents (\$100.00), and other good and valuable consideration the sufficiency of which is not disputed, paid under the first payment from Contractor under this Subcontract shall constitute separate and valuable consideration for Subcontractor's indemnity obligations as stated herein.

- (a) Subcontractor agrees to indemnify, defend, protect and save harmless Contractor and Owner (as well as any other parties which Contractor is required under the Contract Documents to defend, hold harmless and indemnify), and their Officers, directors, agents, and employees, from any and all claims, demands, suits, judgments, penalties, fines, damages, interest, litigation, liabilities, losses and expenses, including court costs and attorney's fees, of whatsoever kind or nature when the same, in whole or in part, result from or arise out of: (a) any failure of Subcontractor to fully perform each and every provision of this Subcontract including all warranties made by Subcontractor herein; (b) any failure of Subcontractor, its lower-tier subcontractors, suppliers, invitees or others acting on behalf of the Subcontractor to pay for all labor, materials, services, supplies and equipment for the nonpayment of which any lien, encumbrance, demand or claim may be made or asserted against Contractor or Owner; (c) alleged patent infringements asserted against Contractor or Owner arising out to the performance of the Subcontract; or (d) any work by Subcontractor, including the use of

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Reeves: *[Signature]*

Subcontractor furnished designs, specifications or methods, but excluding the use of Owner or Contractor furnished designs, specifications or methods; and (e) arising in whole or in part out of any controversies or disputes between Subcontractor and its lower-tier subcontractors and suppliers.

*to the extent caused*

*to the extent caused*

- (a) To the full extent permitted by law, Subcontractor agrees to indemnify, defend, protect, and hold harmless Contractor and Owner (as well as any other parties which Contractor is required under the Contract Documents to defend, hold harmless and indemnify), and their Officers, directors, agents, and employees from and against any claim, cost, attorneys' fees incurred (including attorneys' fees incurred on any appeal), expense, liability, or damages attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of property (including loss of use thereof), caused by, arising out of, resulting from, or occurring in connection with, in whole or in part, the performance of the Work by Subcontractor, its subcontractors and suppliers; or their agents, servants, or employees; and damage to property and property rights, including Contractor's and Owner's property rights, whether arising before or after completion of Subcontractor's Work hereunder, to the extent such claim or is alleged to have arisen out of or alleged as a result of negligence, active or intentional, or negligent misconduct in the performance of Subcontractor's Work by Subcontractor and/or persons employed or utilized by Subcontractor; provided however, Subcontractor's duty hereunder shall not arise if such injury, sickness, disease, death, damage, or destruction is caused by the sole negligence of a party indemnified hereunder. Subcontractor's obligation hereunder shall not be limited by the provisions of any worker's compensation or similar act.

The Parties agree that this indemnification provision should be enforced to the full extent permitted by law and expressly waive any right to challenge the enforceability or validity of this provision. The Parties further agree that it is their intention that this indemnification provision be lawful and enforceable and that if for some reason it is determined not to be enforceable as written, then it shall be construed to be enforceable up to whatever limit is established by applicable law.

**DEFENSE AND HOLD HARMLESS OBLIGATIONS**

Should Owner or any other person or entity assert a claim or institute a suit, action, or proceeding against Contractor involving the manner or sufficiency of the performance of the Work, Subcontractor shall, upon request of Contractor, promptly assume the defense of such claim, suit, action or proceeding at Subcontractor's expense, and Subcontractor shall indemnify, defend, protect and save harmless Contractor as well as anyone to be defended, indemnified and held harmless by Contractor and its or their agents, servants and employees, from and against any liability, loss, damage, or expense arising out of or related to such claim, suit action, or proceeding. Notwithstanding anything to the contrary contained herein, Contractor, at its option, shall have the right to participate in the defense of any claims asserted against it, approve the selection of counsel and approve the terms of any settlement made in its name or on its behalf.

**DAMAGES**

*Contractor*

~~Contractor shall not be liable or responsible for loss or damage to the equipment, tools, facilities, or other personal property owned, rented, or used by Subcontractor, or anyone employed by or through Subcontractor, in the performance of the Work; and Subcontractor shall maintain such insurance coverages and take such protective action as Subcontractor deems desirable with respect to such property, except to the extent of any proceeds received by Contractor for the benefit of Subcontractor under a policy of builder's risk or fire insurance. Contractor shall not be liable or responsible for any loss or damage to the Work, and Subcontractor shall be responsible for the correction or restoration of any such loss or damage to this Work or to the work of Contractor or any other subcontractor, resulting from the operations of Subcontractor or its subcontractors, agents, servants, or employees hereunder. Subcontractor shall take all reasonable precautions to protect its Work from loss or damage prior to acceptance. by Owner. Subcontractor shall be responsible for the correction or restoration of any loss of and all damages to the work of Contractor or any other subcontractor, resulting from the operations of Subcontractor, or its subcontractors, suppliers, agents and employees.~~

*the*

*to the extent caused by Subcontractor*

**SET OFF**

If Subcontractor is, or hereafter begins, performing any work for Contractor other than the Work under the Subcontract and the unpaid balance of the Subcontract Price under this Agreement becomes insufficient to complete the Work or compensate Contractor for any damages or deficiencies by the Subcontractor in the performance of the Work, or any other work, Subcontractor hereby consents and agrees to allow Contractor, in its sole discretion and judgment, to set off any of Contractor's claims against any funds due, or which may become due, Subcontractor under this Agreement or any other agreement with Contractor, or any subcontract on any other project. No refusal or failure of Contractor to exercise its rights hereunder shall constitute the basis of any right or claim against Contractor.

**DISPUTE RESOLUTION**

Any claim, dispute, or controversy between Contractor and Subcontractor shall be conclusively resolved and settled in the manner indicated herein. In the event of any dispute between Owner and Contractor or Subcontractor relating to the Subcontract, the Work, or a breach thereof, Subcontractor agrees to exhaust all remedies available through Contractor under Contractor's Contract with Owner prior to instituting any separate action; or, in the event that a separate action is instituted prior to the exhaustion of the aforesaid remedies Subcontractor agrees to stay its action pending the exhaustion of all remedies against the Owner. Subcontractor and its sureties agree to be bound to Contractor to the same extent that Contractor is bound to Owner by the terms of the Contractor's Contract with Owner. Any arbitration arising out of or relating to this Agreement or the breach thereof may, at Contractor's sole option and election, include by consolidation, joinder or any other manner, any other entities or persons whom Contractor believes to be substantially involved in a common question of fact or law. Contractor, at its sole option and election, is entitled to consolidate any arbitration proceeding between Contractor and Subcontractor with any other arbitration proceeding(s) arising out of the same project. In any arbitration proceeding involving Owner, Contractor and Subcontractor, Subcontractor agrees to the appointment of arbitrator(s) as may be selected by Contractor and Owner pursuant to the requirements of the arbitration provision in the Contract Documents.

- (a) Any dispute between Subcontractor and Contractor which is not subject to the above stated conditions may, at Contractor's sole discretion be submitted to first to mediation which shall occur within 60 days of notification of the dispute, and if mediation is

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Reeves: *[Signature]*

*\* Contractor will use Subcontractor's equipment in a careful and proper manner and in accordance with safety rules, industry standards, manufacturer's specifications, recommendations, regulations and applicable laws. Contractor shall be responsible for any loss or damage to Subcontractor's equipment including normal wear and tear and excluding loss or damage caused by Subcontractor.*

unsuccessful, at Contractor's sole discretion to arbitration, which shall be conducted in the metro Atlanta, Georgia area. Any such arbitration shall be conducted by one arbitrator and in accordance with the Construction Industry Rules of the American Arbitration Association, and this agreement to arbitrate upon Contractor's exercise of such discretion shall constitute an agreement by Subcontractor to submit such controversy to arbitration enforceable under any applicable arbitration statute.

- (e) If Contractor does not choose to arbitrate the Parties agree (i) to submit to the jurisdiction of the State or Superior Courts of Gwinnett County, Georgia or the Northern District of Georgia for the purpose of any suit, action or other proceeding arising out of or based upon this Agreement, (ii) agree not to commence any suit, action or other proceeding arising out of or based upon this Agreement except in the state courts of Georgia. The Parties further expressly waive any right to challenge this provision of the Subcontract or otherwise assert any challenge to the jurisdiction of any state or federal Court located in or covering Gwinnett County, Georgia on the grounds that the court lacks personal jurisdiction or is the improper venue for any action brought under this Subcontract.
- (b) In the event Subcontractor fails to abide by a final binding decision of any arbitrator(s) Contractor shall have the right to enforce the Arbitrator's decision by withholding appropriate sums from any payments that would otherwise be due Subcontractor, or, to the extent the Subcontract balance is insufficient to satisfy Subcontractor's obligation, by legal action, with all costs of such legal action, including Contractor's reasonable attorneys' fees, to be borne by Subcontractor.

**ASSIGNMENT**

Subcontractor shall not assign this Subcontract, or any monies due or to become due hereunder, or subcontract any substantial part of the Work without the prior written consent of Contractor. No assignment by Subcontractor or any right hereunder shall be effective and any such attempt shall be null and void. No third party shall have any right to enforce any right of Subcontractor under this Subcontract. If Contractor gives written consent to an assignment of this Subcontract, in whole or in part, Subcontractor shall not be relieved of its duties and obligations hereunder and shall be and remain fully responsible and liable for the acts and omissions of its assignees. Nothing herein shall prevent Subcontractor from engaging subcontractors to perform a portion of the Work hereunder, subject to any Owner requirements. Subcontractor shall be fully responsible for all persons directly or indirectly employed by such subcontractors, as Subcontractor is for its own acts and omissions and those of its agents, servants and employees. Additionally, nothing herein shall prevent any guarantor or surety of Subcontractor from enforcing any right hereunder after acknowledgment of its obligation as guarantor or surety.

**COMPLIANCE**

*(excluding environmental, air quality or building permits)*  
 Subcontractor shall meet all compliance obligations contained in the Contract Documents, at its own expense, obtain all necessary licenses and permits pertaining to the Work and comply with all statutes, ordinances, rules, regulations and orders of any governmental or quasi-governmental authority having jurisdiction over the Work or the performance thereof, including, but not limited to, those relating to safety, wages, discrimination and equal employment opportunity. Subcontractor shall promptly correct any violations of such statutes, ordinances, rules, regulations and orders committed by Subcontractor, its agents, servants and employees; and Subcontractor shall receive and respond to, and shall defend, indemnify and save harmless Contractor and Owner, as well as anyone to whom Contractor is obligated, and their agents, servants and employees from and against any loss, liability, or expense arising from any such violations and any citations, assessments, fines, or penalties. Subcontractor agrees to incorporate such compliance requirements in its agreements with its suppliers and subcontractors.

**EQUAL OPPORTUNITY**

Subcontractor agrees not to discriminate against any employee or applicant for employment because of age, race, sex, disability or national origin. In connection with the performance of work under this Contract, the Equal Opportunity Clauses as set forth in Section 202 of Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended, and Section 402 of the Vietnam Era Veterans Readjustment Act of 1974, as amended, are incorporated by reference.

**SAFETY**

**Project Safety:** Subcontractor shall maintain its own safety program which shall in all cases meet all applicable federal, state and/or local safety related laws and regulations as well as Exhibit C -- Contractor's Standard Accident Prevention Program for Subcontractors. Contractor may issue directives to Subcontractor with respect to a safety compliance issue and may require Subcontractor to respond promptly to each directive. Subcontractor's failure to correct the issue, in a prompt manner, authorizes Contractor, at its sole option, to take whatever steps it deems to be necessary to address the issue in order to provide a safe work site for all concerned parties. Contractor shall have no duty to monitor Subcontractor's practices or performance of the Work for safety and shall have no duty to stop Subcontractor's unsafe practices. Any costs, including reasonable attorneys' fees and costs, incurred by Contractor because of any such issue shall be the responsibility of Subcontractor. Subcontractor shall comply with all safety obligations imposed by the Contract Documents, the Underground Gas Pipe Law, The High Voltage Act, the Occupational Safety and Health Act of 1970 and the Construction Safety Act of 1969 A and the regulations issued pursuant to those Acts and all applicable federal, state and local requirements.

**Hazard Communication:** Subcontractor shall be responsible for implementing and maintaining a Hazard Communication Program as required by law and shall comply with all such obligations imposed by the Contract Documents. This includes, but is not limited to, providing Material Safety Data Sheets (MSDS's) to the Contractor on any hazardous chemicals or materials on the Project Site. Subcontractor shall submit this program for review within ten (10) days of the execution of this Subcontract or ten (10) days before mobilizing on the Project, whichever occurs first. Subcontractor is responsible for any chemicals, which will be used by Subcontractor, that enter the Project Site.

**Substance Abuse Program:** Subcontractor shall abide by the minimum standards stated in the Alcohol and Drug Testing Program Compliance Policy, (Exhibit D.), shall comply with all such obligations imposed by the Contract Documents, and is responsible for implementing and maintaining an

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*(Handwritten signatures and initials)*

effective Substance Abuse Program. Subcontractor is responsible for all costs, including reasonable attorneys' fees and costs, incurred in the adoption, implementation or administration of the Substance Abuse Program.

#### ENVIRONMENTAL

Throughout performance of Subcontractor's Work, Subcontractor shall conduct all operations in such a way as to minimize impact upon the natural environment and prevent any spread of contaminated or hazardous material. As applicable for its scope of Work Subcontractor shall:

- (a). Provide dust control of its operations within all Project areas under its control and shall coordinate and cooperate with others for dust control in common areas; *N/A*
- (a) Provide working machinery and equipment with efficient noise suppression devices and all other noise and vibration abatement measures necessary for the protection of workers and the public;
- (b) Provide suitable waste, sewage, sanitary and garbage disposal methods and procedures approved by Contractor;
- (c) Provide suitable equipment, facilities and pre-cautions to prevent the discharge of contaminants into the atmosphere, any body of water, or land areas;
- (d) Provide all documentation required by all levels of governing authority over this Agreement concerning environmental requirements; and
- (e) Be responsible for developing and maintaining a written Environmental Compliance Plan (ECP) in accordance with Subcontractor's established practices, including but not limited to compliance with all applicable laws, the Contract Documents and all applicable requirements in the Project Environmental Control Plan. Subcontractor shall have sole responsibility for developing, implementing and enforcing its ECP.

Subcontractor shall submit its written ECP to Contractor for review prior to commencing work at the Project site. Contractor's review of Subcontractor's ECP shall not relieve Subcontractor of its obligations under this Agreement or as imposed by law, and Subcontractor shall be solely responsible for the adequacy of its ECP.

In the event Subcontractor encounters material on the Project Site reasonably believed to be toxic or hazardous material or waste which has not been addressed in this Agreement, Subcontractor shall immediately stop work in the affected area and notify Contractor and Owner of the condition in writing. Pending receipt of written instructions from Contractor, Subcontractor shall not resume work in the affected area.

