

PROJECT SUBCONTRACT AGREEMENT BETWEEN GERSHENSON CONSTRUCTION CO., INC. AND SUBCONTRACTOR

CONTRACTOR:	Gershenson Construction Co., Inc.
ADDRESS:	2 Truitt Drive Eureka, Missouri 63025
TELEPHONE:	(636) 938-9595

<u>SUBCONTRACTOR:</u>	
ADDRESS:	
TYPE OF WORK:	See Page 2
CONTRACT AMOUNT:	See Page 2

This Subcontract Agreement ("Subcontract Agreement"), entered into this ___ day of _____, ____ by and between **Gershenson Construction Co., Inc.**, a Missouri corporation, hereinafter called "Contractor", and _____, hereinafter called "Subcontractor," for subcontract work hereinafter called "Subcontract Work" or "Work" on the following project:

- PROJECT NAME:**
- LOCATION:**
- CONTRACTOR'S PROJECT NO:**
- ARCHITECT AND/OR ENGINEER:**
- OWNER:**
- ESTIMATED DATE TO BEGIN WORK:**
- DAYS TO COMPLETE:**
- COMPLETION DATE:**

The term "Contract Documents" used herein includes all portions of the agreement between Contractor and Owner (except private financial data) and all Advertisements for Bids, Instruction to Bidders, Bid Documents, all Addenda, Plans, Drawings, Specifications, General and Special Conditions, Special Provisions, Guarantees, and all other documents forming or by reference made a part of such agreement. "Owner," as described herein, is the person with whom Contractor has executed the general contract.

WITNESSETH:

Contractor and Subcontractor, for and in consideration of the mutual promises and agreements by and between the parties agree as follows:

1. Subcontractor's Responsibilities. Subcontractor acknowledges that all of the Contract Documents are available in or through the Contractor's office and Subcontractor represents that it has carefully examined or had the opportunity to examine all of said Contract Documents and is familiar with the terms and condition thereof, and that Subcontractor and its subcontractors, if permitted, and suppliers will be bound by any and all parts of said Contract Documents, insofar as they relate to the Work undertaken herein.

Subcontractor represents that it has visited the project site(s) and Subcontractor has satisfied itself and has become fully acquainted with the nature and location of the Work contracted for hereunder, the general and local conditions, particularly those bearing upon transportation, disposal, handling, and storage of materials, availability of labor, water, and electric power, roads, utilities, weather conditions, river stages or similar physical conditions, the conformation and conditions of the ground, the soil structure and subsurface conditions, including rock, obstructions, actual levels, excavating, filling-in, the character of equipment and facilities needed preliminary to and during prosecution of the work, the probability of the new tax levies or increases in taxes, cost of materials and wage rates, the availability and delivery of any equipment and material, and all other matters which in any way might affect the Work under the Subcontract Agreement, or the cost thereof.

2. Scope of Work/Contract Amount. The Subcontractor agrees to conform all Work to the Contract Documents. The Subcontractor agrees at its own cost and expense to perform all work, furnish all shop drawings, samples, testing, layout, supervision, labor, material, supplies, tools, equipment, permits, licenses, insurance, and all other items necessary or incidental thereto as may be required by Contractor or Owner, including payment of all royalties, sales tax and other taxes, necessary for completion, or as required by the Contract Documents of the Work:

Bid Item	Description	Unit Price/Unit
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*All work to conform to plans and specifications dated _____ prepared by _____ for _____.

See "Exhibit A" for "Insurance Requirements".

3. Standard of Work. The Subcontract Work in all respects shall be of the best quality material and workmanship performed by highly experienced and skilled workmen.

4. Warranty. Subcontractor agrees that all Subcontract Work shall be fully warranted in all respects for a minimum period of one year from the date of acceptance by Owner or as otherwise stated in the Contract Documents if longer, and, upon notice from the Contractor, Subcontractor will promptly correct any defective Work and/or materials at the Subcontractor's sole expense.

