



SUBCONTRACTOR AGREEMENT

SUBCONTRACTOR: Subcontractor
Street Address
City, State, Zip code
Phone Number

PROJECT: Project #
Project Name

LOCATION: Project Site Address

OWNER: Owner Name/Entity
Owner Street Address
Owner City, State, Zip code
Owner Phone Number
Owner Rep

ARCHITECT: Architect Name
Architect Street Address
Architect Phone Number

CONTRACT AMOUNT:

DIR: DIR #

This SUBCONTRACTOR AGREEMENT (this “**Agreement**”) is made at Merced, CA on _____ by and between **Marvulli, Inc.**, located at **1005 E. Childs Ave., Merced, CA 95341, Phone: (209) 233-9474** (hereinafter referred to as the “**Contractor**”), and Sub-Contractor Name, located at Subcontractor Full Address (hereinafter referred to as the “**Subcontractor**”).

RECITALS:

- A. Contractor has entered into that certain OWNER-GENERAL CONTRACTOR AGREEMENT, dated Prime Contract Date (the “**Prime Contract**”), with Owner Name (“**Owner**”), providing for the construction of Project Name on the real property located at Project Site Address.
- B. Construction will be in accordance with drawings and specifications, dated Date of Plans, prepared by Architect (“**Architect**”).
- C. Subcontractor represents that it holds an active Contractor license, issued by the California Contractors State Licensing Board (CSLB License No. CSLB License No.), and that it professionally, regularly, and substantially engages in and provides services similar to those desired by Owner in this Agreement for Contractor and for other clients.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing recitals, which recitals are incorporated herein by this reference, and in consideration of the mutual covenants and promises herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Contractor and Subcontractor hereby agree as follows:

ARTICLE 1. Term & Commencement

1. The anticipated commencement date is Project Start Date; with the Work (defined below) to be fully completed no later than Project End Date.
2. The Subcontractor shall commence the Work promptly as directed by the Contractor, and prosecute same expeditiously, in full cooperation with the Contractor, other subcontractors, and in full accord with the requirements of the general conditions and accepted construction practices, as determined by the Contractor, until fully completed and accepted, taking into account acts of God, strikes, lockouts, and similar action beyond the control of the Subcontractor.

ARTICLE 2. Scope of Work

1. Subcontractor Scope of Work

2. Proper storage of materials is to be coordinated with project superintendent and Subcontractor is responsible for proper off-haul and disposal of all debris generated by the performance of this said scope of work.
3. All Work shall be performed in accordance with the terms and conditions of the Contract Documents, all of which shall be considered part of this Agreement by this reference thereto, and Subcontractor agrees to be bound to Contractor and Owner by the terms and provisions thereof. The Contract Documents are defined as Plans, Specifications, Change Orders, Schedules, Site Safety Programs, Change Orders, Insurance Requirements or any and all documents used during the construction of the Project.
4. Subcontractor specifically agrees to:
 - (a) Pay and fully compensate all subcontractors' workers and provide verification of compliance measures outlined in CA Labor Code Section 218.7 for any direct or indirect employee of subcontractor on the project including, but not limited to, providing verification of all their subsequent tiered sub-subcontractors employee wage payments.
 - (b) When applicable, submit payroll records promptly upon demand, no later than monthly, as soon as practical after the final payroll for the month, and further agrees to cooperate fully in any effort by Contractor to verify compliance with labor laws and regulations, including requirements under Section 218.7 of the California Labor Code. Such cooperation shall include, without limitation, furnishing copies and originals of records and providing access to employees or witnesses for interviews and statements.
 - (c) In addition to and without derogation to any other rights that Contractor may enjoy, Contractor may withhold sufficient funds to protect Contractor against any claims related to labor requirements, including without limitation, requirements under the California Labor Code. Subcontractor agrees that the amounts set forth herein as compensation shall be deemed to be full compensation for compliance with such laws, regulations, or requirements, including payment of all applicable wage rates, and that no additional compensation will be owed

to Subcontractor in the event that Subcontractor is required there under to pay wages or incur additional costs that Subcontractor contends that it did not anticipate. Subcontractor agrees to indemnify and hold harmless Contractor for any violations of the above-referenced Labor Code provisions, which were caused by the Subcontractor's failure to comply with said provisions.

5. The description of the Work to be performed or material to be furnished by Subcontractor by reference to a section or sections of the drawings or specifications shall not limit Subcontractor's obligation to perform only such work or furnish only such materials as are described in that section or sections if work or material that is within the general description of the section or sections is required of the Subcontractor by trade practice or by any other provision or section of the drawings or specifications. Subcontractor shall furnish all material and perform all work coming within the general description of the designated section or sections, and reference to such section or sections is solely for convenience in describing Subcontractor's work. Any dispute between Contractor and Subcontractor or Subcontractor and other Subcontractors over responsibility for divisions or categories of work shall be resolved by Contractor, whose decision shall be final.

ARTICLE 3. Subcontractor Obligations

1. Subcontractor has thoroughly examined all drawings and specifications and has examined the jobsite and ascertained the conditions for itself. Subcontractor enters into this subcontract relying on its own information and investigation and not on any statements or representations that may have been made by Contractor, Owner, Architect, or engineer.

2. Subcontractor shall be responsible for and shall bear any loss or damage to the Work and all materials, supplies, and equipment until completion of this Agreement, unless such loss or damage results from the actions, fault or negligence (either active or passive) of the Owner, Contractor, their agents, employees, subcontractors, or anyone acting on Owner's or Contractor's behalf.

3. Subcontractor acknowledges that he/she/it has read the Prime Contract and all plans and specifications and is familiar therewith and agrees to comply with and perform all provisions thereof applicable to Subcontractor.

4. Subcontractor agrees to obtain and pay for all permits, licenses and official inspections (if applicable) made necessary by its Work and to comply with all codes, laws, ordinances and regulations bearing on its Work and the conduct thereof.

5. Subcontractor shall remove from the premises, as often as directed by the Contractor, all rubbish and surplus material which may accumulate from the prosecution of said Work and should Subcontractor fail to do so, Contractor may, at his option, remove same without further notice at Subcontractor's expense.

6. Subcontractor shall provide safe and sufficient facilities to Owner, Engineer, Contractor, or their duly authorized representatives for inspection of the Work by Subcontractor.

7. Subcontractor shall provide safe and sufficient facilities for Subcontractor's own workmen, suppliers, and any other individuals for whom Subcontractor is responsible.

8. Subcontractor shall within twenty-four (24) hours after receiving written notice from Contractor proceed promptly to remove from the site all materials and work which the Contractor, Engineer or Governing Agency has condemned or failed to approve and shall promptly make good all such Work and all other work damaged or destroyed in removing or making good said condemned Work.

9. Subcontractor shall warranty and guarantee all Work done by him under this Agreement against deficiencies and defects in materials and/or workmanship for the period of time of Contractor's warranty and guarantees to Owner, but in no event for less than one year after notice of completion and acceptance from the agency with jurisdiction over the Work.

10. Subcontractor shall at all times have a competent superintendent or foreperson on the jobsite who shall be authorized to receive instructions from contractor and make such decisions as may be necessary for the prompt and efficient performance of this Agreement.

11. Subcontractor shall at all times keep the jobsite free from accumulations of waste material or rubbish. On completion of its work, subcontractor shall promptly remove all rubbish, surplus material, tools, scaffolding, and equipment from the jobsite, and the premises shall be left "broom-clean" or its equivalent unless cleanup is more exactly specified. In a dispute about the responsibility for cleanup, Contractor may charge clean-up costs to the various subcontractors responsible for it in such ratio as Contractor shall decide to be just, and this allocation shall be binding on all subcontractors.