#### CLEANING UP

Subcontractor shall comply with the Contract Documents and, at its own expense, (a) keep the premises at all times free from waste materials, packaging and other debris accumulated in connection with the Work by collecting and disposing of such debris to a dumpster provided by Contractor on a daily or other basis requested by Contractor; (b) at the completion of the Work in each area, sweep and otherwise make the Work and its immediate vicinity "broom clean"; (c) remove all of its tools, equipment, scaffolds, temporary structures and surplus materials as directed by Contractor at the completion of the Work; and (d) at final inspection clean and prepare the Work for acceptance by Owner.

During the progress of construction, a composite cleanup crew may be requested by Contractor to perform project cleanup. Participation will be required based on the number of employees Subcontractor has on the Project. If Subcontractor fails to participate in this composite crew, without prior approval of the Project Superintendent, Contractor will provide adequate manpower for this effort and backcharge Subcontractor.

#### TEMPORARY FACILITIES

All temporary site facilities, such as storage, sheds, water, heat, light, power, toilets, hoists, elevators, scaffolding, cold weather protection, ventilating, pumps, watchman service, etc., required in performing the Work shall be furnished by Subcontractor except as follows:

- (a). Contractor may furnish temporary power for construction purposes; however, this service may not be available by the start of construction, or if Project Site conditions do not permit temporary power. It will be Subcontractor's responsibility to provide generators for any required power. Power for welders will not be provided.
- (a). Contractor may furnish temporary water for construction purposes depending on Project Site conditions. All drinking water and ice as required for personnel is the sole responsibility of Subcontractor (i.e. containers, cups, and distribution).

All temporary facilities furnished by Contractor shall be without charge to Subcontractor except as otherwise indicated above. Contractor shall designate an area for construction trailers and storage trailers. Locations and scheduled duration shall be coordinated by Contractor. Each Subcontractor has the responsibility to verify that all field offices, trailers and storage sheds shall be in accordance with the applicable local fire marshal's requirements. Each Subcontractor shall arrange and pay for any temporary water, sewer, telephone and electrical hook-up and use fees. Subcontractor shall pay for all power used for the Subcontractor's temporary field office. Subcontractors shall maintain the designated space including removal of debris, trash and clean up of the area after removal of such temporary structures.

Subcontractors will be required to park in designated areas only; spaces to be confirmed by Contractor. If adequate spaces are not available on site, Contractor will not be responsible for providing parking for Subcontractor's employees.

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Initial Subcontractor: *[Signature]*

Reeves: *[Signature]*

In connection with its furnishing of the temporary facilities indicated, Contractor shall not be liable for conditions beyond the control of Contractor that may interrupt, delay, or otherwise interfere with the availability of such facilities to Subcontractor. Unless otherwise expressly indicated, the temporary facilities furnished by Contractor shall not be for the exclusive use of Subcontractor, but shall be shared by others performing work on the Project. Contractor has exclusive right to schedule the use of any facilities in accordance with its determinations as to the needs of the Project and shall incur no liability as a result thereof.

**QUALITY**

Subcontractor shall at all times provide first quality, new materials (rental equipment will not be new) and workmanship conforming to the Contract Document requirements. Subcontractor shall at all times provide proper facilities and an opportunity for the inspection of the Work by Contractor, Architect/Engineer and Owner and their representatives. Subcontractor shall, within twenty-four (24) hours after receiving written notice from Contractor or Architect/Engineer, proceed to take down and remove all portions of the Work which Contractor or Architect/Engineer shall have condemned as unsound, improper, or in any way failing to conform to the Subcontract Documents and shall replace the same with proper and satisfactory Work and make good all work damaged or destroyed thereby. Contractor's failure to discover or notify Subcontractor of defective or nonconforming Work at the time Work, or any portion thereof, is performed or completed shall not relieve Subcontractor of full responsibility for replacement of the defective or nonconforming Work and all damages resulting therefrom. If Owner elects to accept defective or nonconforming Work, Contractor may require an appropriate adjustment in the Subcontract Price to the extent required of Contractor.

**WARRANTY AND GUARANTEES**

Subcontractor warrants and guarantees <sup>shall</sup> the Work to the full extent provided for in and required by the Contract Documents. Subcontractor shall at its expense and by reason of its express warranty, make good any faulty, defective, or improper parts of the Work discovered within one year from the date of acceptance of the Project by Owner and/or Architect/Engineer or within such longer period as may be provided in the Contract Documents. Subcontractor shall maintain its performance bond for the Project through the end of the warranty period or, substitute a warranty bond therefore to guarantee performance of its warranty obligations for the warranty period. The warranty bond must be in a form, and from a surety, acceptable to Contractor. Subcontractor warrants that all materials furnished hereunder meet the requirements of the Contract Documents and applied warranties that they are both merchantable and fit for the purpose for which they are to be used under the Contract Documents. Subcontractor shall properly complete, execute and submit to Contractor the Subcontractor's Warranty Form (see Exhibit K). It is agreed and understood that Subcontractor's obligations under the warranty are in addition to any other warranties as may be applicable under the Contract Documents or applicable law.

*If applicable*

*done by it under this Subcontract against deficiencies and defects in materials and/or workmanship up until the completion of*

*during the rental period*

**SUBMITTALS**

Subcontractor shall immediately prepare or obtain and promptly submit to Contractor shop and erection drawings, samples, product data, catalogue cuts, laboratory and inspection reports and engineering calculations, all as may be required by the Contract Documents or as may be necessary or appropriate to describe the details of the Work. Approval of drawings or other submittals by Contractor or Architect/Engineer shall not relieve Subcontractor of its obligation to perform the Work in strict accordance with the Contract Documents or its responsibility for the proper matching of the Work to contiguous work.

**PERFORMANCE**

The Work shall be performed and furnished to strictly comply with the Contract Documents, under the direction of Architect/Engineer and Contractor, but Subcontractor shall not thereby be relieved of its obligation to supervise the Work, using its best skill and attention; or its obligation to perform the Work as provided for herein. Subcontractor shall be bound by the interpretations and decisions of Architect/Engineer and Owner to the same extent as Contractor may be bound thereby under the Contract Documents.

Subcontractor shall notify and obtain the approval of Contractor before the arrival of forces or delivery of materials and equipment to the project site, before any substantial change in its forces, and before leaving the Project Site for any reason.

Subcontractor shall promptly and carefully check all Contract Documents and notify Contractor of any discrepancies or conflicts before performing any Work, and Subcontractor shall be responsible for any extra costs resulting from its failure to do so. Subcontractor shall cooperate with Contractor and other subcontractors in the preparation of coordination drawings, where required by Contract Documents.

*as applicable to Subcontractor's scope of work*

**LIENS AND PAYMENT BOND CLAIMS**

Subcontractor shall defend, indemnify, protect and save harmless Contractor, Contractor's sureties and Owner from any lien or claim of lien or payment bond claim filed or maintained by any laborer, materialmen, vendor, supplier, subcontractor, or other person or entity directly or indirectly acting for, through, or under Subcontractor, against the Project or any part thereof or any interest therein or against any monies due or to become due from Owner to Contractor or from Contractor to Subcontractor. Subcontractor shall cause any such lien or claim of lien or payment bond claim to be satisfied, removed, or discharged by bond, payment, or otherwise within such time as provided under the Contract Documents or ten (10) calendar days from the date of receipt of notice of the lien or payment bond claim, whichever is shorter. Failure to do so is a breach of the Subcontract whether or not the claim of the party filing the lien is valid.

**PATENTS AND COPYRIGHTS**

Subcontractor shall defend, indemnify, protect and save harmless Contractor and Owner from and against any claim, cost, expense, or liability (including attorneys' fees) arising out of or resulting from infringement or alleged infringement of any patent rights or copyrights attributable to the Work, except to the extent that Owner may have assumed responsibility under the Contract Documents. Subcontractor shall pay all royalties, license fees and similar charges for patented or copyrighted materials used in or incorporated into the Work.

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Initial Subcontractor:                     

Revised:                     

*BT*

**LABOR:**

Subcontractor agrees that, where the Work is stopped, delayed, or interfered with by strikes, slow-downs, or similar interruptions or disturbances (including cases where Subcontractor's employees are engaged in a work stoppage solely as a result of a labor dispute involving Contractor or others and not in any manner involving Subcontractor), Contractor shall have the rights and remedies provided in this Subcontract to terminate the Subcontract, supplement Subcontractor's forces and backcharge, or take other steps necessary for the timely progression of the Work. Subcontractor shall maintain and exercise control over all employees engaged in the performance of the Work, and Subcontractor shall, to the extent permitted by law, remove or cause to be removed from the Project any employee whose presence is detrimental to the orderly prosecution of the Work. Subcontractor shall comply with all instructions by Contractor relating to the ingress and egress of its employees, materialmen and suppliers to the Project and shall take all necessary steps to restrain and enjoin any illegal picketing, demonstrating, violence, or similar activity against Subcontractor at the Project.

**USE OF CONTRACTOR'S EQUIPMENT**

If Subcontractor uses the equipment, machinery, tools or materials of Owner, Contractor or other subcontractors, or if Contractor performs any of Subcontractor's Work ("collectively Subcontractor Equipment Usage"), Subcontractor agrees to defend, indemnify, protect and hold harmless Contractor, its agents and employees against any claims, demands or lawsuits for loss or damage to property or personal injury which may be made against Contractor arising from or related to Subcontractor's Equipment Usage. Subcontractor expressly waives all rights to Claim against Contractor for any loss, damage or lawsuit incurred by Subcontractor, its agents and employees, which results from Subcontractor Equipment Usage.

**GENERAL JOBSITE RULES**

- (a) Subcontractor's working hours for the Project shall be based on the demands of the overall Project Schedule or Contract Documents.
- (b) Subcontractor's deliveries to the jobsite must be scheduled with the Project Superintendent at least forty-eight (48) hours in advance.
- (c) Subcontractor's employees must comply with the Project Safety Rules posted at the jobsite. Violation of these rules may result in immediate removal of Subcontractor's employees from the Project Site.
- (d) Subcontractor's parking, material storage and office storage buildings shall be located by the Project Superintendent.
- (e) Contractor's representative must be present at all times while this Subcontractor is working onsite. If after hours work becomes necessary, the Project Superintendent must approve it in advance.
- (f) Subcontractor must participate in daily clean up and organization of its work, tools, stored materials, etc.
- (g) Subcontractor must complete Daily Reports, in a form acceptable to Contractor, and submit them to Contractor's office at least weekly for all days on which Subcontractor is working at the Project Site.
- (h) NO SMOKING is permitted on the Project Site. Failure to comply with this rule may result in termination of the Subcontract.
- (i) Additional Job specific rules are contained in Exhibit A.

**DIVERSITY AND MWBE COMPLIANCE REQUIREMENTS**

If Subcontractor is to perform as a Local, Disadvantaged, AABE, Small, Minority or Female/Woman Owned Business Enterprise (collectively "MWBE") Subcontractor (i) agrees that all Work required under this Subcontract will be performed, managed and supervised by Subcontractor's own forces, except for Work sub-subcontracted to others with Contractor's prior written consent, (ii) shall do all things necessary to comply with all applicable federal, state, county or municipal laws, rules, regulations or ordinances governing Subcontractor's performance and continuing certification as a MWBE, and (iii) shall perform the Work needed on the Project in such a manner that the Work can be fully counted by Contractor towards applicable MWBE goals for the Project.

If the Contract contains MWBE participation goals, Subcontractor will be required to participate in achieving such MBE participation goal on this Project. Subcontractor agrees, as to its own forces, and its lower tier subcontractors and suppliers, that Subcontractor (i) shall supervise, manage and perform the Work needed on the Project in such a manner that the maximum applicable portion of the Work can be counted by Contractor towards applicable MWBE goals for the Project, and (ii) shall do all things necessary to comply with all applicable federal, state, county or municipal laws, rules, regulations or ordinances governing performance and continuing certification as a MWBE.

**E-VERIFY AND IRCA COMPLIANCE**

Subcontractor is responsible for complying with the Contract Document provisions regarding verification of a workforce legally entitled to work in the United States. Subcontractor shall comply with the Immigration Reform and Control Act of 1986 (IRCA), Georgia Security and Immigration Compliance Act (O.C.G.A. § 13-10-90 and O.C.G.A. § 13-10-91) and Georgia Department of Labor Rules 300-10-.01 and 300-10-1-.02. Subcontractor warrants that it is now, and will continue to be, in full compliance with all federal and state immigration requirements, including all I-9 employee verification requirements, E-Verify, and SAVE Affidavits. See Exhibits H-1 and H-2.

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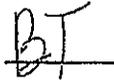
Initial Subcontractor: Revised: 

MISCELLANEOUS

- (a) All matters relating to validity, performance, or interpretation of this Subcontract shall be governed by the law of the State of Georgia without regard to conflict of law principles.
- (a) This Subcontract, including the documents incorporated herein by reference, constitutes the entire agreement between Contractor and Subcontractor and supersedes all prior oral and written agreements, discussions, promises, communications, understandings or representations. All bids, or proposals for work, whether verbal or written, which contain any term, condition or provision which purports to modify, conflict with, contradict or add to this Subcontract or the Contract Documents are void and of no force or effect. All changes, additions or deletions must be in writing and signed by an officer of Contractor and Subcontractor.
- (b) No requirement of this Subcontract may be waived except in writing signed by a duly authorized officer of the waiving party.
- (c) If Owner has the right to approve or object to Subcontractor's selection the Subcontract shall not be effective until Owner approves Subcontractor.
- (d) This Subcontract is intended solely for the direct benefit of the parties and there are no third party beneficiaries of this Subcontract.
- (e) The provisions of the Subcontract are severable. Should any provision of the Subcontract or Contract Documents applicable to Subcontractor's work be unenforceable, the remaining provisions will be valid and binding.
- (f) Subcontractor is an independent contractor and there is no joint venture relationship between the parties. Subcontractor must submit Exhibit G - Request for Taxpayer Identification Number & Certification before any payment is processed. Subcontractor is responsible for complying with all applicable federal, state and local income tax, payroll tax and social security withholding, reporting and payment obligations and any other government mandated withholding.
- (g) If this Subcontract is for electrical, mechanical, plumbing, fire sprinkler, and/or site work, Subcontractor shall be responsible for: (1) making all final connections to supply lines; (2) excavation, backfill, compaction, and restoration of grades associated with the Work; (3) cutting, patching, dewatering, supports, and penetrations associated with the Work; and (4) fire stop, draft stop, and fireproof of all penetrations so as not to diminish and/or void the fire rating through assemblies in accordance with any applicable building code, rules or regulations. In addition, this Subcontractor agrees to coordinate its work with the other MEP/FP Subcontractors working on the Project to ensure complete and operational systems without additional costs to Contractor.

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Reeves: 

IF SUBCONTRACTOR HAS BEEN IN RECEIPT OF THIS SUBCONTRACT AGREEMENT FOR THIRTY (30) CALENDAR DAYS OR HAS COMMENCED WORK ON THE PROJECT IN ANY MANNER, THEN SUBCONTRACTOR SHALL BE DEEMED TO HAVE ACCEPTED AND AGREED TO ALL TERMS AND CONDITIONS OF THIS SUBCONTRACT.

IN WITNESS WHEREOF, the parties have duly executed this Subcontract as of the date first above written.

SUBCONTRACTOR  
By: [Signature]  
(Signature)

REEVES CONTRACTING COMPANY  
By: [Signature]  
(Signature)

Name/Title: Arthur Schow, CEO  
(Printed Name & Title)

Name/Title: Brian Trotter Project Manager  
(Printed Name & Title)

Date: 5-21-2013

Date: 5-21-2013

Attest: Wanda Brown

Attest: \_\_\_\_\_

Wanda Brown  
Senior Contracts Administrator

CORPORATE SEAL  
\*If no Corporate Seal-Please Notarize

CORPORATE SEAL  
\*If no Corporate Seal-Please Notarize

Notary:

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

See attached WB 5/21/13  
\_\_\_\_\_  
Notary Republic

My Commission Expires: \_\_\_\_\_

NOTARY SEAL

Subcontractor Information:

Check ONE:  Corporation  Partnership/Joint Venture  Individual

Subcontractor's Federal Employer Identification No.: 95-1362750

(Return Exhibit G -- Request for Taxpayer Identification Number & Certification with the executed Subcontract)

If no Federal Employer Identification Number, enter individual business owner's Social Security No.

LICENSING: By executing this Subcontract, Subcontractor affirms that it holds the following license(s) applicable to the Work as required by the state in which the Project is located.

State of \_\_\_\_\_ County of \_\_\_\_\_ Type of License: \_\_\_\_\_

Business License No. \_\_\_\_\_ Expiration Date: \_\_\_\_\_

Payments will not be processed without complete licensing information, Federal Employer Identification Number and a current insurance certificate on file.

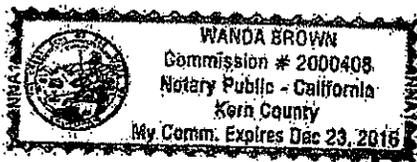
Subcontract #: 131003-1-001

Initial Subcontractor: [Signature]

Reeves: BT

State of California }  
County of Kern }

Subscribed and sworn to (or affirmed) before me on this 21st day of May, 2013, by Anthony E. Schoen, proved to me on the basis of satisfactory evidence to be the person who appeared before me.



*Wanda Brown*  
\_\_\_\_\_  
Notary Public

(SEAL)

BT

**EXHIBIT A - SUBCONTRACTOR PROJECT SPECIFIC SCOPE OF WORK**

Please note: Work will not begin "on site" until all required Subcontract documents are received and correct and current. Required Subcontract Documents include the following:

- Insurance Certificate.
- Payment & Performance Bond (if required).
- Company Safety Manual.
- Jobsite Specific Safety Plan.
- Fall Protection Plan
- Hazardous Communication Program:
  - o Chemical List
  - o Material Safety Data Sheets
  - o Written Hazard Communication Program.

Please send all required safety documents and insurance to Attention: Beth Hart, Reeves Contracting Company, 1400 Buford Hwy., Bldg. C-2, Sugar Hill, GA 30518.

Please send the signed Subcontract Agreement, Vendor Certifications and Payment & Performance Bond (if required), to the Project Manager.

**SCOPE OF SUBCONTRACTOR'S WORK**

Subcontractor, as an independent contractor employed by Contractor, agrees to provide and to furnish all labor, supervision materials, scaffolding, equipment, hoisting systems machinery, tools, apparatus, transportation, shop drawing, samples and submittals necessary to provide, furnish and complete the following work, all to be performed in connection with the above described Project.

Subcontractor to mobilize to the jobsite no later than 1/22/2013 *to be determined*. All work included in this Subcontract is to be completed in accordance with the milestone and completion dates per the project schedule.

*What date should be used here? BT*

Furnish and install all Dewatering Scope of Work complete per plans and specifications, including but not limited to the following scope of work description:

Item	Description	Quantity	UM	Unit Price	Extended Price
312319-	Dewatering	1,000	EA	21,612.50000	21,612.50
312319-	Dewatering (Rental 28 day cycle)	10,000	MOS	20,591.00000	205,910.00

**Specification Sections:**

• Ebster Park Regional Storm Water Management Facility by Klmiey, Horn and Associates, Inc. - Dated 4-12-2013

Specifically - Section 312319 - Dewatering

Geotechnical Engineering Evaluation by Geohydro Engineers dated 12-20-2013

In addition to the foregoing, it is further understood and agreed that this Subcontract also includes but is not necessarily limited to the furnishing and installation of the below listed items regardless of whether or not they are in the above specification sections, or any other specifications section of the Contract Documents, or shown on the plans, as listed in Exhibit 'B':

**1. Inclusions:**

- Rain for Rent will be performing the installation and removal a well-point system measuring 1380 linear feet as depicted in their proposal dated 1/11/2013. The scope of work for Rain for Rent is strictly limited to the installation and removal of the well-point equipment and materials, supplied by Rain for Rent, with exception of exclusions noted.

Includes all Specification Submittals

- The system will be the installation and removal of a 1,380' foot well-point system utilizing 6" header pipe and approximately 276 well-points. The well-points will be 23' feet in length and (4) Well-point pumps will be required. The system setup will be a rectangle style configuration that will surround the construction area estimated @ 360' x 260'.

- Rain for Rent will also water-jet (276) holes 53' feet apart and 23' feet deep for the placement of each 23' well-point. Rain for Rent will then attach 276 swing valves into the header pipe so that the entire construction area will have 100% well-point coverage on all sides.

- Rain for Rent will sub-contract the installation of (4) 50' deep wells with casing sandbed from top to bottom. Rain For Rent's estimate includes one installation crew of three installers, a jet rod, 600' feet of 2 1/2" fire hose, a 3" Jet Pump with 40' feet of suction hose and 100' feet of discharge. Installation time after mobilization is estimated at 7 working days for the entire systems. Overall length of rental has not been disclosed to Rain for Rent; the quote reflects one cycle/rental month (28 days) for all four systems and should be tabulated accordingly.

- Quote includes a price for 1 mobilization and demobilization. Any changes to project scope and/or schedules may result in change of price and additional mobilization and de-mobilization costs at the expense of the customer.

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Reeves: *[Signature]*

All installation labor is based on five day work week and 10 hour work days, Monday thru Friday. Rain for Rent will hydrostatically test the system prior to bypass commencement and clean & flush the system at the conclusion of the bypass if desired. All permits for the project are responsibility of the customer.

**Rental Items**

QTY	UNIT	PERIOD	ITEM NO	DESCRIPTION	UNIT PRICE	TOTAL PRICE	EXTENSION
4	Each	1 Cycle	+612025	PUMP-WELLPOINT RL200 TRLR	\$0.00	\$0.00	\$1,550.00
1380	Each	1 Cycle	MRC	Header system with 20' risers and 3' points and swingars with valves	\$0.00	\$0.00	\$5.25
4	Each	1 Cycle	MRC	G304T well pumps	\$0.00	\$0.00	\$355.00
4	Each	1 Cycle	723426	HOSE SUC PVC BAUER 6x10	\$0.00	\$0.00	\$129.00
22	Each	1 Cycle	722826	HOSE LAYFLAT YLW BWR 6x50 75#	\$0.00	\$0.00	\$135.00
10	Each	1 Cycle	722826	HOSE LAYFLAT YLW BWR 4x50 100#	\$0.00	\$0.00	\$89.00
1	Each	1 Week	MRC	Jetting Equipment	\$0.00	\$1,350.00	\$0.00

**Sale Items**

QTY	UNIT	ITEM NO	DESCRIPTION	UNIT PRICE	TOTAL PRICE
1	Each	MS	4 - 50' Deep 8" Wells	\$15,987.50	\$15,987.50
1	Each	MS	Dry bulk filter sand #20 no fines	\$5,250.00	\$5,250.00
1	Each	MS	Cabling and PVC to get from deep well to header	\$375.00	\$375.00

**2. Exclusions:**

**Rain for Rent Exclusion:**

- Client will be responsible for ensuring the safety and security of the equipment.
- Client to provide power and electrician for hook up to power electric pumps on site.
- Client will be responsible for supplying water for jetting of all 276 well-points.
- Client is responsible for obtaining and clearing the right of way for installation of well-points and pump locations.
- Client will supply adequate staging areas for equipment and access to the area of work.
- Rain for Rent will not be held responsible for damages to current landscape including but not limited to irrigation systems, vegetation, decorative stones, walkways, bike paths, bridges etc.

- Client must provide a heavy machine such as a track-hoe or crane including an operator to lift the Jet-rod 25' above each point in order to water-jet each well-point hole. Any delays caused by machine or operator may result in increased installation or removal costs to the customer.
- The RL-200 pumps must be serviced every 250 hours (oil/oil filters) and at every 300 hours (fuel filters changed). Rain for Rent can perform this service for the client
- The Dewatering system designed for this project was derived from information provided by the customer. Fuel consumption of the RL-200 pump running at 1,800 RPM will be approximately 2.7 gallons per hour; for Rent cannot guarantee the success of water-jetting of well-points, if an auger is needed to accomplish installation additional costs will be passed to the customer.
- Dewatering is not an exact science; if additional equipment is needed Rain for Rent will issue a Change Order to the Customer prior to providing either additional equipment or labor.
- Rain for Rent will require written notice to proceed 7 days prior to any mobilization.
- it is recommended that the system run for 7 days prior to the beginning of excavation.

**Additional information**

The rental period begins the day the equipment is installed, successfully tested and ready for operation. Should Rain for Rent be obstructed or delayed in the commencement, prosecution or completion of the work beyond the reasonable control of Rain for Rent, then the Client will compensate Rain for Rent for the equipment rental, labor and transportation charges during the delay.

1. Client is responsible for any certifications or permits required for the project.
2. Client will be responsible for security, traffic control and road crossings/bike paths.
3. Client is to supply contact names, phone numbers, and emergency contact number for job superintendent.
4. Client must supply clean water source, meter and any associated permits for well-point jetting.
5. Client shall be responsible for all loss or damage to Rain for Rent's equipment excluding normal wear and tear and excluding loss or damage caused by Rain for Rent.

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Revised: BT

- 6. Client will be responsible for any leakage from the well-point system except to the extent caused by Rain for Rent.
- 7. Rain for Rent installation is limited to equipment set up, suction, discharge and pipeline assembly. All trenching, grading, trench plate and associated site construction is the responsibility of the client.

All employees must meet e-verify requirements.

Reeves Contracting Company must have all required insurance documents before any employees can begin onsite work.

Reeves will provide the following:

We provide:	yes	no
Job water	x	
Temp. toilets		x
Drinking water		x
Material hoisting	x	
Temp. Power	x	
Trash Dumpsters	x	

**Additional Terms**

- 1. A cycle is defined as 4 weeks. A week is defined as one-third of a cycle and a day is one-third of a week. Customers will be invoiced at the appropriate cycle, weekly or daily rate based on actual equipment usage except for filtration, pipe, hose and fittings which will be billed at the cycle rates only and will not be pro-rated.
- 2. The rental rate for pumps and equipment with hour meters are based on an 8-hour day or 48-hour running week. The rental rate will be multiplied by 1.5 for greater than 8 hours per day or 48-96 operating hours per week and multiplied by 2.0 for more than 16 hours per day or 96 operating hours per week. Customer will be invoiced for 24 hours per day if the hour meter has stopped functioning.
- 3. Overtime will be invoiced at 1.5 times the regular rate for work occurring outside of normally scheduled business hours and 2.0 times the regular rate for work occurring on company recognized holidays.
- 4. Customer will authorize and pay for any charges to work scope including but not limited to schedule changes, material, labor, third party, permit, fee or service costs. It is the Customer's responsibility to cooperate in the timely processing, approval and payment of any charges within Rain For Rent's invoice terms.
- 5. Customer is responsible to determine the suitability of equipment for the application.
- 6. Delivery, Return, Installation and Removal costs are estimated. Customer will be invoiced for actual time. Transportation will be invoiced on a Portal to Portal basis.
- 7. Customer is responsible for flushing and cleaning tanks, roll off boxes, pipelines, pumps, filters and other Rain for Rent equipment prior to return.
- 8. Customer is responsible for equipment, repairs, maintenance and damage, excluding normal wear and tear. All returned equipment is subject to inspection by Rain for Rent personnel. Damages and accrued rent will be invoiced to Customer while equipment is out of service for repairs.
- 9. The Customer cannot alter the equipment without Rain For Rent's prior written approval.
- 10. Customer will provide "all risk" property insurance for rented equipment.
- 11. Customer will not allow any equipment to come in contact with any substance that will cause corrosion, damage or leakage.
- 12. The Customer assumes all risks of loss due to operation and use of the equipment.
- 13. Customer is responsible to obtain any permits, licenses, certificates, bonds and give all notices required by law.
- 14. The rental period begins the day the equipment is delivered and continues until returned to Rain For Rent's facility unless written confirmation of the release is provided to the Customer before that time.
- 15. Rental equipment must be returned to the renting Rain for Rent branch unless agreed to in writing before the rental period begins.
- 16. All material that comes in contact with Rain For Rent equipment including media is the responsibility of Customer as generator. Rain For Rent shall not be responsible for any fines or sanctions as a result of Customer's use of the equipment.
- 17. The equipment is sold "AS IS, WHERE IS" in its present condition. Seller makes no warranties, expressed or implied of any kind whatsoever with respect to the equipment. Buyer agrees that buyer has purchased the equipment based on his judgement and evaluation, without reliance upon any statements of representations of seller, and that seller is not responsible for any defects in its operation or for any repairs, parts or services, unless otherwise noted.
- 18. De-watering, Roll-off, Vacuum boxes and similar equipment are not liquid tight. Rentee accepts full responsibility for all losses, damages and costs caused by or arising out of spills, leakage or discharge from this equipment.
- 19. Customer will use the equipment in a careful and proper manner and in accordance with safety rules, industry standards, manufacturer's specifications, recommendations, regulations and applicable laws.
- 20. Customer shall be responsible for environmental fees covering waste fluid, fuel, filter and other disposal costs.
- 21. A Fuel Surcharge will be calculated and invoiced based on the diesel fuel price as published by the Department of Energy on <https://ion10.eia.doe.gov/oog/info/wchdp/diesel.asp>
- 22. Customer shall pay Rain For Rent additional expenses caused by site, soil or underground conditions, including, but not limited to, rock

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Initial Subcontractor:                     

Reeves:                     

*(Handwritten initials: CR)*  
*(Handwritten initials: BT)*

- formations, environmental conditions, regulations or restrictions, hard pan, boulders, cesspools, gas lines, water lines, drain pipes, underground electrical conduits or other above ground or underground obstructions.
23. Customer shall be responsible for acquiring and paying for, if necessary, all public and private property easements required by the project.
24. The estimated labor component of this quote is based on non-prevailing wage rates. If prevailing wage laws are applicable, Customer must notify Rain For Rent in writing before Rain For Rent estimate completed. If Rain For Rent was not properly notified, Customer shall promptly pay any charge orders that adjust wages to prevailing wage rates. Customer is responsible for providing applicable prevailing wage rates to Rain For Rent. Rain For Rent will provide certified payrolls on a bi-weekly basis if notified in writing 10 days before the start of the project.
25. Customer is prohibited from deducting retention from Rain For Rent invoices and charging Rain For Rent liquidated damages.
26. Customer is responsible for all routine maintenance including fuel, fluids, lubrication and filters every 150 hours on engine driven equipment. Rain For Rent will charge Customer for servicing any equipment that is on rent or returned that has not been serviced in 150 hours. Rain For Rent can provide field service upon request for an additional service charge. Rain For Rent must be notified 2 business days in advance to schedule required field service.
27. This estimate excludes any additional costs to Rain For Rent associated with Owner Controlled Insurance (OCIP) or WRAP insurance programs that will be added to Rain For Rent's prices.
28. Customer is responsible to provide freeze protection for all equipment on site.
29. This estimate excludes any costs associated with ARRA (American Recovery and Reinvestment Act) reporting requirements that may be flowed down to Rain For Rent.
30. Customer will be responsible for security, traffic control and road crossings. Traffic control shall meet all applicable Federal, State, and Municipal laws and regulations to assure a safe work environment.
31. Cold Weather Packages for tanks consist of up to 4 tank heaters and a submersible pump which is designed for use in a non-combustible or corrosive environment.
32. Tank heaters are operated on 120 volts, 12.5 amps each or 50 amps total. The submersible pump operates at 120 volts, 10 amps.
33. Customer is responsible for electrical connections and compliance with applicable permits, regulations and code requirements.
34. Tank Cold Weather Packages are not to be used in combustible or corrosive environments.
35. Tank Cold Weather Packages are a preventative measure that may keep fluids inside the tank from freezing. RFR will not guarantee fluids from freezing and any resulting damages.
36. Customer required to verify all components on Rain For Rent equipment meet flammable/hazardous atmosphere requirements.