ARTICLE 4. Time is of the Essence

1. Subcontractors shall provide Contractor with scheduling information and a proposed schedule for performance of his work in a form acceptable to Contractor. Subcontractor shall conform to Contractor's progress schedule and all revisions or changes made thereto. Subcontractor shall prosecute his work in a prompt and diligent manner in accordance with Contractor's progress schedule without delaying or hindering Contractor's work or the Work of other contractors or subcontractors. Subcontractor shall coordinate the Work covered by this Agreement with that of all other contractors, subcontractors, and of the Contractor, in a manner that will facilitate the efficient completion of the entire work. In the event Subcontractor fails to maintain his part of the Contractor's schedule, he shall, without additional compensation, accelerate the Work as Contractor may direct until Subcontractor's work is in accordance with such schedule. Contractor shall have complete control of the premises on which the Work is to be performed and shall have the right to decide the time and order in which various portions of the Work shall be installed and the relative priority of the Work of Subcontractor and other subcontractors, and, in general, all other matters pertaining to the timely and orderly conduct of the Work of Subcontractor on the premises. Subcontractor shall be liable to Contractor for the costs of delay in performance, including but not limited to, any liquidated damage amount that Contractor may be required to pay to Owner. Subcontractor further agrees that the liquidated damage provision, if any, as set forth in the contract between Contractor and Owner is reasonable in that the actual damages will be too difficult to determine.

2. Subcontractor shall prepare and obtain approval as required by the Contract Documents for all shop drawings, details, samples, and do all other things necessary and incidental to the prosecution of his work in conformance with Contractor's Project Schedule.

ARTICLE 5. Incorporation of Contract Documents

1. To the extent that they apply to the Work to be performed by Subcontractor under this Agreement, the provisions of the Contract Documents are incorporated into this subcontract with the same force and effect as though set forth in full. Subcontractor shall be bound to Contractor to the same extent that Contractor is bound to Owner, by all terms and provisions of the Contract Documents, and by all decisions, rulings, and interpretations of Owner or its authorized representative. Copies of the Contract Documents are available for review at Contractor's office. If a conflict occurs between the Contract Documents and this Agreement, the Contract Documents shall control.

2. Contractor shall have the same rights and privileges as against the Subcontractor herein as the Owner in the Prime Contract has against Contractor.

ARTICLE 6. Plans & Specifications.

1. Subcontractor certifies and agrees that he is fully familiar with all of the terms of the Contract Documents, the location of the job-site, and the conditions under which the Work is to be performed and that he enters into this Agreement based upon his investigation of all such matters and is not relying on any opinions or representations of Contractor. The Contract Documents are incorporated in this Agreement by reference, and Subcontractor and

his subcontractors certifies and agree to be bound by the Contract Documents insofar as they relate in any way, directly or indirectly, to the Work covered by this Agreement. Subcontractor agrees to be bound to Contractor in the same manner and to the same extent as Contractor is bound to Owner under the Contract Documents, including but not limited to, the requirements of the Prime Contract (provided upon request) as it relates to the Subcontractor, and to the extent of the Work provided for in this Agreement, and that where, in the Contract Documents reference is made to Contractor, and the Work or specifications therein pertains to Subcontractor's trade, craft, or type of work, then such work or specification shall be interpreted to apply to Subcontractor instead of Contractor. The Work to be performed by Subcontractor is not necessarily included in one particular portion of the plans and specifications. Subcontractor will perform all of the Work that falls within the general area of this Subcontract, regardless of the fact that the Work to be performed may be scattered throughout the plans and specifications, and Contract Documents as well as all incidental work reasonably necessary to complete this Subcontract, unless otherwise expressly assigned to others.

2. Subcontractor shall not deviate from the drawings and specifications as to material and equipment to be furnished or the method of performing the Work as specified in the Contract Documents unless prior written approval has been obtained from Owner. Where alternatives are approved in writing by Owner, Subcontractor warrants that any alternative equipment, material, or method proposed by Subcontractor will achieve all performance standards established by the Contract Documents and will perform to Owner's satisfaction.

ARTICLE 7. Compensation.

1. Contractor shall pay to Subcontractor the sum of \$**CONTRACT AMT** to perform all Work under this Agreement.

2. The Subcontractor shall submit a bill for labor and material incorporated into the project each month to date. Progress payments shall be made in an amount as approved and paid for by the Owner each month on work completed to date less 5% withheld for retention. Payment on proper invoicing will be processed thirty-five (35) days from the invoice posting date on the next, scheduled payment run. Payment runs occur once a month, on or around the 25th day of the month. Final payment shall be made thirty-five (35) days after completion, acceptance of work (as specified herein), and payment by Owner. Progress payments shall be made in an amount as approved and paid for by the Owner each month on work completed to date. Subcontractor shall furnish, if and when required by Contractor, payroll affidavits, receipts, vouchers, releases or claims of labor, material men, and Subcontractors performing work or furnishing major items of materials under this Agreement, and it is agreed that no payment hereunder shall be made, except at Contractor's option, until and unless such releases are furnished. When a preliminary lien notice is filed, checks will be issued jointly in both the Subcontractor's and his or her Supplier's name. If Subcontractor is Union signatory; a release and proof of payment of all fringe benefits shall be required prior to any payment or release of payment to Subcontractor.

ARTICLE 8. Effect of Payments.

1. No payment made under this Subcontract, except the final payment, shall be conclusive evidence of the performance of this Subcontract, either in whole or in part, and no payment shall be construed to be an acceptance of defective work or improper materials or as Contractor's admission that this Agreement, or any part of it, has been complied with if the facts are otherwise.

ARTICLE 9. Payments in Trust

1. All sums received by Subcontractor from Contractor under this Agreement will be held in trust by Subcontractor for the express use and purposes of (a) paying in full for all labor, material, equipment, and appliances furnished to Subcontractor in performing this Agreement and, (b) if required, making payments to labor union trust funds established under a collective bargaining agreement. No title to any payment or any part

of it shall vest in Subcontractor or be used for any other purpose until Subcontractor has first paid in full for all such labor, material, equipment, and appliances furnished by that date to Subcontractor.

ARTICLE 10. Performance, Progress, Diligence and Continuity of Work Delay.

1. If Subcontractor at any time refuses or neglects to supply enough properly skilled workers and proper materials, or fails to properly prosecute the Work diligently, continuously, or in proper timing with the other work to be done under the Prime Contract directed by the Contractor, or fail to perform any provision of this Contract covered by this Agreement, or fails to make prompt payment to his workers, sub-subcontractors or suppliers or is otherwise guilty of a material breach of a provision of this Agreement, and fails within forty-eight (48) hours after receipt of written notice to commence and continue satisfactory correction of such default with diligence and promptness, then Contractor, without prejudice to any rights or remedies, shall have the right to any or all of the following remedies:

(a) Withhold payment of any monies due Subcontractor pending corrective action to the extent required by and to the satisfaction of Contractor;

(b) Withhold and use any materials, implements, equipment, appliances or tools furnished by or belonging to Subcontractor to complete Subcontractor's work without any further compensation to Subcontractor for such use;

(c) Supply workers, materials, equipment, contract separately with other(s), and other facilities necessary for the completion of Subcontractor's work;

(d) Proceed in an Emergency affecting the safety of persons or property as above without notice to Subcontractor; or

(e) Terminate Subcontractor for Default.

2. In such case, Subcontractor shall be entitled to no further payment until the balance of Subcontractor's work has been completed. At that time, all of the costs incurred by Contractor in performing Subcontractor's work, including a markup of fifteen percent (15%) for overhead and profit on such expenses, plus actual attorneys' fees, and shall be deducted or offset from any monies due to or to become due to Subcontractor. Subcontractor shall be liable for the payment of any amount by which such expenses may exceed the unpaid balance of the Contract Price.

3. Contractor may withhold or, on account of subsequently discovered evidence, nullify the whole or part of any payment to the extent necessary to protect Contractor from loss, including costs and actual attorneys' fees, on account of: (a) defective work not remedied; (b) claims filed or reasonable evidence indicating probable filing of claim; (c) failure of Subcontractor to make payments properly to its subcontractors / suppliers / employees or for material, labor, union contributions, or fringe benefits; (d) a reasonable doubt that this Agreement can be completed for the balance then unpaid; (e) damage to another subcontractor; (f) penalties assessed against Contractor of Subcontractor for failure of Subcontractor to comply with state, federal or local laws and regulations; (g) Satisfactory evidence (as interpreted by Contractor) of insolvency or potential insolvency; and/or (h) Material breach of any provision of this Agreement.

4. When the above matters are rectified, such amounts as then due and owing shall be paid or credited to Subcontractor. If Subcontractor fails to commence and satisfactorily continue correction of default within forty-eight (48) hours after receipt by Subcontractor of the notice issued under the above, it shall be considered a breach of the contract agreement and grounds for Termination.

5. Subcontractor will keep itself fully informed of the progress of the Work under the Prime Contract, and as soon as the project requires work to be performed under this Agreement for its continued progress, Subcontractor will promptly begin work. Subcontractor will prosecute the Work diligently to completion and will conform to any progress schedule established by Contractor. Subcontractor will coordinate work with Contractor and other

subcontractors so that there will be no delay to or interference with other work on the Project. If Subcontractor fails to comply with any requirement of this paragraph and Contractor incurs loss or damage because of delay or disruption or becomes liable for damages or liquidated damages because of delay in completing the project, then Subcontractor shall reimburse Contractor for the portion of the loss, damage, or liability incurred by Contractor in connection with the Project as may be attributable to Subcontractor's delay or lack of coordination in performance. When Contractor's liability for damages or liquidated damages is attributable to more than one subcontractor, Contractor shall allocate the total of such damages between the various subcontractors responsible for it, and Contractor's allocation made in good faith shall be binding on all parties. If Subcontractor contends that any act of Owner or of Contractor or any other job condition or event has caused Subcontractor to experience delay, disruption, or inefficiency in performing the Work, then Subcontractor shall give written notice of such conditions to Contractor in sufficient time to enable Contractor to comply with the requirements of the Prime Contract regarding such notice. If the Prime Contract has no such requirement, Subcontractor shall be entitled to an extension of time or to assert any other claim for delay or disruption, inefficiency, or lack of productivity only if it notifies Contractor in writing of its intention to make such a claim within ten (10) calendar days after commencement of the conditions for which relief is claimed.

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

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

8. In the event of any dispute between Contractor and Subcontractor over the scope of Subcontractor's work under the Contract Documents, Subcontractor will not stop work but will prosecute the Work diligently to completion, the dispute to be submitted for resolution in accordance with claims and arbitration sections below. Failure to comply with this section constitutes a breach of contract justifying termination of this Agreement by Contractor.

9. Status of Subcontractor - The Subcontractor acts as an independent contractor and no employee, partner, agent, etc. relationship exists or will exist, and the Subcontractor is responsible for all employee-related rights and benefits.

10. It is the subcontractor's responsibility to pay all taxes including but not limited to sales taxes, income taxes and estimated taxes.

ARTICLE 11. Protection of Work, Property & Risk of Loss.

1. Subcontractor shall effectually secure and protect its Work and be responsible in all circumstances for its good condition until final acceptance of the entire project by Architect, Owner and Contractor. Subcontractor shall also protect adjacent property from injury arising from its work.
2. In case of loss or destruction of said Work by fire, earthquake, or any other cause, and in event that the Contractor is paid any money as payment for such loss or destruction, the Contractor shall pay a just share to the Subcontractor. Any riders or special conditions attached hereto shall become a part of this Agreement upon the signature of both parties being affixed thereto.

ARTICLE 12. Extra Work, Changes and Deletions.

1. The Contractor has the right to make written changes in the plans, specifications and details. The Subcontractor shall be governed by such changes on presentation to him. Price allowances for extra work or deductions for reduced work caused by such changes shall be mutually agreed upon in writing. Such agreements shall be subject to arbitration as hereafter provided. Subcontractor shall supply Contractor with all documentation necessary to substantiate the amount of the addition to or deduction from the price or time. The Subcontractor shall be bound by the same requirements of the Contractor and in no event shall any subcontractors change order include a percentage amount greater than ten percent (10%) of the actual cost of work for overhead and profit. If the Contractor and Subcontractor cannot agree on the amount of the addition or deletion, Subcontractor shall nonetheless timely perform the Work as changed by Contractor's written direction.
2. Subcontractor shall make no changes in the Work required to be performed under this Agreement, nor shall Subcontractor perform any extra work without the issuance of a written change order signed by Contractor. Nothing in this Agreement shall be construed to modify Contractor's right to eliminate any part of the Subcontractor's work or to make such changes as owner may require.
3. Contractor's obligation to increase the amount to be paid to Subcontractor under this Agreement shall be limited to the amount Contractor receives from Owner for such work, less any amounts allowed to Contractor for Contractor's overhead, profit, bond premium, and work performed by Contractor or others in connection with this Agreement. Any deduction from the subcontract price shall be limited to the reduction made under the Prime Contract for deleted, eliminated, or reduced work.
4. If Subcontractor claims that it is entitled to damages or to additional compensation, or disputes any decision made by Owner or Owner's representative, then it shall, within the time allowed by the Prime Contract, prepare its claims in writing, as required by the Prime Contract, for presentation by Contractor to Owner. Subcontractor shall be bound by Owner's decision on all such matters to the same extent that Contractor is bound, and Subcontractor shall have no right to receive payment from Contractor on any such claim or contention in any sum greater than that allowed and paid to Contractor by Owner.

ARTICLE 13. Indemnification and Guarantee.

1. Subcontractor shall, to the fullest extent permitted by law, indemnify and hold Contractor and the Owner, and any of their respective directors, officers, employees, parents, affiliates, subsidiaries, partners, and representatives, and any other persons or entities designated by any of them (collectively, the "Indemnitees") harmless against any and all claims for death, bodily injury and property damage suits, actions, demands, recoveries and judgments, including reasonable attorney's fees and costs, arising from or out of any negligence of Subcontractor, its agents, employees, or subcontractors, in performing the Work under this subcontract. Such indemnity shall extend to all claims, demands, and liability arising from the activities of Subcontractor and its subcontractors and suppliers while engaged in performing the Work to be done under this Agreement. This indemnity agreement applies to claims, demands, and liability for injuries occurring after completion of the project as well as during the performance of the project and extends to claims, demands, and liability for injury contributed to by the negligence or other misconduct of Owner or Contractor, if the injury is alleged to be or is caused in part by the

negligence or misconduct of Subcontractor or of its subcontractors, employees, agents, or suppliers. No indemnity will be provided against claims, demands, or liability (1) to the extent the claims, demands, or liability arise out of, pertain to, or relate to the sole negligence, active negligence, or willful misconduct of Owner, Contractor, construction manager, or other subcontractors; (2) for defects in design furnished to Subcontractor; or (3) to the extent the claims, demands, or liability do not arise out of the scope of work of the Subcontractor pursuant to the construction contract. Defense obligations are limited by CC §2782.05(e)(1) and (2).

2. The Subcontractor shall conform in all respects to the provisions and regulations of any general or local act or ordinance, or any local authority which may be applicable to the Work, hold harmless, defend, and indemnify the Contractor against all penalties by reason of nonobservance of any such provisions or regulations.

3. Subcontractor shall in addition defend, indemnify, and hold harmless the Indemnitees from and against all liabilities, other than for death, bodily injury, property damage, to the extent and in proportion to the degree that such liabilities are caused or contributed to by Subcontractor, its subcontractors, suppliers, agents, employees, directors, officers, partners, subsidiaries, affiliates, successors, and assigns. Nothing in the previous sentence, however, shall relieve Subcontractor from or lessen the other obligations set forth in this Agreement.

4. Notwithstanding the foregoing, if any of the other Contract Documents impose more stringent defense, indemnity, contribution or hold harmless obligations than are set forth herein, then the more stringent provisions shall apply, and Subcontractor shall owe the same defense, indemnity, contribution, and hold harmless obligations to Contractor as Contractor owes to Owner.

5. If hazardous substance of a type of which an employer is required by law to notify its employees are being used on the site by the Subcontractor, the Subcontractor or anyone directly or indirectly employed by them, the Subcontractor shall, prior to exposure of any employees on the site to such substance, give written notice of the chemical composition thereof (MSDS) to the Contractor in sufficient detail and time to permit compliance with such laws by the Contractor, other subcontractors and employers on the site.

6. To the fullest extent permitted by law, the Subcontractor shall indemnify and hold harmless the Contractor, its agents, and employees from any claims, damages, losses and expenses, including but not limited to, attorneys' fees, arising out of or resulting from Subcontractor's failure to give written notice of the use of hazardous materials on the project site.