**JOB SPECIFIC TERMS**

37. Rentee to provide safe, secure access and working conditions so Rentor can complete all aspects of installation, testing, removal and maintenance.
38. Rentee is responsible for supplying Rentor all plans, specifications, soils reports, soil boring logs and any other information that pertains to the project.
39. Rentee to supply water table level or depth from existing ground level.
40. Rentee responsible for contacting "UNDERGROUND ALERT" or respective agencies and supplying the written authorization to drill to Rentor. Any and all utilities must be clearly identified by Rentee before Rentor installs wellpoints.
41. Rentee is responsible for surveying the "improvements" on site for the purpose of properly locating the wellpoint wells.
42. Rentee to provide all earthwork, including, but not limited to, access, egress, road crossings, pipeline burial and any right a ways needed.
43. Rentee to prepare and clear all well locations including but not limited to removal of obstructions, pavement or concrete and any saw cutting necessary to install the wellpoint system.
44. Rentee to supply storm drain, sewer, or suitable discharge site for the wellpoint fluid.
45. Rentee shall be responsible for any permits, licenses and bonds associated with the entire wellpoint project. Rentor will not be responsible for any discharge or other permit violations.
46. Customer will be responsible for security, traffic control and road crossings. Traffic control shall meet all applicable Federal, State, and Municipal laws and regulations to assure a safe work environment.
47. Rentee will operate and maintain the wellpoint system and will promptly notify Rentor of any service or performance related needs.
48. Rentor will not be held liable for any structural or soils subsidence.
49. Wellpoint is not an exact science. Rentor has relied on Rentee provided information to estimate the number of wells, spacing, depth and flow rates. Rentee will pay for additional costs for the actual number of wells, depth, spacing, and the flow rates.
50. Rentee is responsible for any contaminated wellpoint fluid.
51. Rentor has relied on Rentee provided information and specifications for bidding purposes, and shall be entitled to compensation for extra costs encountered in the performance of the work which results from job conditions, inaccurate information, contract documents or geotechnical data.
- Rentee will pay unforeseen or additional costs ordinarily encountered and generally recognized as inherent in work.
52. This proposal is based on working a straight-time workweek. Premium rates will be charge for overtime.

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Reeves:

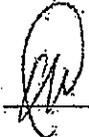


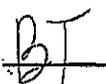
General Requirements - (IF APPLICABLE)

In accordance with the requirements of the Agreement between Potts Construction (Owner), and Reeves Contracting Company (Contractor), in addition to any other requirements of the General Contract Documents, the following items are specifically incorporated into this Agreement and in case of conflict the more comprehensive provisions shall be followed.

1. Subcontractor will be responsible for its own cleanup on a daily basis. All debris will be deposited into the specified dumpsters on ground level provided by Contractor. In the event that Subcontractor does not properly and timely clean its debris, Subcontractor will reimburse Contractor for costs of the Contractor performing this work.
1. Subcontractor shall be required to participate in a composite cleanup crew for "Indefinable trash." The number of Subcontractor employees to participate shall be one individual per twelve field employees. All debris will be deposited into the specified dumpsters on ground level provided by Contractor. In the event that Subcontractor does not participate in the composite cleanup crew, Subcontractor will reimburse Contractor for costs Contractor incurs in performing this work.
2. Subcontractor's field personnel are to take breaks and lunch at the designated areas only. Subcontractor is responsible for the removal of trash and waste to a designated container.
3. Subcontractor shall be responsible for furnishing drinking water, ice and cups for its own employees.
4. "No onsite parking will be allowed or tolerated." Space may be available within close proximity around the site for parking. Subcontractor will be responsible for securing offsite parking and, if required, transportation to and from the Project Site for all of Subcontractor's employees. Subcontractor understands that any offsite parking will not be secured, monitored, patrolled, regulated, granted nor guaranteed by Contractor.
5. Subcontractor shall deliver materials to the jobsite in order to provide for the proper execution of its work in a continuous, uninterrupted fashion. Deliveries shall be scheduled on a "just-in-time" basis for incorporation into the Project. Deliveries shall be scheduled in coordination with Contractor and in complete accordance with the overall Project schedule.
6. All subcontractors, including but not limited to, mechanical, electrical, plumbing, fire sprinkler, drywall, etc. shall coordinate a single source supplier for all fire stopping products. Each subcontractor is responsible for fire stopping and/or sealing its Work that penetrates a rated wall, roof/ceiling assembly or floor slab. If subcontractors cannot agree on a single source supplier/installer, Contractor shall make the selection per Architect/Engineering product approval.
7. *during the installation, removal and operation of rental equipment*  
While the work of this Agreement is ongoing, this Subcontractor shall have a minimum of one (1) superintendent on site at all times, experienced in this type of construction, who has the authority to make decisions regarding day-to-day operations and make commitments on project scheduling. Subcontractor's superintendent must be approved by Contractor and can be removed by the Contractor at any time during the course of the Project.
8. Subcontractor will provide its foreman/superintendent with a hand-held radio set which includes a channel of Contractor's frequency. While on site, Subcontractor shall continuously monitor Contractor's main channel so that constant communication can be maintained. Cellular phones or two-way cellular radios are not a substitute for maintaining a jobsite radio.
9. Any concentrated deliveries, trucking or other such activities which require a (City/County) policeman to handle traffic where such is encountered, Subcontractor shall arrange for and pay for any permitting cost, a (City/County) policeman and such traffic barricades as needed. *Subcontractor does not provide traffic control.*
10. In the event Subcontractor needs to close a street and/or public right-of-way, Subcontractor will be responsible for permitting and paying for costs, if any, of closing the road, street or right-of-way. Subcontractor shall be responsible for providing traffic control devices, directional signage, permits, equipment and labor as required to properly control traffic in accordance with all governmental authorities having jurisdiction. *Subcontractor does not provide traffic control.*
11. All hoisting is Subcontractor's responsibility. Subcontractor will be responsible for receiving, unloading and storing materials until it is installed and accepted by the Owner.
12. Subcontractor understands that there will be multiple contractors working in, around and adjacent to Owner's property and the Project Site. Subcontractor acknowledges the fact that Contractor has no control over these other contractors, their supervision, subcontractors, and sequences of their work or limits of their construction. Subcontractor has accounted for any and all inefficiencies, hardships, hindrances, annoyances, nuisances, delays and encumbrances associated with the other contractors working within close proximity to this Project Site. Subcontractor is aware of adjacent buildings, existing and proposed new construction, and has taken this into consideration for scheduling, sequencing, lay down areas and location of its Work.
13. ~~Subcontractor understands that Contractor does not provide after hour Security. Subcontractor is responsible for security of its temporary office site, stored materials, installed materials, tools, supplies and equipment even after final acceptance from Owner. Contractor is not responsible for any loss or damage to the Subcontractor's property or vehicles or contents of vehicles on the Project Site or at any temporary office location.~~

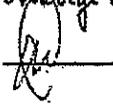
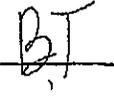
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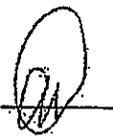
14. Subcontractor shall prepare, utilizing Computer Aided Drafting software (CAD), all shop drawings including but not limited to all plans, details, sections and schedules as required by the Contract Documents. In addition to these documents being submitted as drawings, Subcontractor shall submit all shop drawings in AutoCAD format so that it is directly readable, editable and plot-able utilizing AutoCAD R19 software.
15. Subcontractor understands and agrees that all interim and final completion dates will be met as set forth by Contractor's Project Schedule. Work efforts shall be coordinated with the overall Project Schedule as may be posted at the jobsite and/or reviewed during the weekly subcontractor coordination meetings. Subcontractor shall have representation at the weekly coordination meetings immediately prior to and during the performance of its Scope of Work. Subcontractor shall properly man this Project in a manner to maintain and accomplish all the activities as per the overall Project Schedule and Subcontractor agrees to review its manpower requirements with Contractor. Work progress may be evaluated weekly by Contractor to determine if manpower is adequate. Subcontractor is responsible for scheduling and sequencing of all material deliveries in order to maintain the overall Project Schedule. All materials shall be ordered in sufficient time to support the Project Schedule. Subcontractor shall confirm and furnish in writing all ship dates from suppliers and vendors for major materials.
16. Subcontractor shall adhere to all requirements indicated by Contractor's Project Schedules, as revised. Subcontractor understands that the Project Schedule is a working document and Contractor may reschedule construction activities as the overall construction work progresses. Subcontractor agrees to reschedule work activities as directed by Contractor to avoid and/or minimize work-around construction delays. If project conditions warrant, Contractor may direct phasing of work or remobilizations by Subcontractor at no additional cost to the Owner or Contractor. No wording contained herein shall be construed as to relieve Subcontractor from the responsibility to procure, fabricate, install and complete its work in a timely manner as required to meet the Project Schedule. Subcontractor realizes that weekday overtime and weekend work overtime shall be utilized when necessary to maintain or make up for lost time so as to meet critical interim and final completion dates required by the Project Schedule. Saturday is considered a makeup day in the event of inclement weather and/or holidays.
17. Subcontractor shall meet or exceed all performance requirements for all work associated with this Agreement. Installation crews to be used for this Project shall be closely monitored and controlled by Subcontractor's management. All parties are aware of the high level of quality required by Owner for this installation, and Subcontractor agrees to replace all personnel not able to achieve and maintain the required level of quality and previously performed work shall be corrected as necessary.
18. Subcontractor will be responsible for postage and courier charges incurred by Contractor for returning information to the Subcontractor for Subcontractor's benefit of maintaining the schedule.
19. Subcontractor shall be responsible for completing and submitting a monthly Accident and Incident log to Contractor on the form furnished by the Contractor. This report shall be turned in with Subcontractor's monthly Application for Payment.
20. Subcontractor shall coordinate with other subcontractors for rough-in locations of the work involved with this Agreement. Subcontractor shall participate in developing coordination drawings as required by Contractor.
21. Subcontractor will be responsible for restoring all areas adjacent to the site disturbed by material storage, trailers, parking, etc. to their original condition.
22. Schedules and submittals, including reports, shop drawings, calculations, certifications, etc. required by the Contract Documents pertaining to Subcontractor's Work shall begin to be provided within ten (10) days of notice to proceed or such other time frame as may be required by the Project Schedule or Contractor. Resubmission of rejected submittals shall be made within one week of Subcontractor's notification of rejection, or sooner if required.
23. Subcontractor warrants to the Owner that all materials, products and assemblies incorporated or submitted for incorporation into the Project are totally free of asbestos, PCB, or other such hazardous materials. This warranty shall include all materials, products and assemblies specified and otherwise required in the Contract Documents and shall also include all materials, components, and accessories not specifically enumerated or detailed in the Contract Documents but which are required by performance specifications or recommended by manufacturers for complete installation of materials, products and assemblies. If Subcontractor has knowledge that, or believes that an item, component, material or accessory within a product or assembly may contain asbestos, PCB, or other hazardous materials, Subcontractor shall secure a written certification from the manufacturer of any suspected material stating this material is totally free of asbestos, PCB, or other hazardous materials, and shall submit the written certification to Contractor.
24. As a condition of final payment, Contractor shall receive written notice from all applicable authorities having jurisdiction (i.e. State/Federal/Local) that all applicable Federal, State, and Local Sales and Use Taxes for Work covered under this Work Order have been paid for this Project or a bond is on file for the payment of those taxes. Should Subcontractor not be able to provide sufficient proof that taxes have been paid, Contractor shall have the right to make payments on Subcontractor's behalf to any tax collecting authority.
25. Subcontractor agrees and understands that close-out submittals such as sample warranty forms, Operation & Maintenance Manuals, final insurance forms, MSDS, lien waivers, etc. are a portion of the Work to be completed under the scope of this Agreement and must be scheduled for turnover to Contractor prior to billing this Agreement past 75% complete.
26. It is understood that every single condition, connection, transition, etc. cannot be specifically detailed in the Contract Documents. Details are provided for typical conditions and making adjustments to adapt these to the specific conditions throughout the Project is a part of the Scope of Work of this Agreement and does not constitute a change in Subcontractor's Scope of Work. Subcontractor acknowledges that it is the intent of the Project plans and specifications to provide a complete and operational system, including items that may not be specifically indicated in the Contract Documents, unless agreed to by written change order.