7. Subcontractor guarantees its work and shall hold harmless Owner and Contractor against all loss or damage arising from any defect in materials, equipment, or workmanship furnished under this subcontract for the same period of time as stated in the Prime Contract. On Contractor's notification, Subcontractor shall promptly replace defective material and perform labor necessary to correct any defect in the Work. Subcontractor shall pay for all work that may be incurred in correcting the defects under the guaranty. If Subcontractor fails to make necessary repairs and replacements promptly, Owner or Contractor may, at Subcontractor's expense, furnish necessary materials or labor, and Subcontractor shall pay their cost on demand.

ARTICLE 14. Insurance and Bond.

1. Subcontractor shall furnish, on Contractor's written request, a corporate surety bond written by a surety company, authorized to write surety business in California, to guarantee the faithful performance of this Subcontract and the payment for all work and materials furnished under this Subcontract. The bond shall be in an amount required by Contractor, but shall not exceed the full amount of this Subcontract. Contractor shall pay for the surety bond if its premium does not exceed standard rates. If Contractor notifies Subcontractor before submitting Subcontractor's bid that a surety bond will be required, then Subcontractor shall include the premium of that bond in its price. Contractor shall have the right to demand such surety bond at any time during the job, and if Subcontractor fails to furnish a surety bond within fifteen (15) business days after Contractor's written demand, then Subcontractor shall be deemed to be materially in default.

2. Subcontractor shall, at all times during the terms of this Agreement and at its own cost and expense, procure and maintain the insurance coverage and endorsements outlined below in insurance companies and forms acceptable to Contractor from claims for damages because of bodily injury, including death, or injury to property which may arise from and during the operation of this subcontract:

(a) Workers' Compensation Insurance shall be provided in amounts prescribed by law. Employers' Liability limits should be provided at limits not less than: \$1,000,000 each accident for bodily injury by accident; \$1,000,000 policy limit for bodily injury by disease; \$1,000,000 each employee for bodily injury by disease.

(b) Commercial General Liability and Personal Injury insurance covering Owner, Contractor, and Subcontractor for bodily injury, property damage and personal injury. Said insurance shall cover all operations performed by or on behalf of Subcontractor in a coverage form no less restrictive than Insurance Services Office's Commercial Liability Form CG0001. The limits of liability shall not be less than: \$1,000,000 each occurrence (combined single limit for bodily injury & property damage); \$1,000,000 for personal injury liability; \$2,000,000 aggregate for products/completed operations, and; \$2,000,000 general aggregate. If the policy does not have an endorsement providing that the general aggregate limit applies separately to this project, or if defense costs are included in the general aggregate limit, then the required aggregate limits shall be \$5,000,000. Contractor, its officers, directors, and employees, and Owner shall be endorsed as an additional insured under the Occurrence from Commercial General Liability policy via ISO Endorsement # CG 2010 0704 (on-going operations) or its current equivalent and ISO Endorsement # CG 2037 0704 (completed-operations) or its current equivalent, said endorsement shall not contain any additional exclusions. The policy shall stipulate that the insurance afforded the additional insurers shall apply as primary insurance and that any other insurance carrier by Contractor, his officers, directors, and employees or Owner will be excess only and will not contribute with the insurance.

(c) Subcontractor shall carry automobile liability insurance, including owned, non-owned and hired coverage with limits of liability of not less than \$1,000,000 per occurrence (combined single limit for bodily injury and property damage).

(d) All insurance shall be provided from a carrier with A.M. Best's Rating of A-/VII or better, unless more stringent requirements are imposed by Owner or the Contractor. Contractor reserves the right, in its sole and subjective discretion, to reject an insurer and require Subcontractor to obtain policies from another insurer.

(e) Contractor and subcontractor waive all rights against each other and against all other subcontractors and Owners for loss or damage, except such rights as they may have the proceeds of such insurance. If any applicable policies of insurance referred to in this section require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed or obtain such consent.

(f) Any acceptance of insurance certificates by Contractor shall in no way limit or relieve Subcontractor of its duties and responsibilities under this Contract including the duty to indemnify and hold harmless Contractor as set forth in Article 13, Indemnity. Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve the Subcontractor for liability in excess of such coverage nor shall it preclude the Contractor from taking such other actions as is available to it under any other provisions of this Agreement or by law.

3. An acceptable certificate of insurance shall be filed with the Contractor prior to the commencement of Work. Contractor reserves the right to reject any insurance carrier with an unacceptable Best's rating stipulated in subparagraph 2(d) above.

ARTICLE 15. Default and Termination.

1. Either Contractor or Subcontractor may terminate this Agreement for convenience by giving the other (30) days prior written notice. In the event of such a termination, Subcontractor shall be paid only for its actual out-of-pocket direct costs in connection with the project to the extent that these have not already been paid for by Contractor. In no event shall the total amount paid to Subcontractor after a termination without cause (including

all prior payments) exceed the price as set forth herein as multiplied by the percentage of completion of Subcontractor's Work. Upon a termination for convenience, Subcontractor shall not be entitled to any lost profits or consequential damages, or any recovery other than that contemplated in this Section.

2. If Subcontractor fails to perform in accordance with this Agreement, Contractor shall give Subcontractor notice of such default, including a description of the default. If Subcontractor fails to cure the default within forty-eight (48) hours after the notice (time being of the essence), then Contractor, without terminating this Agreement or Subcontractor's obligation, may eject Subcontractor from the job and perform the subcontract work itself or have it performed by others, and the cost of the Work shall be deducted from the subcontract price. If the cost of such work exceeds the difference between the subcontract price and the amount paid to Subcontractor, that excess shall be immediately due and owing from Subcontractor to Contractor upon written demand by Contractor.

3. Subcontractor shall be liable for all damages suffered by Contractor because of the default, and Contractor's exercise of the option to eject Subcontractor shall not relieve Subcontractor of such liability. Subcontractor shall have no right to receive any further payment after default until the Work has been completed and Contractor's damages, if any, have been ascertained.

4. Subcontractor, subcontractor's employees, sub-subcontractors, and their employees shall comply with all applicable federal, state, local, and any other legally required safety and health standards, orders, rules, regulations, and other laws. Subcontractor shall bear full financial responsibility, as between the parties to this Agreement, for the compliance of all persons mentioned in the previous sentence. If Subcontractor, Subcontractor's employees, Subcontractor's subcontractors, or their employees fail to comply, then Contractor may give notice of default to Subcontractor, and Subcontractor shall correct improper conditions within twenty-four (24) hours after Contractor issues Subcontractor a written notice of noncompliance or within the time of an abatement period specified by any government agency, whichever period is shorter. Subcontractor's failure to cure the default within twenty-four (24) hours after notice shall give Contractor the following options:

(a) Without terminating this Agreement or Subcontractor's obligation, Contractor may perform such portion of the Work or may furnish any material, equipment, or other item required as Contractor in its sole discretion may deem necessary to avoid noncompliance with any applicable safety or health laws. The cost of materials, equipment, or other items shall be deducted from the subcontract price, and, if the cost of such work or materials or other items exceeds the balance, then the excess shall be immediately due and owing from Subcontractor to Contractor.

(b) Without terminating this Agreement, Contractor may eject Subcontractor from the jobsite, and Contractor shall have the further option of performing all or a portion of the Work itself or having the Work performed wholly or partly by others. This right to eject Subcontractor shall not be construed to deny Contractor any other right or remedy at law or in equity.

(c) Subcontractor shall be liable for all damages suffered by Contractor by reason of Subcontractor's default, and Contractor's exercise of the option to eject Subcontractor shall not relieve Subcontractor of that liability.

5. Upon the appointment of a receiver for Subcontractor or upon Subcontractor making an assignment for the benefit of creditors or if Subcontractor seeks protection under the Bankruptcy Code or commits any other act of insolvency, Contractor may terminate this Agreement upon giving forty-eight (48) hours written notice, by certified mail, to Subcontractor and its surety, if any. If an order for relief is entered under the Bankruptcy Code with respect to Subcontractor, Contractor may terminate this Agreement by giving forty-eight (48) hours written notice, by certified mail, to Subcontractor, its trustee, and its surety, if any, unless Subcontractor, the surety, or the trustee: (a) Promptly cures all defaults; (b) Provides adequate assurance of future performance; (c) Compensates Contractor for actual pecuniary loss resulting from such defaults; and (d) Assumes the obligations of Subcontractor within the statutory time limits.

6. The rights and remedies granted to Contractor under this article and pursuant to the other provisions of this

Agreement shall be cumulative and are not intended to be in lieu of any legal right or remedy which Contractor may have against Subcontractor for breach of this Agreement or default hereunder, afforded by state or federal law.

ARTICLE 16. Claims, Liens, Releases and Proofs of Payment.

1. It is understood and agreed that the full and faithful performance of this Agreement on the part of Subcontractor (including the payment of any obligations due from Subcontractor to Contractor, and any amounts due to labor or material men furnishing labor or material for said work) is a condition precedent to Subcontractor's right to receive payment for the Work performed, and any monies paid by Contractor to Subcontractor under the terms of this Agreement shall be impressed with a trust in favor of labor and material men furnishing labor and material to Subcontractor on the Work herein subcontracted.
2. In case suit is brought on any claim or liens for labor performed or materials used on or furnished to the project. Subcontractor shall pay and satisfy any such lien or judgment as may be established by the decision of the court in said suit. Subcontractor agrees within ten (10) days after written demand to cause the effect of any such suit or lien to be removed from the premises, and in the event Subcontractor shall fail so to do, Contractor is authorized to use whatever means in its discretion it may deem appropriate to cause said lien or suit to be removed or dismissed and the cost thereof, together with actual attorneys' fees, shall be immediately due and payable to Contractor by Subcontractor. Subcontractor may litigate any such lien or suit provided he causes the effect thereof to be removed, promptly in advance, from the premises, and shall further do such things as may be necessary to cause Owner not to withhold any monies due to Contractor from Owner by reason of such liens or suits.
3. The Contractor reserves the rights to retain out of the moneys due or to become due to the Subcontractor, an amount sufficient to indemnify the Contractor against loss by reason of lien or claim against the Subcontractor, including reasonable cost of litigation thereunder, if the Contractor might be held directly or indirectly liable for such a lien or claim, until such liability shall cease to exist; to require as a prerequisite to making any payment to the Subcontractor, satisfactory evidence that the Subcontractor has paid or made arrangements to pay which are satisfactory to the Contractor, at least ninety percent (90%) of the cost of the total work (labor, materials, taxes, etc.) for which such payment is to be made. Any claims or Change Order Proposals that may arise due to the Owner's Contract Documents, and not due to actions of Subcontractor, will have the enclosed Claims Certification executed and forwarded with the complete supporting documentation of the claim. This in no way will diminish the Contract Documents' requirements for submission of claims. In the event that a lien or claim is made against the project or the Owner or Contractor, Subcontractor agrees that within forty-eight (48) hours of written notice, to have such claim, lien or encumbrance removed from the job and to place with Owner and Contractor adequate security to insure compliance with this provision.
4. Before Contractor is required to make any payment under this Agreement, Subcontractor will furnish to Contractor, in a statutory form satisfactory to Contractor, releases showing that all work, equipment, and materials furnished under the Subcontract have been paid in full or that claims for such payments have been properly released. Subcontractor will permit Contractor to audit its payroll accounts periodically to determine whether amounts for fringe benefits and payroll taxes have been paid.

ARTICLE 17. Miscellaneous.

1. Subcontractor shall pay all taxes, licenses, and fees of every nature that may be imposed or charged by any governmental authority on labor, material, or other things used by Subcontractor in performing the Work or on the transaction between Contractor and Subcontractor. If Subcontractor fails to pay any tax, license, or fee required to be paid by this paragraph, then Contractor may pay it and Subcontractor shall repay the sum to Contractor on demand.

2. To the extent any labor agreement exist that affects the Project or the Work, Subcontractor and its sub-subcontractors will contract only with persons or entities that are parties to the appropriate covered labor agreement with the appropriate labor union. If Subcontractor or any sub-subcontractor causes or is the subject of any picketing or other economic action or labor trouble on the job or is listed by the administrative office of a health and welfare, pension, vacation, or apprenticeship fund as being delinquent in payment to that fund, regardless of the job in connection with which the alleged delinquency occurred, then Subcontractor will be deemed to be in default under this Agreement and may be ejected from the job.
3. The Contractor/Subcontractor acknowledges that certain of the Owner's valuable, confidential and proprietary information may come into the Contractor's/Subcontractor's possession. Accordingly, the Contractor/Subcontractor agrees to hold all information it obtains from or about the Owner in strictest confidence, not to use such information other than for the performance of the services, and to cause any of its employees, subcontractors or consultants to whom such information is transmitted to be bound to the same obligation of confidentiality to which the Contractor/Subcontractor is bound. The Contractor/Subcontractor shall not communicate the Owner's information in any form to any third party without the Owner's prior written consent. In the event of any violation of this provision, the Owner shall be entitled to preliminary and permanent injunctive relief as well as an equitable accounting of all profits or benefits arising out of such violation, which remedy shall be in addition to any other rights or remedies to which the Owner may be entitled. The provision of this paragraph shall survive the expiration or earlier termination of this contract.
4. There are no signs, banners, posters, or any other advertising for Subcontractors, and/or suppliers allowed on this Project.
5. If either party becomes involved in arbitration or litigation arising from this Agreement or the performance of it, the court or tribunal in such arbitration or litigation or in a separate suit shall award reasonable costs and expenses of arbitration and litigation, including expert witness fees and attorney fees, to the prevailing party or parties.
6. Subcontractor shall not assign, sublet, or transfer this Agreement, or any part of it, nor shall Subcontractor make any assignment or transfer of funds payable to Subcontract or under this Agreement without Contractor's prior written consent.
7. If Subcontractor becomes bankrupt or makes an assignment for the benefit of creditors, or if a receiver is appointed, then Subcontractor shall be deemed to be materially in default under this Agreement.
8. Any notice under this Agreement may be served personally on the superintendent, foreman, or other person in charge of work for either party at the jobsite or may be served by fax or by certified mail or telegram sent to the address in this Agreement, which may be changed from time to time by written notice.
9. This Agreement supersedes all written or oral agreements, if any, between the parties and constitutes the entire and only agreement pertaining to the Work to be performed under this Agreement. Except as provided for change orders, this Agreement can be modified only in writing signed by both parties.
10. This Agreement shall be construed in accordance with, and governed by, the laws of the State of California. This paragraph does not prevent the application of the Federal Arbitration Act to any dispute that may arise under this Agreement.
11. If there are any conflicts between this Agreement and Exhibit 1, Exhibit 2, Exhibit 3 and/or Exhibit 4 hereto, this Agreement shall control, and all conflicts shall be resolved in favor of this Agreement.
12. Contractors are required by law to be licensed and regulated by the Contractors State License Board, which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within 4 years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the alleged violation. Any questions concerning a



contractor may be referred to the Registrar, Contractors State License Board, P.O. Box 26000, Sacramento, California 95826.

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

Contractors State License Board
9835 Goethe Road
Sacramento, California 95827

IN WITNESS WHEREOF, this Agreement is entered into as of the date first set forth above.

CONTRACTOR:

_____ Marvulli Commercial, Inc. _____

By: _____

Print Name: Tim Williams

Title: COO

Date: _____

CSLB License No. 1004437

SUBCONTRACTOR:

_____ **SUBCONTRACTOR** _____

By: _____

Print Name: _____

Title: _____

Date: _____

CSLB License No. **CSLB LICENSE NUMBER**



Contracting with Marvulli Inc.

Your company has been selected to work with Marvulli Inc. because you have the qualifications and experience that suggests your company can complete the job to our expectations, according to regulations, within budget and on time.

We want you to fully understand our expectations prior to contracting with us. In this package of documents, you will find:

Subcontractor Agreement – Please read and sign the Subcontractor agreement and return to us via e-mail (preferred), fax or US mail.

1. Subcontractor Application for Payment – You must fill in and send a copy of the Application for Payment every time you request monthly or full payment. You should also include your company invoice.