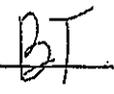
Subcontract #: 131003-1-001

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- 27. Temporary safety lighting will be provided by Contractor; however, additional or supplemental lighting, whether incandescent, fluorescent, halogen, or other lighting will be provided by Subcontractor to completely perform Subcontractor's Work.
- 28. Subcontractor is responsible for furnishing, installing, adequately covering, protecting and identifying block outs and openings as required by the scope of this Agreement. *N/A*
- 29. Subcontractor is to include bad weather protection for the Scope of Work covered by this Agreement, as defined by the specifications and as required in the performance of the Work.
- 30. Subcontractor understands that this Project may be divided up into multiple phases and that the Work may or may not be performed in a continuous operation. Subcontractor has included the cost of mobilizations required by the construction schedule and site conditions.
- 31. Subcontractor understands and agrees that a normal amount of field modifications and repairs will be expected and has included all cost for the same in this Agreement. *Any repairs or damage not caused by Subcontractor will be the Contractor's responsibility.* Any repair not considered normal by Subcontractor will be reported in writing to Contractor, and Subcontractor shall receive Contractor's written confirmation before any repairs not considered normal are made.
- 32. Subcontractor shall furnish and maintain all equipment, scaffolding, ladders, lifts, staging, or other appliances necessary to completely install all Work covered under the scope of this Agreement. Subcontractor's material and equipment must comply with all OSHA and Contractor's safety policies.
- 33. *to the extent caused by Subcontractor* Subcontractor shall protect all existing items designated to remain, including utilities, structures, light poles, sidewalks, roadways, curbs and vegetation until a complete finished product is provided. Subcontractor shall be responsible for any damage to public property or to utilities caused by its operations. The damage shall be corrected by Subcontractor in a manner approved by the Contractor, Architect, Owner, and/or governing authorities at no additional cost to Contractor or Owner.
- 34. *Contractor* Subcontractor is responsible for notifying all utility companies prior to any excavation activity. *This is the Contractor's responsibility.*
- 35. Subcontractor is to at all times keep the adjacent streets and sidewalks continuously clean and free from materials or debris resulting from its operations in a manner which is acceptable to Contractor and all governmental jurisdictions.
- 36. Subcontractor shall exercise extreme caution and provide adequate protection to prevent damage to work in place installed by other trades. Subcontractor shall make good any damage to same at no cost to the Owner or Contractor with no delay in the construction schedule.
- 37. Subcontractor shall provide a list of all major sub-trade contractors and suppliers, which lists their names, trade, and addresses. Lien Waivers will be required from each of these lower-tier subcontractors and suppliers at each monthly application for payment. Subcontractor shall not deviate from this list without Contractor's prior written approval. *to the extent caused by Subcontractor*
- 38. Subcontractor shall be responsible for its own material during delivery, unloading, hoisting or while in storage until accepted by Owner.
- 39. PAYMENT OF STORED MATERIALS - If the Owner agrees to pay for store materials, the following shall be the minimum requirements for making payment for materials stored offsite. *N/A*
  - A. Each item of storage must be approved at least ten (10) days prior to the submission of an application for payment covering such stored materials. Fabrication of the material for which payment is being requested must be completed prior to the end of the month that payment is requested.
  - B. *A* A Bill of Sale naming the Owner as the Buyer of the materials must accompany the application for payment. *N/A*
  - C. *B* An insurance certificate clearly identifying the material as being covered and which protects the interests of the Owner and Contractor must accompany the application for payment. This insurance certificate must also include "in transit" coverage during the transport to the jobsite. *Contractor is to provide all risk property insurance on rented equipment.*
  - D. *C* The goods must be identified for this Project and segregated from the rest of the Seller's inventory.
  - E. *D* The materials should be security stored in a bonded warehouse that is safe from theft, damage, deterioration from weather, etc. *N/A*
- 40. Contractor will typically provide document boxes at the jobsite office for Subcontractor. Subcontractor is responsible for monitoring its document box on a daily basis. Subcontractor shall be responsible for all related non-regular mail postage (overnight, express, special handling, telegrams, etc.) If critical items, including submittals, revised drawings, samples, etc. cannot be picked up at the jobsite document box on a daily basis, all such items that Subcontractor requests, or that the Schedule requires to be express mailed, shall be sent at Subcontractor's expense.
- 41. Subcontractor shall provide all layout and surveying required for the complete erection of its own work from base lines and benchmarks provided by Contractor at each level.
- 42. Subcontractor understands that no on-site space or storage space may be available. Subcontractor must make other off-site arrangements for storage and office space. Any on-site temporary staging and lay down is to be coordinated with Contractor's Superintendent. Contractor reserves the right to change trailer locations and/or material lay down areas as may be necessary to facilitate job conditions at no additional cost to Contractor or Owner.

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43. All material escalation cost for the duration of the Project is included in this Agreement. All Exhibits attached to this Agreement are incorporated herein by this reference.

- A. All Contract Documents
- A. Insurance Certificate Requirements
- B. Payment and Performance Bonds
- C. Subcontractor Safety Requirements
- D. Interim Waiver & Release of Liens and Claims by Subcontractor or Materialmen to Contractor
- E. Unconditional Waiver & Release of Liens and Claims by Subcontractor or Materialmen to Contractor
- F. Proof of Sales and Use Tax Certificate issued by the State of Georgia
- G. Job-Specific Hazard Abatement and Hazard Assessment Plan
- H. M/WBE Participation Requirements
- I. Wage Rate Requirements

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**EXHIBIT B - CONTRACT DOCUMENTS**

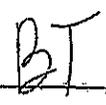
The Contract Documents are defined in the Subcontract Agreement and include the following:

**Plans**

Elstler Park Regional Storm Water Management Facility Plans by Kimley-Horn and Associates, Inc. - Dated 1-27-2015

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**EXHIBIT C- CONTRACTOR'S STANDARD ACCIDENT PREVENTION PROGRAM FOR SUBCONTRACTORS**

THIS PROGRAM IS MADE AVAILABLE IN ACCORDANCE WITH THE SAFETY CLAUSE OF THE SUBCONTRACT. ALL OR PARTS OF THE CONTENTS OF THIS PROGRAM WILL APPLY TO THE WORK DEPENDING ON THE NATURE OF THE WORK AND THE SEQUENCE OF THE WORK.

**ADVANCE ANALYSIS**

Before starting work on any job, Subcontractor shall make a complete analysis of the plans and specifications in order to determine the exposure to accidents, which may develop on the jobsite. With this information, Subcontractor will be able to make plans to control all exposures before contributing to an accident or loss.

**SAFETY INSTRUCTIONS WITH WORK ASSIGNMENTS**

Any Subcontractor's employee supervising or assigning work to any man or group of men, will in each instance give sufficient caution with the assignment to adequately provide safety in the operation. This same principle will apply when changing personnel from one work area to another. Hazardous chemicals will be discussed with guidelines on use and protective equipment required.

**SAFETY MEETINGS**

- A. Subcontractor shall attend periodic supervisory safety meetings held by the Contractor's Superintendent or his designated representative (at least monthly).
- A. Subcontractor's foreman shall hold weekly "tool box" safety meetings with their own personnel to encourage employees' interest in safety and to give specific safety instructions relative to existing or expected hazards. Notes and minutes of these meetings shall be recorded, with "sign-in" sheets, and submitted to Contractor's Superintendent and main office each week.

**FIRST AID**

Adequate first aid supplies shall be maintained by Subcontractor. These should be stored in a special kit or box. Treatments shall be administered by the most qualified person appointed by Subcontractor, preferably someone who has completed a Red Cross first aid training course.

**ACCIDENT INVESTIGATION AND REPORTING**

All accidents shall be investigated by Subcontractor and reviewed by the Contractor's Superintendent. Subcontractor will prepare a written report on all accidents, including verification of Post Accident Drug and Alcohol testing to be submitted to Contractor's Superintendent within 24 hours. Report forms shall be provided by Subcontractor, or the Contractor's Superintendent. A copy of this report as well as all First Report of Injury forms, required by State and Local authorities, will be forwarded to the Contractor's main office. These forms shall note the action taken to prevent a recurrence.

**PROTECTIVE EQUIPMENT**

The protective equipment to be furnished by Subcontractor to his employees shall be determined by the advance analysis of the job and by conditions that occur as the work progresses. However, on all jobs the following protective equipment shall be the minimum:

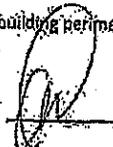
- A. Safety goggles or face shields shall be issued to employees who are engaged in chipping, grinding, or performing any operations where they are exposed to eye hazards. Eye Protection must bear the "Z87" stamp.
- B. Welders' hoods and face shields must be worn only by attaching them to hard hats.
- C. Hard hats are to be worn throughout the jobsite, at all times, start to finish of job.
- D. Subcontractor shall require his employees to wear work shoes in good condition.
- E. Life preservers shall be provided and shall be worn by all employees wherever working over water.
- F. Subcontractor is responsible for enforcing the use of protective equipment worn by its employees.
- G. Hearing protection shall be worn when work involves or is near abnormal noise levels.
- H. Subcontractor is responsible for insuring that Subcontractor's Employees working off the ground are following the most current OSHA Fall Protection Guidelines and are equipped with the proper Fall Protection devices.

THE FOLLOWING PROGRAM ITEMS ARE NOTED AND LISTED FOR SPECIAL EMPHASIS SINCE THEY USUALLY CREATE THE MOST HAZARDOUS CONDITIONS AND ARE MOST LIKELY TO BE CITED BY OSHA.

**HOUSEKEEPING**

- A. Plastic bottles, scraps, paper cups and similar rubbish shall be placed by Subcontractor's employees in trash containers for that purpose. No glass containers are allowed onsite.
- B. Rubbish, debris and waste materials shall be removed from the work area daily by Subcontractor's employees. Form and scrap lumber with protruding nails shall be kept clear from all work areas.
- C. Stairways, ladders, ramps, platforms, walkways and work areas shall be kept clear and clean of loose material and trash by Subcontractor's employees.
- D. All material must be kept back from the outer edge of a building a minimum of 10' @ building perimeter and 6' @ interior floor openings.

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SCAFFOLDS *N/A*

- A. All scaffolding shall be erected by a competent person. All scaffolding shall be thoroughly checked by the Subcontractor's competent person before and after erection and at least daily while in use. All scaffolding must conform to OSHA standards.
- B. All scaffolding over ten feet in height shall be equipped with guard rails and toeboards. Guard rails must support a 200-pound thrust.
- C. All scaffolding, other than suspended scaffolding, shall be erected on firm level foundations and shall be braced or guyed to the structure.
- D. Plankings shall have at least twelve inches of overhang and extend six inches beyond center of support or be cleaned at both ends to prevent sliding off supports. Plankings shall be 2 x 10 nominal lumber or greater.
- E. Access ladders permanently secured shall be provided on all scaffolding, and employees will be prohibited from climbing on structural members.
- F. All scaffolding shall have proper access.
- G. Do not ride rolling scaffolds; and remove all material from the platform before moving the scaffold.
- H. Workers on a swinging scaffold shall be tied off to the building with a full body harness with an independent life line and guardrails. There shall be a safety life line for each person.

LADDERS *N/A*

- A. All ladders shall be inspected at least weekly. Broken and or damaged ladders shall be removed from service immediately and destroyed. All ladders must conform to OSHA standards.
- B. All straight ladders shall be set on firm level foundations at a four (4) to one (1) pitch, have clear access at top and bottom, extend the landing a minimum of 36 inches and be secured against movement while in use. All ladders shall be secured top and bottom. Safety feet will be used on all straight ladders.
- C. Portable metal ladders shall not be used for electrical work or where they might contact electrical conductors.
- D. Single portable ladders over 24 feet in length shall not be used.
- E. A double-gang ladder or two single-gang ladders must be available when 25 or more workers must access each elevated working surface above ground level.

FLOOR OPENINGS AND STAIRWAYS *N/A*

- A. At all unprotected floor openings and stairways, provisions shall be made, by Contractor or erecting Subcontractor, for barriers and toe boards. These shall remain in place until the openings have been closed or permanent stairs installed. When Subcontractor must remove such barriers in the performance of their work, they are responsible for replacing barriers so as to provide maximum protection at all times.
- B. Never, under any circumstance, cover a floor opening with a piece of plywood, sheetrock, or other unsuitable material. All floor coverings must support a minimum of 500 lbs. or twice their intended load, whichever is greater. All floor openings must be marked with the word "Hole" or "Cover" and fully secured.

FIRE PROTECTION

- A. Gasoline or other flammable liquids shall be stored in UL approved safety containers and properly labeled.
- B. Approved heating devices, stove pipes, etc. shall be properly insulated to prevent setting fire to adjacent structures.
- C. Fire extinguishers shall be selected by Subcontractor on the basis of type of fire anticipated. Extinguishers, fire barrels, sand pails, hose lines, etc. shall be located where they are readily accessible and easily visible.
- D. Do not smoke or use an open flame, exposed heating element or any other sources of ignition in areas or rooms where spray painting is done.
- E. A fire extinguisher shall be adjacent to all stairwells and within reasonable travel distance at all times.

POWER TOOLS

- A. Provisions shall be made on each jobsite for the grounding of all fixed and portable electrical tools and equipment.
- B. It shall be the responsibility of Subcontractor to ascertain that all power saws and grinders in use are provided with the proper guards.
- C. Power saws shall be operated only by authorized and qualified personnel.
- D. All extension cords shall be of the rounded type rated for heavy duty use.
- E. Faulty electrical cords shall be removed from service and destroyed immediately.

POWDER ACTUATED TOOLS

- A. Low velocity pistol type tools with a pistol grip shall be used in all cases where applicable.
- B. High velocity tools shall be used only for those applications where low velocity tools will not meet job requirements. When a high velocity tool is no longer required, it shall be removed from the jobsite.
- C. Powder actuated tools shall be used, operated, repaired, serviced, and handled only by authorized personnel who have been trained and certified by the manufacturer and workers must carry the certified "card". Tools will be tested daily and all defects corrected before use.
- D. Tools shall not be loaded until immediately before use. Loaded tools shall not be left unattended.

TRENCHES

- A. Subcontractor shall have an "excavation competent person" onsite during excavation operations.
- B. The sides of trenches five feet (5 ft.) or more in depth entered by personnel shall be shored, shielded, or shored.
- C. Ladders that extend at least three feet (3 ft.) above the edge of the trench shall be located so to require no more than twenty five feet (25 ft.) lateral travel for rapid exit in case of emergency.

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Initial Subcontractor: *[Signature]*

Revised: *[Signature]*

- D. All equipment and spoils should be kept a minimum of two feet (2 ft.) from the top of slope.

**PUBLIC AND PROPERTY PROTECTION**

- A. Only authorized personnel shall be allowed on the jobsite.
- B. Barricades and warning lights shall be provided in all open ditches and excavations where there is a public exposure.
- C. Blasting, pile driving, underpinning and similar operations may present special exposures to adjoining or adjacent structures. When such operations are planned, it is important that the Subcontractor's foreman or project manager make a preliminary survey of the property to determine structural defects, which exist. If such defects exist and there is a possibility of aggravating them, precise preconstruction surveys should be made to establish that the conditions were not caused by our operations but existed before the job started. Depending on the seriousness of the possible aggravations, these surveys should be made by an independent, qualified professional engineer and may include photographs, which should be made and dated by an impartial commercial photographer.

**PROJECT SAFETY RULES**

- A. THE USE OR POSSESSION OF INTOXICANTS OR NON-APPROVED DRUGS ON OR AROUND THE JOBSITE IS STRICTLY PROHIBITED. NO EMPLOYEE WILL BE ALLOWED TO REPORT FOR WORK WHILE UNDER THE INFLUENCE OF INTOXICANTS OR DRUGS. VIOLATION OF THIS RULE BY ANY EMPLOYEE WILL RESULT IN IMMEDIATE TERMINATION. VIOLATION BY OTHER PERSONS WILL RESULT IN IMMEDIATE, PERMANENT REMOVAL FROM THE JOB.
- B. HARD HATS WILL BE WORN AT ALL TIMES BY ANY PERSON ENTERING THE JOBSITE.
- C. ALL EMPLOYEES ARE REQUIRED TO WEAR SHOES THAT MEET OSHA GUIDELINES. NO TENNIS SHOES ARE ALLOWED.
- D. DRESS ON SITE MUST CONFORM TO OSHA GUIDELINES. SHIRTS OR T-SHIRTS WILL BE WORN AT ALL TIMES. NO CUT OFF SHIRTS WILL BE PERMITTED.
- E. EYE AND EAR PROTECTION IS REQUIRED WHEN WORKING CONDITIONS OR TOOLS BEING USED REQUIRE SUCH PROTECTION.
- F. NO RADIOS, TAPE DECKS, OR CD PLAYERS ARE ALLOWED ON THE JOBSITE.
- G. A COMPLETE FIRST AID KIT IS AVAILABLE AT THE FIELD OFFICE.
- H. NO WEAPONS OR FIREARMS ARE ALLOWED ON THE JOBSITE.
- I. NO GLASS CONTAINERS WILL BE PERMITTED ON THE JOBSITE.
- J. ALL PERSONS AND VEHICLES ENTERING THE PROJECT ARE SUBJECT TO REASONABLE SEARCH UPON ENTERING OR LEAVING.
- K. ALL PERSONS WORKING ABOVE GROUND MUST FOLLOW THE MOST CURRENT OSHA FALL PROTECTION GUIDELINES.
- L. ALL ACCIDENTS MUST BE REPORTED TO THE PROJECT SUPERINTENDENT.
- M. M.S.D.S. INFORMATION IS AVAILABLE AT THE FIELD OFFICE.
- N. ANY PERSON DESIRING TO WORK ON THE PROJECT MUST ATTEND THE PROJECT SAFETY/ORGANIZATIONAL MEETING HELD ON SITE.
- O. A SUPERVISOR MUST BE ON SITE AT ALL TIMES WHILE WORK IS TAKING PLACE. THERE SHALL BE NO AFTER HOUR ADMITTANCE TO THE SITE WITHOUT PRIOR SUPERINTENDENT APPROVAL.

VIOLATION OF THESE RULES BY ANY PERSON WILL BE GROUNDS FOR DISCIPLINARY ACTION, TERMINATION AND/OR REMOVAL FROM THE JOBSITE.

EXHIBIT D - ALCOHOL & DRUG TESTING PROGRAM COMPLIANCE

Subcontractor agrees to be responsible for implementing and maintaining an effective Substance Abuse Program. Should Subcontractor not have a written Substance Abuse Program, it agrees to abide by the minimum standards stated herein. Any costs incurred in the adoption, implementation or administration of the Subcontractor's Substance Abuse Program shall be the responsibility of the Subcontractor.

Minimum Standards:

The Subcontractor's Substance Abuse Policy prohibits their employees and employees of their Subcontractors or Suppliers, from the following:

1. Reporting to and/or being at work under the influence of illegal drugs, unauthorized controlled substances, alcohol or other intoxicants.
2. The on-premises use, manufacture, distribution, dispensing, possession, sale, or purchase of illegal drugs, drug paraphernalia, or any unauthorized controlled substance.
3. Reporting to and/or being at work under the influence of prescribed or over the counter drugs where such use prevents the employee from performing the duties of the job or poses a safety risk to the employee, other persons or property are prohibited. Legally prescribed drugs may be permitted on the work site or company property provided the drugs are contained in the original prescription container and are prescribed by an authorized medical practitioner for current use by the person in possession. It is the employee's responsibility to inform their supervisor if he is taking a prescribed drug which his attending physician has advised may have adverse side effects.
4. Refusal to comply with authorized search.

Drug and/or Alcohol Testing (urinalysis and/or blood) will be required, but not limited to, the following conditions:

1. Post Accident

Employees will be tested after the occurrence of a work place accident or incident resulting in personal injury, injury of co-workers, damage to property or work place circumstances which could have resulted in personal injury or damage to property.

2. Reasonable Suspicion

All employees are subject to testing for reasonable suspicion.

3. Random

All employees will be subject to unannounced random drug tests

The following are minimum disciplinary actions to be implemented under Subcontractor's Substance Abuse Program:

1. Positive Drug Tests

Any employee who tests positive for an unauthorized, illegal drug or alcohol, as determined by the testing laboratory's testing thresholds, will not be permitted to work on property under the control of Contractor.

2. Refusal to Comply

Any employee who refuses to submit a urine or blood sample for testing under this Policy, will be treated as a positive drug test. Any employee who refuses to execute the necessary paperwork, or who fails to disclose ingested drugs, or who refuses to cooperate with a search, or otherwise fails to cooperate with the Substance Abuse Policy will be treated as a positive drug test.

Reeves Exhibit #E

### ACCIDENT REPORTING FORM

**INSTRUCTIONS:** Complete all parts of this form and return form to office. Must be called in to the office within 24 hrs. of accident. Reeves office phone (770) 271-1159. Email: [dwelch@reevescontracting.com](mailto:dwelch@reevescontracting.com)

GENERAL INFORMATION		
Jobsite Name:	Jobsite Address:	
Individual Making Report:	Phone Number:	Date & Time:
INCIDENT INFORMATION		
Date:	Time:	Location: (Address & Description of Manhole, Lift Station, Force Main, etc.)
Employee Name:	Company Name:	Company Address:
Supervisor's Name:	Supervisor's Phone Number:	
Witness(es) Name(s):	Witness(es) Phone Number(s):	
<p><i>Attach Witness Statement(s) if applicable (Use blank copy of this form - Witness to complete Witness Name &amp; Phone Number, Incident Description &amp; Sign bottom of form.</i></p>		
Incident Description: (Include the part of the body affected and left or right side, etc).		
Actions Taken:		
Actions Taken or Planned to Prevent Recurrence:		

(ATTACH ADDITIONAL SHEETS IF NECESSARY)

CERTIFICATION AND SIGNATURE	
I certify under penalty of law that this document and all attachments were prepared under my direction:	
SIGNATURE: _____	DATE: _____

Subcontract #: 13-1023-1-001

Initial Subcontractor: 

Reeves: 

**Form W-9**  
 (Rev. December 2011)  
 Department of the Treasury  
 Internal Revenue Service

**Request for Taxpayer  
 Identification Number and Certification**

Give Form to the requester. Do not send to the IRS.

Name (as shown on your income tax return)  
**Western Oilfields Supply Company**

Business name/disregarded entity name, if different from above  
**Please see attached Page 2.**

Check appropriate box for federal tax classification:  
 Individual/sole proprietor     C Corporation     S Corporation     Partnership     Trust/estate  
 Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership)  Exempt payee  
 Other (see instructions) ▶

Address (number, street, and apt. or suite no.)  
**5101 Office Park Drive, Suite 100**

City, state, and ZIP code  
**Bakersfield, CA 93309**

List account number(s) here (optional)

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 8. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note: If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

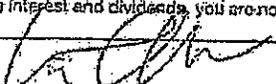
Social security number										
			-				-			
Employer identification number										
9	5	-	1	3	6	2	7	5	0	

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here:  Date: **1/3/2013**

**General Instructions**

Section references are to the Internal Revenue Code, unless otherwise noted.

**Purpose of Form**

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien); to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued);
2. Certify that you are not subject to backup withholding; or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note: If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

BT

WESTERN OILFIELDS SUPPLY COMPANY  
LIST OF DBA/TRADEMARKS  
FEDERAL IDENTIFICATION NUMBER: 95-1362750

WESTERN OILFIELDS SUPPLY COMPANY - A DELAWARE CORPORATION

Western Oilfields Supply Company  
dba Rain for Rent  
dba Lake Company  
dba Lake Leasing Company  
dba West Side Pump  
dba Lake International  
dba Power Prime Pumps  
dba WOSCO Leasing  
dba Frac Tanks Inc.  
dba Spur Leasing  
dba Hinson Pump Rental, Inc.

BT

EXHIBIT G REQUEST FOR TAXPAYER IDENTIFICATION NUMBER & CERTIFICATION

**Form W-9**  
Rev. December 2013  
Department of the Treasury  
Internal Revenue Service

**Request for Taxpayer Identification Number and Certification**

Give Form to the requester. Do not send to the IRS.

Name (as shown on your information return)

Example Name: ABC Corp, 123 Main Street, Anytown, NY 12345

Check appropriately box (a), (b) and (c) describing:

Individual sole proprietor  C Corporation  S Corporation  Partnership  Trust/estate

Limited liability company. Enter the tax classification (see instructions for corporation, partnership)

Other (see instructions)

Business (number, street, apt. no., or suite no.)

City, state, and ZIP code

Taxpayer's contact person (optional)

See Specific Instructions on page 2.

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, if your employer identification number (EIN), if you do not have a number, see how to get a TIN on page 3.

Note: If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number

Employer identification number

**Part II Certification**

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and:

2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and

3. I am a U.S. citizen or other U.S. person (defined below).

**General Instructions.** You must cross out Item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, Item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here Signature of U.S. person Date

**General Instructions.**

Section references refer to the Internal Revenue Code unless otherwise noted.

**Purpose of Form**

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trust or business is not subject to the withholding tax on foreign partners' shares of effectively connected income.

Note: If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien.
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States.
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partner's share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

Oct. No. 10291W Form W-9 (Rev. 10-2013)

Subcontract #: 131003-1-001

Page 34 of 51

Initial Subcontractor:

*[Handwritten Signature]*

Revised:

*[Handwritten Signature]*

EXHIBIT G REQUEST FOR TAXPAYER IDENTIFICATION NUMBER & CERTIFICATION

Form W-9 (Rev. 12-2013)

Page 2

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,
- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien dividend may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exemption contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from taxes as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or letter) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Substantive facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, if the student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty dated April 20, 1983 allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception under paragraph 2 of the first protocol and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support the exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8. What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS a percentage of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report of your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester;
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details);
3. The IRS tells the requester that you furnished an incorrect TIN;
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only); or
5. You do not certify to the requester that you are not subject to backup withholding under a statute (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate instructions for the Requester of Form W-9.

Also see Special rules for partnerships on page 11.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payee and recipient information in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account. For example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a 50% penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Abuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business trade, or "doing business as" (DBA) name or the business name of a disregarded entity name on the "Name" line.

Partnership, C Corporation, or S Corporation. Enter the entity's name on the "Name" line and any business trade, or "doing business as" (DBA) name on the "Business name (disregarded entity name)" line.

Disregarded entity. Enter the owner's name on the "Name" line. The name of the entity enters on the "Name" line should never be a disregarded entity. The name on the "Name" line must be the name shown on the income tax return on which the income will be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a domestic owner, the domestic owner's name is required to be provided on the "Name" line. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on the "Business name (disregarded entity name)" line. If the owner or the disregarded entity is a foreign person, you must complete an appropriate Form W-8.

Note. Check the appropriate box for the federal tax classification of the person whose name is entered on the "Name" line (individual/sole proprietor, Partnership, C Corporation, S Corporation, Trust/estate).

Limited Liability Company (LLC). If the person identified on the "Name" line is an LLC, check the "Limited liability company" box only and enter the appropriate code for the tax classification in the space provided. If you are an LLC that is treated as a partnership for federal tax purposes, enter "P" for partnership. If you are an LLC that has filed a Form 962 or a Form 2553 to be taxed as a corporation, enter "C" for C corporation or "S" for S corporation. If you are an LLC that is disregarded as an entity separate from its owner under Reg. section 301.7701-3 (except for employment and excise tax), do not check the LLC box unless the owner of the LLC (required to be identified on the "Name" line) is another LLC that is not disregarded for federal tax purposes. If the LLC is disregarded as an entity separate from its owner, enter the appropriate tax classification of the owner, identified on the "Name" line.

Subcontract #: 131603-1-001

Initial Subcontractor: [Signature]

Reeves: [Signature]

EXHIBIT G REQUEST FOR TAXPAYER IDENTIFICATION NUMBER & CERTIFICATION

Form 4506 (Rev. 12-2014)

Page 3

**Other entities:** Enter your business name as shown on relevant federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name/disregarded entity name" line.

**Exempt Payees**

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the "Business name/disregarded entity name." Sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note: If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(c), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(a)(2).
  2. The United States or any of its agencies or instrumentalities.
  3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities.
  4. A foreign government or any of its political subdivisions, agencies, or instrumentalities.
  5. An international organization or any of its agencies or instrumentalities.
- Other payees that may be exempt from backup withholding include:
6. A corporation.
  7. A foreign central bank of issue.
  8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States.
  9. A futures commission merchant registered with the Commodity Futures Trading Commission.
  10. A real estate investment trust.
  11. An entity registered at all times during the tax year under the Investment Company Act of 1940.
  12. A common trust fund operated by a bank under section 584(a).
  13. A financial institution.
  14. A middleman known in the investment community as a nominee or custodian.
  15. A trust exempt from tax under section 664 or described in section 6947.

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 6
Broker transactions	Exempt payees 1 through 5 and 7 through 12. Also, 6 certain others.
Broker exchange transactions and portfolio dividends	Exempt payees 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 7 <sup>2</sup>

<sup>1</sup> See Form 1099-MISC, Instructions for Forms 1099-MISC and its instructions.

<sup>2</sup> In cases, the following payments made to a corporation and reported on Form 1099-MISC are not subject to backup withholding: (1) interest and portfolio dividends, other than fees, commissions paid to an adviser, and payments for services paid by a financial institution; (2) interest and dividends.

**Part I. Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN*, below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note: See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN:** If you do not have a TIN, apply for one immediately.

To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get the form online at [www.ssa.gov](http://www.ssa.gov). You may also get the form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) and clicking on Employer Identification Number (EIN) After Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting [irs.gov](http://irs.gov) or by calling 1-800-TAX-FORMS (1-800-829-5572).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. This 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded business entity that has a foreign owner must use the appropriate Form W-9.

**Part II. Certification**

To establish to the withholding agent that you are a U.S. person or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, below, and items 3 and 5 on page 4 indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I, should sign (when required). In the case of a disregarded entity, the person identified on the "Name" line must sign. Exempt payees, see Exempt Payees on page 3.

**Signature requirements.** Complete the certification as indicated in items 1 through 5, below, and items 4 and 6 on page 4.

1. Interest, dividend, and broker exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and broker exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

Subcontract #: 131003-1-001

Initial Subcontractor:    
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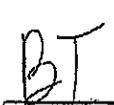
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EXHIBIT G REQUEST FOR TAXPAYER IDENTIFICATION NUMBER & CERTIFICATION

Form W-9 (Rev. 12-31-11)

Page 3

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to nonemployees for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Government ESA, Archer MSA, or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. Any identity thief that uses your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN.
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Helpline at 1-800-829-4480 or submit Form 14039.

For more information, see Publication 4539, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or by TDD: 1-800-456-4859.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of small and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to gain the user's confidential private information that will be used for identity theft.

The IRS does not initiate contact with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unexpected email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration at 1-800-368-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@ftc.gov or contact them at www.ftc.gov/idtheft or 1-877-IDTHEFT (1-877-438-4338).