Subcontractors will only be paid on a monthly basis.

a. Initial submittal for progress payment:

- i. DAS 140 and confirmation of DAS 140 request
- ii. DAS 142 and confirmation of DAS 142 request
- iii. For each subcontractor, material or equipment supplier – “Conditional Waiver and Release Upon Progress Payment”

b. Initial and on-going submittal for progress payment:

- i. Certified Payroll is turned in for both weeks worked and weeks of non-performance during application for payment time period.
- ii. Submittal of eCPR to DIR
- iii. Confirmation of monthly Training Fund Contributions payment
- iv. For each subcontractor, material or equipment supplier – “Conditional Waiver and Release Upon Progress Payment” for total amount reflecting current progress.
- v. For each subcontractor, material or equipment supplier – “Unconditional Waiver and Release Upon Progress Payment” reflecting previous progress payment aggregate sum.

c. Final submittal for progress payment

- i. For each subcontractor, material or equipment supplier – “Conditional Waiver and Release Upon Final Payment”
- ii. For each subcontractor, material or equipment supplier – “Unconditional Waiver and Release Upon Progress Payment” reflecting previous progress payment aggregate sum.
- iii. Affidavit of Compliance with California Prevailing Wage Law, California Labor Code Sections 1720-1815

d. Prior to Final Completion and Final Payment

- i. For each subcontractor, material or equipment supplier – “Unconditional Waiver and Release Upon Final Payment”

3. Change Order Form – Use the Change Order Form to document any changes or additions to the work that your company and the project owner’s representative agree to. All work beyond what was contracted for on a Marvulli project by any subcontractor must be included in a change order. The change order must show the additional work to be done, the cost of the work and the signatures of both parties. Additional charges to Marvulli, Inc. by a subcontractor or for work performed and not on the contract or on an approved change order will not be paid.

4. Items we must have from you – As a part of the subcontractor agreement, Marvulli Inc. requires the following information from your company. If you have not submitted this information to Marvulli Inc. previously or have updated information, please submit it immediately. Marvulli Inc. will withhold future payments due your company until this information is received.



- a. Company W-9 (Tax ID)
- b. Your company DIR # - Only for Subcontractors working on Prevailing Wage Projects
- c. General Liability Insurance Certificate (Current)
- d. Workers Compensation and Employers Liability Insurance Certificate (Current)
- e. Business Automobile Liability Insurance Certificate (Current)
- f. Contractor's License (Current)
- g. Current Business License in city where work is being performed.
- h. Signed Sub-Contractor Agreement
- i. Signed Checklist of Labor Law Requirements Acknowledgement on Prevailing Wage Projects

5. You are responsible – As part of being a sub-contractor, it is your responsibility to be proactive and know your scope of work, coordinate materials to be ready to begin work, know your scheduled work dates, coordinate with other subcontractors, contact your Marvulli project manager to stay informed and inform them of issues at the site.

6. Safety on Site – All contractors working at a Marvulli Inc. jobsite must have hardhats, safety glasses, safety vests and an in-vehicle first aid kit available for use if needed or are required at the site. All site safety precautions, rules and good safety practices must be followed at all times. Unsafe acts will result in removal from the project. Additionally, no drugs, alcohol, harassment or illegal acts will be tolerated.

7. Professionalism – All subcontractors will come dressed for work, on time and represent themselves in a professional manner. Employees will come to the site with all the materials and equipment necessary to do the job and not waste their and others time. They will abide by all rules of the site and those of Marvulli Inc. Subcontractors will maintain cleanliness of the site by cleaning, sweeping and organizing the work area and remove all trash daily. At the end of your work on the job, your work area will be cleaned to move-in conditions.



Certified Payroll Reports

Project: PROJECT NAME

TO ALL SUBCONTRACTORS:

In accordance with SB 854, all contractors and subcontractors must furnish electronic certified payroll records directly to the Labor Commissioner (Division of Labor Standards Enforcement). The Department of Industrial Relations has assigned this project the number PROJECT DIR for labor enforcement purposes. You will need this number to submit certified payroll records to the DIR.

You are required to furnish certified payroll to The Department of Industrial Relations, weekly, for both your own employees and those of each of you subcontractors as provided in the requirements of Division 2 Part 7 of the Labor Code and as described in Article 16. 7 of document 0075253. Failure to provide payrolls within the time specified in the Labor Code Section 1776 may result in a penalty of \$100.00 per day, per worker, until they are received.

Contractors and their subcontractors will be required to input their certified payroll records electronically through the LCP tracker. Contractors shall participate in a training session along with appropriate staff who will be preparing payroll submittals. Training available by Webinar. Although it is not mandatory for subcontractors to attend the training, it is highly recommended in order to successfully submit and utilize the LCP tracker. For questions on uploading payroll files into LCP tracker, please contact support at (714) 669-0052 option 4 or email support at support@lcptracker.com.

Please contact me if you need additional information.

Thank you,

Emily Burke
emily@marvullicommercial.com
(209) 233-9474



LCPtracker CONTRACTOR INFORMATION

Project # and Name: _____

Estimated Start Date: _____ Estimated End Date: _____

Company Name: _____

Federal Tax ID #: _____ PWCR # _____

Contractor License #: _____ Expiration Date: _____

Union Status: ☐ Union ☐ Non-Union ☐ Mixed

Standard Hours Per Day: _____ Standard Hours Per Work Week: _____

Pay date is _____ calendar days after week end date.

Ethnicity: ☐ African American ☐ Caucasian
☐ Asian ☐ Hispanic ☐ Native American
☐ Other ☐ Not Specified

Contact Name/Title (person responsible for Certified Payroll Reports):

Contact Email: (LCPtracker login information will be sent to this email address)

Phone Number: _____

Address: _____

City: _____ State: _____ Zip: _____

BUSINESS CERTIFICATIONS

Select: ☐ DVET ☐ LBE ☐ MBE ☐ NBE ☐ PBE
☐ SBE ☐ VET ☐ WBE ☐ NONE

Certifying Agency: ☐ CC Department of Aviation
☐ Nevada Dept of Transportation
☐ Nevada Minority Supplier Development Council
☐ Nevada Small Business Development Center – Las Vegas
☐ Small Business Administration
☐ None

Date Certification Issued: _____ Expiration Date: _____



Subcontractor Application for Payment

Project Name: Project Number & Name Date: _____

Submit this form each time you request payment. Include your company invoice.

Payment on proper invoicing will be processed thirty-five (35) days from the invoice posting date on the next, scheduled payment run. Payment runs occur once a month, on or around the 25th day of the month. Final payment shall be made thirty-five (35) days after completion, acceptance of work (as specified herein), and payment by Owner. Progress payments shall be made in an amount as approved and paid for by the Owner each month on work completed to date.

Any changes in the contract amount shown below must be accompanied by a signed and approved change order.

Mail/Fax/Email to:

Marvulli, Inc.
1005 E. Childs Ave., Suite A
Merced, CA 95341
Phone: (209) 233-9474
Fax: (209) 233-9289
Email: ap@marvullicommercial.com

From:

Subcontractor Name
Street Address
City, State, Zip
Phone Number

- | | |
|---|------------------------|
| 1. ORIGINAL CONTRACT SUM | \$ <u>Contract Sum</u> |
| 2. NET APPROVED BY CHANGE ORDERS | \$ _____ |
| 3. CONTRACT SUM TO DATE
<small>(line 1 + line 2)</small> | \$ _____ |
| 4. TOTAL COMPLETED AND STORED TO DATE | \$ _____ |
| 5. AMOUNT RETAINED % | \$ _____ |
| 6. TOTAL EARNED LESS RETAINAGE
<small>(line 4 - line 5)</small> | \$ _____ |
| 7. LESS PREVIOUS APPLICATIONS FOR PAYMENT
<small>(line 6 from prior application)</small> | \$ _____ |
| 8. CURRENT PAYMENT DUE | \$ _____ |
| 9. BALANCE TO FINISH <i>Including retainage</i>
<small>(line 3 - line 6)</small> | \$ _____ |

COMPLETED THIS PERIOD	\$ _____
RETAINAGE OF CURRENT PAYMENT %	\$ _____
CURRENT PAYMENT DUE	\$ _____
CONDITIONAL WAIVER	☐
UNCONDITIONAL WAIVER	☐

I hereby certify that the work performed, and the materials supplied to date, as shown above, represent the actual value of accomplishment under the contract terms and all authorized changes between the undersigned and Marvulli Inc. relating to the above-referenced project.

Authorized by (Subcontractor): _____ Signature/Date
Approved by (Marvulli, Inc.): _____ Signature/Date



1005 E. Childs Avenue, Suite A | Merced, CA 95341
(209) 233-9474 | ap@marvullicommercial.com
License No. 1004437 | DIR No. 1000032581

Subcontractor Change Order Form

All work beyond what was contracted must be included in a change order. This form must state the additional work to be done, the cost of the work, and the signature of a Marvulli, Inc. representative before any work is to be performed.

Project No.: Project Number Project Name/Location of Site: Project Name Street Address City, State, Zip code	Change Order #: Amount: \$ Submitted by: Submitted to: Date:
Description of work to be performed:	
Requested by: _____ Subcontractor Date	Authorized by: _____ Marvulli Representative Date

Return this change order request to Marvulli Inc.

Contractor EEO Compliance

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age (over 40), or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employee's area treated during employment, without regard to their race, color, religion, sex, age (over 40), or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this non-discrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age (over 40), or national origin.
3. The contractor will send to each labor union or representative of workers which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies involved as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with the respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved, in, or threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.



SUBCONTRACT ADDENDUM FOR CALIFORNIA PUBLIC WORKS PROJECTS

1. The attached provisions of California Labor Code sections 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815 are incorporated into this Subcontract. Subcontractor agrees to comply with all of the above-referenced provisions applicable to the performance of its work on this project. Specifically, Subcontractor agrees to:
 - a. Pay all workers not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed.
 - b. Pay all workers not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter.
 - c. Adhere to the compliance measures outlined in California Labor Code section 1775(b) attached hereto for any second-tier subcontractor that Subcontractor chooses to use on this project.
 - d. Submit certified payroll records to Contractor on a weekly basis. Records shall be provided no later than five (5) days following the last day of each workweek.
 - e. Submit to Contractor within five (5) days of a written request all payroll records as defined by California Code of Regulations section 16000, "Payroll Records".
 - f. Comply with the applicable requirements and joint apprenticeship standards as required by California Labor Code section 1777.5.
2. Prior to receiving final payment for work performed on this project, Subcontractor shall sign an affidavit, attached hereto and incorporated into this Subcontract, under penalty of perjury certifying that Subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees for the proper craft needed to fulfill the obligations of this Subcontract.
3. Subcontractor agrees to defend, indemnify, and hold harmless the Contractor for any violations of the above-referenced California Labor Code provisions that were caused by Subcontractor's failure to comply with California Labor Code sections 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815 provisions or with any other applicable provision of the California Labor Code.

**AFFIDAVIT OF COMPLIANCE WITH CALIFORNIA PREVAILING WAGE
LAW, CALIFORNIA LABOR CODE SECTIONS 1720-1815**



CHECKLIST OF LABOR LAW REQUIREMENTS

(for use on projects for which the DIR monitors labor compliance)

REQUIREMENTS / REQUIRED DOCUMENTATION / HELPFUL WEB SITES / CERTIFICATION

REQUIREMENTS

The Prime Contractor and all subcontractors, including listed, replacement and sub-tier subcontractors, performing work on this public work project for are subject to federal and state labor law requirements which are composed of, but not limited to the following items:

- **Prevailing Wage Required:** Public works contract provisions require the Contractor and all subcontractors to pay all workers employed on the project not less than the specified general prevailing wage rates for the work classification in which they are performing. Subcontractor shall forfeit to Contractor, as a penalty, not more than two hundred dollars (\$200.00) for each calendar day or portion thereof for each worker paid less than the prevailing wage rates as determined by the California Director of Industrial Relations for the work in which the worker is employed for any portion of the Work done by Subcontractor. They amount of the penalty shall be determined by the California Labor Commissioner pursuant to applicable law. Such forfeiture amounts shall be deducted from the Subcontract Sum payable under Subcontract.

The Contractor or any subcontractor is responsible for ascertaining and complying with all applicable general prevailing wage rates for trades workers and any rate changes that may occur during the term of the contract. Prevailing wage rates and rate changes are to be posted at the job site for workers to view. Prevailing wage determinations for journeymen can be obtained at: <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>.

- **Overtime:** The time of service of any worker employed upon public work is limited and restricted to eight hours during any one calendar day, and 40 hours during any one calendar week (Labor Code Section 1811). Overtime (not less than 1-1/2 times basic rate of pay) must be paid for all work performed by employees on public work in excess of eight hours per day, and 40 hours during any one week. **If a contractor or any subcontractor requires its workers to work a four ten-hour-day work week, the contractor or subcontractor is required to pay its workers eight hours straight time and two hours in overtime for each day worked of that week (Labor Code Section 1815).**

Saturday Work: The prevailing wage determinations for some crafts permit contractors to pay straight time rates for Saturday work if certain conditions are satisfied. Any such exception from the general prevailing wage requirements is construed narrowly in accordance with its express terms. **Furthermore, the exception must be included in the applicable prevailing wage determination in order to apply.** The DLSE will not recognize exceptions which may exist in underlying collective bargaining agreements which rates are adopted by the Director for purposes of public works, unless the Director also adopts the exception, and it is included in the determination.

- **Apprentices:** Contractor and all subcontractors shall employ registered apprentices on public works projects in accordance with Labor Code Section 1777.5. Prevailing wage determinations for apprentices can be obtained at: <http://www.dir.ca.gov/OPRL/pwappwage/PWAppWageStart.asp>. Please see *Required Documentation* below for apprenticeship forms required on CSU contracts for public work.
- **Penalties:** Penalties, including forfeitures and debarment, shall be imposed for Contractor or subcontractor failure to pay prevailing wages, failure to maintain and submit all requested documentation, failure to employ apprentices, failure to pay overtime, and failure to pay employees for all hours worked at the correct prevailing wage rate, in accordance with Labor Code Sections 1775, 1776, 1777.7, and 1813.
- **Certified Payroll Records:** Per Labor Code Section 1776, Contractor and all subcontractors are required to keep accurate payroll records which reflect the name, address, social security number, and work classification of each employee; the straight time and overtime hours worked each day and each week; the fringe benefits; and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee hired in connection with a public works project. In the event that there has been no work performed during a given week, the Certified Payroll Record shall be annotated "No Work" for that week.

The Contractor's and subcontractors' payroll records shall be available for inspection at all reasonable hours, and a certified copy shall be made available upon request to the employee or his or her authorized representative, the Division of Labor Standards Enforcement, the Division of Apprenticeship Standards, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to section 329 of the Unemployment Insurance Code, and



other law enforcement agencies investigating violations of law. Please see *Required Documentation* below for payroll record submittal requirements on **Marvulli, Inc.** contracts for public work.

- **Kickback Prohibited:** Per Labor Code Section 1778, contractors and all subcontractors are prohibited from accepting, taking wages illegally, or extracting “kickback” from employee wages.
- **Acceptance of Fees Prohibited:** Contractor and all subcontractors are prohibited from exacting any type of fee for registering individuals for public work (Labor Code Section 1779); or for filling work orders on public works contracts (Labor Code Section 1780).
- **Listing of Subcontractors:** Contractors are required to list in their bids all subcontractors hired to perform work on a public works project when that work is equivalent to more than one-half of one percent of the total effort (Public Contract Code Section 4100, *et seq.*). Any scopes of work that do not have listed subcontractors are required to be self-performed.
- **Proper Licensing:** Contractor and all subcontractors are required to be properly licensed. Penalties will be imposed for employing workers while unlicensed (Labor Code Section 1021 and Business and Professions Code Section 7000, *et seq.* under Contractors State License Law).

Public Works Registration: Contractor and all subcontractors must be registered as eligible to bid and work on public works projects (Labor Code Section 1725.5). Go to <https://cadir.my.site.com/registrations/s/login/> to register.