Visit IRS.gov to learn more about identity theft and how to reduce your risk.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account, if one; if joint, the first individual on the account
3. Corporation (except S and limited liability (LLC) companies)	The officer *
4. a. The trust, partnership, estate, trust, or other entity listed in section 6040 b. Single or joint taxpayer that is not a partnership or trust (see instructions)	The grantor/trustee *
5. Sole proprietorship or partnership jointly owned by an individual	The owner *
6. Partnership (not limited liability partnership (LLP) or limited liability partnership (LLP))	The partner *
For this type of account:	Give name and SSN of:
7. Designated beneficiary (except by an estate)	The owner
8. Annuity, trust, estate, or personal trust	Legal entity *
9. Corporation or LLC (including nonresident alien) (see instructions)	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership in an unincorporated LLC	The partner/trustee *
12. Trustee in an unincorporated trust	The trustee or trustee
13. Account with the Department of Agriculture in the course of a job or other paid or unpaid service (such as agricultural school student, or person that receives agricultural program benefits)	The employer *
14. Chapter 13 or 11 bankruptcy (see 1041 Filing Method or 1042 Filing Method Form 1041 Filing Method 2 (see instructions section 1.071-4(a)(2)(ii)(B))	The trust

\* If the taxpayer is a partner in the partnership, the partner's SSN should be given. If the taxpayer is a partner in the partnership, the partner's SSN should be given. If the taxpayer is a partner in the partnership, the partner's SSN should be given.

Privacy Act Notice

Submission of the Internal Revenue Code (including you) to provide your correct TIN to persons seeking information who are required to file information reports with the IRS, and other information, and reports, or copies after having paid to get, including where you paid, the information is submitted to secure the identity of the person or entity that is submitting the information. The information is submitted to the IRS, and the IRS will use the information to determine the correct TIN for the person or entity that is submitting the information. The information is submitted to the IRS, and the IRS will use the information to determine the correct TIN for the person or entity that is submitting the information. The information is submitted to the IRS, and the IRS will use the information to determine the correct TIN for the person or entity that is submitting the information.

Subcontract #: 131003-1-001

Initial Subcontractor

*[Handwritten Signature]*

Reeves

*[Handwritten Signature]*

EXHIBIT H E-VERIFY & S.A.V.E. AFFIDAVIT

GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT



Reeves Exhibit #1-1

Subcontractor Name: Western Oilfields Supply Co. dba Rain For Rent

By executing this affidavit, the undersigned person or entity verifies its compliance with O.C.G.A. 13-10-91, affirmatively that the individual, firm, or corporation which is contracting with the Reeves Contracting Company has registered with, is authorized to participate in, and is participating in the federal work authorization program commonly known as E-Verify.\* In accordance with the applicable provisions and deadlines established in O.C.G.A. 13-10-91.

The undersigned person or entity further agrees that it will continue to use the federal work authorization program throughout the contract period, and it will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the undersigned with the information required by O.C.G.A. 13-10-91(b).

The undersigned person or entity further agrees to maintain records of such compliance and provide a copy of each such verification to Reeves Contracting Company at the time the subcontractor(s) is/are retained to perform such service.

254486  
EEV / E-Verify User Identification Number

[Signature]

By: Authorized Officer or Agent

Date of Authorization

Anthony E. Schoen, CFO  
Printed Name & Title

May 21, 2013  
Date

Western Oilfields Supply Co. dba Rain For Rent  
Name of Business

SUBSCRIBED AND SWORN BEFORE ME THIS 5/21/13  
DAY OF \_\_\_\_\_

see attached WB

Notary Public

My Commission Expires: \_\_\_\_\_

\* or any subsequent replacement operated by the United States Department of Homeland Security or any equivalent Federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603

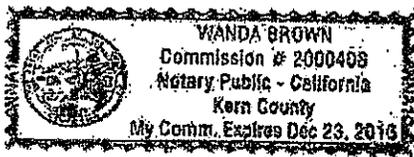
Subcontract #: 131003-1-001

Initial Subcontractor: [Signature]  
Page 38 of 51

Reeves: BT

State of California }  
County of Kern }

Subscribed and sworn to (or affirmed) before me on this 21st day of May 2013, by Anthony E. Schöen, proved to me on the basis of satisfactory evidence to be the person who appeared before me.



Wanda Brown  
Notary Public

(SEAL)

BT

EXHIBIT H - E-VERIFY & S.A.V.E AFFIDAVIT



S.A.V.E. AFFIDAVIT

Reeves Exhibit #H-2

Affidavit Verifying Residency Status of an Applicant as Required by the Georgia Security and Immigration Compliance Act

By executing this affidavit under oath, as an applicant as a County Vendor or for other public benefit as referenced in the Georgia Security and Immigration Compliance Act (O.C.G.A. 50-36-2), I am stating the following:

I am a United States citizen OR

I am a legal permanent resident 18 years of age or older, or I am an otherwise qualified alien or non-immigrant under the Federal Immigration and Nationality Act 18 years of age or older and lawfully present in the United States.

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious or fraudulent statement or representation in an affidavit shall be guilty of a violation of Code Section 16-10-20 of the Official Code of Georgia.

Signature of Applicant

Date

Printed Name & Title

Alien registration number for non-citizens

Applying on Behalf of / Name of Business

SUBSCRIBED AND SWORN BEFORE ME THIS

DAY OF

Notary Public

My Commission Expires:

Note: O.C.G.A. 50-36-1(e)(2) requires that aliens under the Federal Immigration and Nationality Act, Title 8 U.S.C., as amended, provide their alien registration number. Because legal permanent residents are included in the federal definition of "alien", legal permanent residents must also provide their alien registration number.

PLEASE INDICATE THE DOCUMENT VERIFYING YOUR RESIDENCY STATUS AND ATTACH A COPY OF THE DOCUMENT (front and back).

- Checkboxes for document types: I-327 (Reentry Permit), I-551 (Permanent Resident Card), I-571 (Refugee Travel Document), I-688 (Temporary Resident Card), I-688A (Employment Authorization Card), I-688B (Employment Authorization Card), I-766 (Employment Authorization Card), Certificate of Citizenship, Naturalization Certificate, Machine Readable Immigrant Visa, Temporary I-551 Stamp (on passport of I-94), I-94 (Arrival/Departure Record), Unexpired Foreign Passport, I-20 (Certificate of Eligibility for Nonimmigrant (F-1) Student Status), DS2019 (Certificate of Eligibility for Exchange Visitor (J-1) Status), Other (Use Document Description).

Subcontract #: 131003-1-001

Initial Subcontractor:

Reeves:

Handwritten initials and signature BT

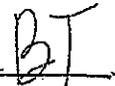
EXHIBIT 1 DAVIS-BACON ACT STANDARD CERTIFIED PAYROLL  
PER JOB REQUIREMENT - IF REQUIRED

Subcontract #: 131001-1-001

Initial Subcontractor



Received



**APPLICATION AND CERTIFICATE FOR PAYMENT**

AIA DOCUMENT G702 (normal)

PAGE OF PAGES

TO CONTRACTOR:  
Reeves Contracting Company  
1400 Buford Hwy., Bldg. C-2  
Sugar Hill, GA 30518

PROJECT

APPLICATION NO.:  
PERIOD TO:  
PROJECT NOS:

Distribution to:  
 OWNER  
 ARCHITECT  
 CONTRACTOR

FROM SUBCONTRACTOR:  
CONTRACT FOR:

VIA ARCHITECT

CONTRACT DATE:

**CONTRACTOR'S APPLICATION FOR PAYMENT**

Application is made for payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner and that current payment shown herein is now due.

1. ORIGINAL CONTRACT SUM \_\_\_\_\_
2. Net Change by Change Orders \_\_\_\_\_
3. CONTRACT SUM TO DATE (Line 1 + 2) \_\_\_\_\_
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703) \_\_\_\_\_
5. RETAINAGE:
  - a. 10% of Completed Work (Columns D + E on G703) \_\_\_\_\_
  - b. 0% of Stored Material (Column F on G703) \_\_\_\_\_
  - Total Retainage (Line 5a + 5b or Total in Column I of G703) \_\_\_\_\_
6. TOTAL EARNED LESS RETAINAGE (Line 4 less Line 5 Total) \_\_\_\_\_
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate) \_\_\_\_\_
8. CURRENT PAYMENT DUE \_\_\_\_\_
9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6) \_\_\_\_\_

SUBCONTRACTOR:

By: \_\_\_\_\_ Date: \_\_\_\_\_

County of / State of: \_\_\_\_\_  
Subscribed and sworn to before

me this \_\_\_\_\_ day of \_\_\_\_\_

Notary Public:

My Commission expires: \_\_\_\_\_

**ARCHITECT'S CERTIFICATE FOR PAYMENT**

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED: \$ \_\_\_\_\_

(Attach explanation if any amount certified differs from the amount applied for. Initial all figures on this application and on the Continuation Sheet that are changed to conform to the amount certified.)

ARCHITECT:

By: \_\_\_\_\_ Date: \_\_\_\_\_

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this contract.

PAYMENT APPLICATIONS AND FORMS MERGE

EXHIBIT 1

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner		
Total approved this Month		
TOTALS		
NET CHANGES by Change Order		

Revised: *BT*

Initial Subcontractor: \_\_\_\_\_  
Page 41 of 51

Subcontract #: 151003-1-001







Reeves Exhibit # 3

**SUBCONTRACTOR'S / VENDOR CERTIFICATION** (Subcontractor's list of their subs, suppliers, equip rental, etc)

Subcontractor: \_\_\_\_\_ Subcontract #: \_\_\_\_\_  
 Subcontract #: \_\_\_\_\_

Pay Request #: \_\_\_\_\_ Pay Period Ending: \_\_\_\_\_

Listed below are all material supplier and "lower tier" subcontractors that we will use for the above referenced project:

**i. Items committed to date:**

Name (Vendor/Subcontractor)	Contact Info (Name/Phone #)	Item (Material, etc)	Total \$ Committed	Amount Paid to Date	On Site (Y/N)

**ii. Items not committed to date:**

Name (Vendor/Subcontractor)	Contact Info (Name/Phone #)	Item (Material, etc)	Total \$ Committed	Amount Paid to Date	On Site (Y/N)

PM: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
 Its: \_\_\_\_\_  
 Date: \_\_\_\_\_

(Corporate Seal)

Witness: \_\_\_\_\_

Subcontract #: 131003-1-001

Initial Subcontractor: \_\_\_\_\_  
 Page 44 of 51

Reeves: \_\_\_\_\_



Reeves Exhibit #1-4

### CONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT

[This is between Reeves' Subcontractor and THEIR suppliers, subs, equipment rental, etc]

Upon receipt by the undersigned of a check from \_\_\_\_\_ (Subcontractor) payable to \_\_\_\_\_ (Subcontractor's Supplier Name) and when the check has been properly endorsed and has been paid by the bank upon which it is drawn, this document shall become effective to release any mechanic's lien, stop notice, or third party claim against the job of \_\_\_\_\_ located at \_\_\_\_\_ to the following extent: This release covers a progress payment for labor, services, equipment or materials furnished by \_\_\_\_\_ (Subcontractor/Supplier Name) through the date of \_\_\_\_\_ only and does not cover any retention retained before or after the release date; extra furnished before the release date for which payment has not been received; extra or items furnished after the release date.

The undersigned \_\_\_\_\_ (Subcontractor's Supplier) name further states that their account with \_\_\_\_\_ (Reeves' Subcontractor) is currently as follows:

1. Subcontract/Purchase Order Total Value:	\$ _____
2. Pending Change Orders/Supplemental Work/Work Order:	\$ _____
3. Total Payments Received to Date including this Release:	\$ _____
4. Current Amount Due on Account:	\$ _____

By executing and submitting its Interim Payment Application and the Lien Waiver below, in consideration for the payment described in the lien waiver below, and for the purpose of inducing Owner and Contractor to make this interim payment, the Subcontractor or Supplier, for itself, its employees, subcontractors, sub-subcontractors, mechanics, independent and laborers, does hereby represent and warrant as follows:

- 1. ALL PARTIES PAID.** It has been paid all amounts owed for all materials or labor furnished to the project through the effective date of the preceding interim lien waiver, and that all parties supplying labor or materials to it in connection with the Project have been paid, or will be paid promptly from this proceeds of this progress payment, for all labor, services, equipment or materials furnished with relation to the project.
- 2. WAIVER OF CLAIMS.** It waives and releases any and all claims, causes of action, suits, damages, judgments, demands of any kind, character and description, whether known or unknown, against the Contractor, the Owner, any construction lender, the Architect, any construction manager, and their respective directors, officers, principals, partners, employees, agents, subsidiaries, parent and related firms, successors and assigns, arising out of acts or omissions prior to the effective date of the interim lien waiver below, with the exception of claims for retention withheld under the agreement with Contractor or Owner, and those claims described below in an amount not to exceed the stated amount.
- 3. REPRESENTATIONS.** Subcontractor (if applicable) represents that no contract requirements have been waived or changed except by formal Change Order pursuant to the Subcontract, that required insurance coverages remain in effect and unchanged, that warranty obligations are undiminished by and known conditions or circumstances, and that Subcontractor has acquired from all subcontractors and suppliers valid waivers of their rights with respect to all services, labor, materials or equipment supplied through the date hereof.

IN WITNESS WHEREOF, Subcontractor/Supplier has caused this Conditional Waiver and Release Upon Progress Payment to be executed by its duly authorized owner, partner, agent or officer on the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

STATE OF GEORGIA  
COUNTY OF \_\_\_\_\_ (Name of Subcontractor/Supplier)

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012. By: \_\_\_\_\_

Notary Public (Seal) Title: \_\_\_\_\_

My Commission Expires:

Subcontract #: 131003-1-001



WAIVER AND RELEASE UPON FINAL PAYMENT

Reeve's Exhibit # 1-5

(This is between Reeve's Subcontractor and THEIR suppliers, subs, equipment rental, etc.)

Upon receipt by the undersigned of a check from (Subcontractor) \_\_\_\_\_ in the sum of \$ \_\_\_\_\_ payable to \_\_\_\_\_ (Subcontractor's Supplier Name) and when the check has been properly endorsed and has been paid by the bank upon which it is drawn, this document shall become effective to release any mechanics lien, stop notices or bond right the undersigned has on the job of \_\_\_\_\_ located in \_\_\_\_\_ to the following extent: This release covers a final payment for labor, services, equipment or materials furnished by \_\_\_\_\_ (Subcontractor's Supplier Name) does not cover any retention retained before or after the release date; extras furnished before the release date for which payment has not been received, extras or items furnished after the release date.