- **Unfair Competition Prohibited:** Contractor and all subcontractors are prohibited from engaging in unfair competition (Business and Professions Code Sections 17200-17208).
- **Workers’ Compensation Insurance:** Contractor and all subcontractors are required to be insured against liability for workers’ compensation, or to undertake self-insurance in accordance with the provisions of Labor Code Section 3700 (Labor Code Section 1861).
- **OSHA:** Contractor and all subcontractors are required to comply with the Occupational, Safety and Health laws and regulations applicable to the particular public works project.
- **Travel & Subsistence:** Contractor and all subcontractors shall make travel and subsistence payments as defined in the applicable collective bargaining agreement, under each classification, filed with the Director of Industrial Relations (Labor Code Section 1773.1). To see Travel and Subsistence, look to the right of each classification, under “Holidays scope of work, travel & subsistence”, select and click on “Travel”. See the DIR web site: <http://www.dir.ca.gov/OPRL/PWD/index.htm>.

REQUIRED DOCUMENTATION

Certified Payroll Records

All subcontractors of every tier shall submit certified payroll records to **Marvulli, Inc** on a weekly basis. Such certified payroll records shall be provided no later than five (5) calendar days following the last day of each workweek. Failure to provide certified payroll records shall resulting delay of progress payments due under the Subcontract. Progress payments may be withheld by **Marvulli, Inc.** until complete compliance with the provisions hereof.

Contractor, Subcontractor and all sub-tier subcontractors are required to furnish certified payroll records directly to the State Labor Commissioner, using the State of California’s electronic certified payroll (eCPR) system. Certified payroll records must be submitted at least monthly, or more frequently if required by the public works contract. To submit to the eCPR systems go to the State of California’s website at: <https://www.dir.ca.gov/Public-Works/Certified-Payroll-Reporting.html> , in accordance with Labor Code section 1771.4.

Apprenticeship

As previously stated, Contractor and all subcontractors, including listed, replacement and sub-tier subcontractors, shall employ registered apprentices on public works projects in accordance with Labor Code section 1777.5. A comprehensive overview of all apprenticeship requirements for State of California public works projects and required apprenticeship forms are available on the following website: <http://www.dir.ca.gov/das/publicworks.html> (follow links regarding public works). Prevailing wage rates for apprentices are available at <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>.

Contractor and subcontractors, including listed, replacement and sub-tier subcontractors, shall review this information at the time of contract award and comply with all regulations regarding usage of apprentices on public works projects, as these regulations will be strictly enforced.

Per Labor Code section 1777.5, all contractors and all subcontractors awarded work on a public works project are required to do the following tasks.

1. **Submit Contract Award Information** (Form DAS-140)

Contractors who are not already approved to train by an apprenticeship program shall provide contract award information to all of the applicable apprenticeship committees whose geographic area of operation includes the location of the public works project. Submit contract award information for each apprenticeable craft or trade to the apprenticeship committee in the area that includes the location of the public works project and that has approved the contractors, who are participants in an approved apprenticeship program, to train apprentices. See Title 8, California Code of Regulations, Section 230.

The contract award information shall be in writing and may be submitted on a Public Works Contract Information Form (DAS-140, <https://www.dir.ca.gov/DAS/DASForm140.pdf>). The filing of a DAS-140 is not a request for dispatch of registered apprentices. **The information shall be provided to the applicable apprenticeship committee within ten (10) days of the date of the execution of the prime or subcontract, but in no event later than the first day in which the contractor has workers employed on the public work.** See Title 8, California Code of Regulations Section 230.

2. **Employ Registered Apprentices** (Form DAS-142, <http://www.dir.ca.gov/das/DASForm142.pdf>)

Contractor and all subcontractors, including listed, replacement and sub-tier subcontractors, must employ registered apprentices on the public works project in a ratio of not less than one (1) hour of apprentice work for every five (5) hours performed by a journeyman. See Title 8, California Code of Regulations, Section 230.1.

All contractors who are not employing sufficient registered apprentices to comply with the one-to-five ratio, must request dispatch of required apprentices from the apprenticeship committees providing training in the apprenticeable craft or trade, and whose geographic area of operation includes the site of the public work by **giving the committee written notice of at least 72 hours** (excluding Saturdays, Sundays and holidays) **before the date on which apprentices are required.** Contractors who are not already participating in an approved program, and who did not receive sufficient number of apprentices from their initial request, must request dispatch of apprentices from another committee providing training in the applicable craft or trade, in the geographic area of the site of the public work, and must request apprentice dispatch(es) from each such committee, either consecutively or simultaneously, until the contractor has requested apprentice dispatches from each such committee in the geographic area. All requests for dispatch of apprentices shall be in writing, sent by first class mail, facsimile or e-mail. See 8, California Code of Regulations, Section 230.1(a).

3. **Make Training Fund Contributions** (Form CAC-2 or equivalent, <http://www.dir.ca.gov/das/DASCAC2.pdf>)

All contractors shall make training fund contributions in the amount established in the prevailing wage rate publication for journeymen and apprentices. Contractors who contribute to an apprenticeship program are entitled to a full credit in the amount of these contributions. Contractors who do not contribute to an apprenticeship program must submit their contributions to the California Apprenticeship Council, P.O. Box 420603, San Francisco, CA 94142-0603. **Training fund contributions are due and payable on the 15th day of the month for work performed during the preceding month.**

Training contributions to the Council shall be paid by check and shall be accompanied by a completed Training Fund Contributions Form (CAC-2), or a form containing the following ten items. See Title 8, California Code of Regulations, Section 230.2(c), <https://www.dir.ca.gov/DAS/tf/cac2.asp>.

- The name, address, and telephone number of the contractor making the contribution.
- The contractor's license number *and* DIR public works registration number.
- The name and address of the public agency that awarded the contract.
- The jobsite location, including the county where the work was performed.
- The contract or project number.
- The time period covered by the enclosed contributions.
- The contribution rate and total hours worked by apprenticeable occupation.
- The name of the program(s) that provided apprentices, if any.
- The number of apprentice hours worked, by apprenticeable occupation and by program.

HELPFUL WEB SITES

California General Prevailing wage determinations:

For journeymen: <http://www.dir.ca.gov/OPRL/PWD/index.htm>

For apprentices: <http://www.dir.ca.gov/OPRL/pwappwage/PWAppWageStart.asp>



Director's Office of Policy, Research and Legislation (OPRL): http://www.dir.ca.gov/OPRL/Statistics_Research.html

Division of Labor Standards Enforcement: <http://www.dir.ca.gov/DLSE/dlse.html>

Division of Apprenticeship Standards: <http://www.dir.ca.gov/DAS/das.html>

California Apprenticeship Council: <http://www.dir.ca.gov/CAC/cac.html>



CERTIFICATION

In accordance with State laws, along with **Marvulli, Inc.** Contract Documents, the undersigned Contractor hereby certifies that he/she will comply with all labor law requirements and fully understands that failure to comply will subject Contractor to payment withholds, penalties, and forfeitures as prescribed by State law. The Contractor further acknowledges that labor law requirements were explained to the Contractor and listed subcontractors at the prevailing wage portion of the Preconstruction Meeting for this project. In the event a listed, replacement or sub-tier subcontractor was not in attendance at the meeting, the Contractor assumes responsibility of informing said subcontractor of all labor law requirements and enforcing compliance. Further the Contractor is responsible to obtain and submit the signed acknowledgement below for all subcontractors (including listed, replacement and sub-tier subcontractors).

ACKNOWLEDGEMENT

I acknowledge that the aforementioned labor law requirements for this project have been explained to me. This checklist will be distributed for signature at the time of contract award to all subcontractors (including listed, replacement and sub-tier subcontractors) employed on this project.

Project Name and ID No.: _____ **PROJECT NAME** _____

SUBCONTRACTOR

Contractor [Official Company Name]

By: _____
Signature Date Signed

Printed Name (First & Last) and Title of Person Signing

Contractor above is (check one): ☐ Prime Contractor
☐ Listed or Replacement Subcontractor
☐ Sub-tier Subcontractor

If Contractor above is a sub-tier subcontractor, insert name of Contractor that issued the subcontract

Marvulli, Inc.

By: _____
Signature Date Signed
[Print Name], Construction Project Manager