The undersigned: \_\_\_\_\_ (Subcontractor's Supplier) further states that their account with \_\_\_\_\_ is currently as follows:

- 1. Subcontract/Purchase Order Total Value: \$ \_\_\_\_\_
- 2. Retention held to date: \$ \_\_\_\_\_
- 3. Total Payments Received from \_\_\_\_\_ \$ \_\_\_\_\_

By executing and submitting its Final Payment Application and the Lien Waiver below, in consideration for the payment described in the lien waiver below, and for the purpose of inducing Owner and Contractor to make this final payment, the Subcontractor or Supplier, for itself, its employees, subcontractors, sub-subcontractors, mechanics, materialmen and laborers, does hereby represent and warrant as follows:

- 1. **ALL PARTIES PAID.** It has been paid all amounts owed for all materials or labor furnished to the Project through the effective date of the preceding interim lien waiver, and that all parties supplying labor or materials to it in connection with the Project have been paid, or will be paid promptly from the proceeds of this progress payment, for all labor, services, equipment or materials furnished with relation to the project.
- 2. **WAIVER OF CLAIMS.** It waives and releases any and all claims, causes of action, suits, demands, judgments, demands of any kind, character and description, whether known or unknown, against the Contractor, the Owner, any construction lender, the Architect, any Construction Manager, and their respective directors, officers, principals, partners, employees, agents, subsidiaries, former and related firms, successors and assigns, arising out of acts or omissions prior to the effective date of the interim lien waiver below, with the exception of claims for retention withheld under the agreement with Contractor/Owner, and those claims described below in an amount not to exceed the stated amount.
- 3. **REPRESENTATIONS.** Subcontractor (if applicable) represents that no contract requirements have been waived or changed except by formal Change Order pursuant to the Subcontract, that retained dispute resolution provisions remain in effect and unchanged, that warranty obligations are unaffected by any known conditions or circumstances, and that Subcontractor has secured from all subcontractors and suppliers valid waivers of lien rights with respect to all services, labor, materials or equipment supplied through the date hereof.

IN WITNESS WHEREOF, Subcontractor/Supplier has caused this Final Conditional Waiver and Release Upon Progress Payment to be executed by its duly authorized owner, partner, agent or officer on the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

STATE OF GEORGIA  
COUNTY OF \_\_\_\_\_ (Name of Subcontractor/Supplier)

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012. By: \_\_\_\_\_

Notary Public (Seal) \_\_\_\_\_ Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_ Title: \_\_\_\_\_

Subcontract #: 131003-2-001

Initial Subcontractor: \_\_\_\_\_  
Page 46 of 51

Reeve's: \_\_\_\_\_

*[Handwritten signatures]*



Reeves Exhibit #16

INTERIM LIEN WAIVER AND RELEASE UPON PAYMENT - GEORGIA

STATE OF GEORGIA  
COUNTY OF \_\_\_\_\_

THE UNDERSIGNED MECHANIC AND/OR MATERIALMAN HAS BEEN EMPLOYED BY REEVES CONTRACTING COMPANY (NAME OF CONTRACTOR) TO FURNISH: \_\_\_\_\_ (DESCRIBE MATERIALS AND/OR LABOR) FOR THE CONSTRUCTION OF IMPROVEMENTS KNOWN AS \_\_\_\_\_ (TITLE OF THE PROJECT OR BUILDING) WHICH IS LOCATED IN THE CITY OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_ AND IS OWNED BY \_\_\_\_\_ (NAME OF OWNER) AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(DESCRIBE THE PROPERTY UPON WHICH THE IMPROVEMENTS WERE MADE BY USING EITHER A METES AND BOUNDS DESCRIPTION, THE LAND LOT DISTRICT, BLOCK AND LOT NUMBER, OR STREET ADDRESS OF THE PROJECT.)

UPON THE RECEIPT OF THE SUM OF \$ \_\_\_\_\_, THE MECHANIC AND/OR MATERIALMAN WAIVES AND RELEASES ANY AND ALL LIENS OR CLAIMS OF LIENS IT HAS UPON THE FOREGOING DESCRIBED PROPERTY OR ANY RIGHTS AGAINST LABOR AND/OR MATERIAL BOND THROUGH THE DATE OF \_\_\_\_\_ (DATE) AND EXCEPTING THOSE RIGHTS AND LIENS THAT THE MECHANIC AND/OR MATERIALMAN MIGHT HAVE IN ANY RETAINED AMOUNTS, ON ACCOUNT OF LABOR OR MATERIALS, OR BOTH, FURNISHED BY THE UNDERSIGNED TO OR ON ACCOUNT OF SAID CONTRACTOR FOR SAID BUILDING OR PREMISES.

GIVEN UNDER HAND AND SEAL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2012.

\_\_\_\_\_  
(Name of Subcontractor)

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_  
My Commission Expires \_\_\_\_\_ (SEAL)

\_\_\_\_\_  
(Witness)  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_

NOTICE: WHEN YOU EXECUTE AND SUBMIT THIS DOCUMENT, YOU SHALL BE CONCLUSIVELY DEEMED TO HAVE BEEN PAID IN FULL THE AMOUNT STATED ABOVE, EVEN IF YOU HAVE NOT ACTUALLY RECEIVED SUCH PAYMENT, 60 DAYS AFTER THE DATE STATED ABOVE UNLESS YOU FILE EITHER AN AFFIDAVIT OF NONPAYMENT OR A CLAIM OF LIEN PRIOR TO THE EXPIRATION OF SUCH 60 DAY PERIOD. THE FAILURE TO INCLUDE THIS NOTICE LANGUAGE ON THE FACE OF THE FORM SHALL RENDER THE FORM UNENFORCEABLE AND INVALID AS A WAIVER AND RELEASE UNDER O.C.G.A. SECTION 44-14-366.

Subcontract #: 134003-1-001

Initial Subcontractor: \_\_\_\_\_  
Page 47 of 51

Reeves: \_\_\_\_\_



Reeves Exhibit #1-7

FINAL LIEN AND CLAIM WAIVER UPON FINAL PAYMENT - GEORGIA

Project: \_\_\_\_\_
Address: \_\_\_\_\_
Owner: \_\_\_\_\_
Contractor: \_\_\_\_\_
Releasing Party: \_\_\_\_\_

RELEASING PARTY IS A: (Releasing Party Should Mark One)

- Subcontractor, Vendor to the Subcontractor, Sub-Subcontractor, Vendor, Vendor to a Sub-Subcontractor

By executing and submitting its payment application and this lien waiver below, in consideration for the final payment described in the lien waiver below, and for the purpose of inducing owner and subcontractor to make final payment; subcontractor, or supplier, for itself, its employees, subcontractors, sub-subcontractors, mechanics, materialmen and laborers, does hereby represent and warrant as follows:

- 1. ALL PARTIES PAID. It has been paid in full all amounts owed for all materials or labor furnished in the project, and that all parties supplying labor or materials in connection with the project have been paid in full for all labor, services, equipment or materials ordered or supplied.
2. WARRANTY OF WORK. It warrants that all work, labor, and materials furnished by or through it are free from defects and fully comply with all requirements of the plans, specifications, subcontract and other contract documents.
3. WAIVER OF CLAIMS. It waives and releases any and all claims, causes of action, suits, damages, judgments, demands of any kind, charges and circulation, whether known or unknown, against the contractor, owner, any construction lender, and their respective officers, directors, partners, employees, agents, subsidiaries, parent and related firms, successors and assigns, arising out of or pertaining in any manner to the subcontract, the property described below, or the project.
4. AUTHORIZATION. It warrants that it is the sole owner of the claims released herein, that it has not sold, assigned or conveyed such claims to any other party, and that the individual whose signature appears below has personal knowledge of these matters and is fully authorized and qualified to make these representations on behalf of the subcontractor or supplier.
5. SCOPE OF RELEASE. The representations and release contained hereinafter independent covenants and covenants, and are effective with respect to, all labor, services, materials or equipment provided by or through the subcontractor or supplier, under any agreement, whether oral or written, whether or not additional to any such agreement; and with respect to any further labor, materials, equipment or services to be furnished with respect to the subcontract, the project or the property.

GIVEN UNDER HAND AND SEAL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2012.

(Name of Subcontractor)

By: \_\_\_\_\_
Name: \_\_\_\_\_
Title: \_\_\_\_\_

Notary Public
My Commission Expires (SEAL)

(Witness)
(Address)

Subcontract #: 131003-1-001

Initial Subcontractor:
Page 48 of 52

[Handwritten Signature]

Reeves [Handwritten Signature]



Reeves Exhibit #18

WAIVER AND RELEASE UPON FINAL PAYMENT - GEORGIA

STATE OF GEORGIA  
COUNTY OF \_\_\_\_\_

THE UNDERSIGNED MECHANIC AND/OR MATERIALMAN HAS BEEN EMPLOYED BY REEVES CONTRACTING COMPANY (NAME OF CONTRACTOR) TO FURNISH \_\_\_\_\_ (DESCRIBE THE MATERIALS AND/OR LABOR) FOR THE CONSTRUCTION OF IMPROVEMENTS KNOWN AS \_\_\_\_\_ (TITLE OF THE PROJECT OR BUILDING), WHICH IS LOCATED IN THE CITY OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_, AND IS OWNED BY \_\_\_\_\_ (NAME OF OWNER) AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

\_\_\_\_\_

(DESCRIBE THE PROPERTY UPON WHICH THE IMPROVEMENTS WERE MADE BY USING EITHER, A METES AND BOUNDS DESCRIPTION, THE LAND LOT, DISTRICT, BLOCK AND LOT NUMBER, OR STREET ADDRESS OF THE PROJECT.)

UPON THE RECEIPT OF THE SUM OF \$ \_\_\_\_\_, THE MECHANIC AND/OR MATERIALMAN WAIVES AND RELEASES ANY AND ALL LIENS OR CLAIMS OF LIENS IT HAS UPON THE FOREGOING DESCRIBED PROPERTY OR ANY RIGHTS AGAINST ANY LABOR AND/OR MATERIALS ON ACCOUNT OF LABOR OR MATERIALS, OR BOTH, FURNISHED BY THE UNDERSIGNED TO OR ON ACCOUNT OF SAID CONTRACTOR FOR SAID PROPERTY.

GIVEN UNDER HAND AND SEAL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2012.

\_\_\_\_\_  
(Name of Subcontractor)

By: \_\_\_\_\_  
Agent: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Notary Public  
My Commission Expires \_\_\_\_\_ (SEAL)

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Address)

NOTICE: WHEN YOU EXECUTE AND SUBMIT THIS DOCUMENT, YOU SHALL BE CONCLUSIVELY DEEMED TO HAVE BEEN PAID IN FULL THE AMOUNT STATED ABOVE, EVEN IF YOU HAVE NOT ACTUALLY RECEIVED SUCH PAYMENT, 60 DAYS AFTER THE DATE STATED ABOVE UNLESS YOU FILE EITHER AN AFFIDAVIT OF NONPAYMENT OR A CLAIM OF LIEN PRIOR TO THE EXPIRATION OF SUCH 60 DAY PERIOD. THE FAILURE TO INCLUDE THIS NOTICE LANGUAGE ON THE FACE OF THE FORM SHALL RENDER THE FORM UNENFORCEABLE AND INVALID AS A WAIVER AND RELEASE UNDER O.C.G.A. SECTION 44-24-355.

Subcontract #: 131003-1-001

Initial Subcontractor:     *BT*      
Page 49 of 51

Reeves:     *BT*



Reeves Exhibit #19 (revised 1/2014)

CONSENT OF SURETY COMPANY TO FINAL PAYMENT

Project: \_\_\_\_\_  
Address: \_\_\_\_\_

To (Contractor): Reeves Contracting Company  
Address: 1400 Buford Hwy., Bldg. C22  
City/State/Zip: Sugar Hill, GA 30518

For (Subcontractor): \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_

In accordance with the provisions of the Subcontract between the Contractor and the Subcontractor as indicated above, the

Surety Company, \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_

on bond of Subcontractor:

hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall not relieve the Surety Company of any of its obligations to the \_\_\_\_\_ Owner, as set forth in the said Surety Company's bond.

IN WITNESS WHEREOF,  
the Surety Company has hereunto set its hand this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
(Name of Surety Company)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_  
My Commission Expires: \_\_\_\_\_ (SEAL)

Use if job is bonded

Subcontract #: 131003-1-001

Initial Subcontractor: AW  
Page 50 of 51

Reeves: BT

EXHIBIT K SUBCONTRACTOR WARRANTY FORM

Reeves Exhibit #44



Subcontractor Warranty Form

PROJECT:

LOCATION:

CONTRACTOR: Reeves Contracting Company

We, \_\_\_\_\_ (Subcontractor) for

as described in Specification Section(s) \_\_\_\_\_ do hereby warrant that all labor and material furnished and work performed in conjunction with the above referenced project, will be free from defects due to defective materials and/or workmanship for a period of one (1) year from the date of substantial completion.

This warranty commences on Date of Substantial Completion affixed by Architect and expires on 1 year from date of Substantial Completion.

Should any defect develop during the warranty period due to improper materials, workmanship or arrangement, the same, including adjacent work displaced, shall be made good by the undersigned Subcontractor at no expense to the Owner

The Owner will give Subcontractor written notice of defective work. Should Subcontractor fail to correct defective work within 60 days after receiving written notice, the Owner may, at his or her option, correct defect and charge Subcontractor costs for such correction. Subcontractor agrees to pay such charges on demand.

Nothing in the above shall be deemed to apply to work, which has been abused or neglected by the Owner.

REEVES CONTRACTING COMPANY

\_\_\_\_\_  
(Subcontractor)

By: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_  
By: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

REEVES CONTRACTING COMPANY  
1401 Broadway Building, Suite 2100, St. Louis, MO 63102  
Phone: 314-271-1234 Fax: 314-271-3333 www.reevescontracting.com

Subcontract #: 131003-1-001

Initial Subcontractor: \_\_\_\_\_  
Page 51 of 51

Reeves: BT

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

Ashton Park Trace Apartments, LLC, )  
)  
Plaintiff, )

v. )

Civil Action File No.  
1:14-cv-04056-MHC

City of Decatur, Georgia; Urban )  
Redevelopment Agency of the City of )  
Decatur; The Potts Company, LLC; The )  
Potts Company, Inc.; Reeves Contracting )  
Company, Inc.; and Silverman )  
Construction Program Management, Inc., )  
Defendants. )

Reeves Contracting Company, Inc. )  
Third Party Plaintiff, )

v. )

American Shoring, Inc. )  
Third Party Defendant. )

**SUMMONS ON A THIRD-PARTY COMPLAINT**

**TO: Western Oilfields Supply Company  
d/b/a Rain for Rent  
c/o Registered Agent, CT Corporation System  
1201 Peachtree Street NE  
Atlanta, Georgia 30361**

A lawsuit has been filed against Reeves Contracting Company, Inc. (“Reeves”), who as a third-party plaintiff is making this claim against you to pay part or all of what it may owe to the Plaintiff Ashton Park Trace Apartments, LLC.

Within twenty-one (21) days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff and on the defendants an answer to the attached third-party complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on Reeves’ attorney (Brad C. Parrott, whose address is 3575 Piedmont Road NE, 15 Piedmont Center, Suite L100, Atlanta, Georgia 30305), and on all other parties that have appeared in this action. If you fail to do so, judgment by default will be entered against you for the relief demanded in the third-party complaint. You also must file the answer or motion with the court and serve it on any other parties.

A copy of the plaintiff’s complaint is also attached. You may – but are not required to – respond to it.

DATED: January 28, 2015

Respectfully submitted,

/s/ Brad C. Parrott

Brad C. Parrott

Georgia Bar No. 595999

Mary Lillian Walker

Georgia Bar No. 732370

**HUDSON PARROTT WALKER, LLC**  
Fifteen Piedmont Center  
3575 Piedmont Road, Suite L100  
Atlanta, GA 30305  
(404) 554-8181  
*Attorneys for Reeves Contracting Company*