5. Commencement of Work. Subcontractor agrees to begin the Work on the date shown on page one (1) or such earlier or later time as directed in writing by Contractor. Should either an earlier or later date be set by Contractor for Subcontractor to begin the Work than as shown on page one (1), the Subcontractor shall begin the Work within forty-eight hours after being so directed by Contractor. Subcontractor agrees to complete all Work within the time specified on page one (1). If work is added to, changed, or deleted from the Subcontract Work, Subcontractor shall perform said Subcontract Work in a proportionately greater or lesser time as said addition, change, or deletion proportionately increase or decreases the Subcontract Work.

6. Partial Payments. Subcontractor agrees to submit to the Contractor's principal office on or before the 25th date of each month an estimate of the Subcontract Work completed. If found correct by the Contractor, in its sole discretion, such estimate shall be included in Contractor's billing to the Owner for such month. Contractor will reduce each payment to Subcontractor by the same retention percentage as the Contractor's payment from Owner is reduced and will retain such amount. The amount so retained shall become payable to Subcontractor only after final completion of Work by Subcontractor, acceptance thereof by Owner and after receipt by Contractor of its final payment from Owner for the Subcontract Work; provided that Subcontractor shall have furnished Contractor and Owner with a release of all claims and liens against Contractor and Owner pertaining to Subcontractor, its Work, and its suppliers and Subcontractors. Subcontractor's application for payment shall be provided to the Contractor in the following format:

PROJECT: _____

PAYMENT APPLICATION NO. _____

PERIOD: _____, 20__ ; THRU _____, 20__

Original Contract Amount	\$ _____
Approved Change Order Nos. _____	\$ _____
Adjusted Contract Amount	\$ _____
Value of Work Completed to Date (itemized and extend each bid item separately)	\$ _____
Value of Approved. Change Ord. Completed	\$ _____
Gross Total to Date	\$ _____
Less Previous Gross Billings	\$ _____
Gross Amount Due this Month	\$ _____
Less Retainage	\$ _____
Amount Due This Application	\$ _____

Each application shall be submitted by Subcontractor as above stated and certified by a duly appointed officer of Subcontractor who is authorized to provide and certify such information to Contractor as true and accurate.

7. Job Site Protection. Subcontractor shall protect its Work and provide its own traffic control. In the event that the Contractor provides barricades, the Subcontractor is responsible for placing such Contractor-provided barricades in positions consistent with applicable safety standards. At a minimum, at the conclusion of each day of Subcontractor operations, or more regularly if dictated by circumstance(s), Subcontractor will review the project site and place barricades (and/or re-install barricades) in positions which protect the safety of the general public, the Work, employees and independent contractors, and safeguard the Contractor's property and the site effort.

8. Lien Waivers. Subcontractor agrees to supply Contractor with lien waivers, in a form acceptable to Contractor, from Subcontractor, and all its subcontractors, if permitted, and material and equipment suppliers of Subcontractors, prior to each pay period for all materials supplied and Work performed by Subcontractor or its subcontractors, if permitted, and its suppliers, for the Work performed during the work period covering that period of time for which the payment is requested. If Subcontractor fails to supply lien waivers for said payment, then Contractor may, in its sole discretion, withhold payment to Subcontractor, or decline to include Subcontractor's pay request to Owner, until appropriate and approved lien waivers have been provided. Subcontractor will obtain all additional lien waivers from any lower tier subcontractor or supplier upon request by Contractor.

Subcontractor further certifies that the following list itemizes **ALL** suppliers, subcontractors (if permitted) and others acting for the Subcontractor in connection with the Subcontract Work: **(NOTE: NO SECOND TIER SUBCONTRACTING EFFORT ALLOWED ON THIS CONTRACT UNLESS SPECIFICALLY PROVIDED IN WRITING)**

Supplier	Description	Amount

Any deviation from the above list shall be submitted to the Contractor for prior written approval.

9. Payment. Payments which would otherwise be due Subcontractor under this Subcontract Agreement or any other contractual arrangement between Contractor and Subcontractor may be withheld or offset in whole or in part by Contractor on account of: (a) defective materials or work by Subcontractor, (b) claims or liens, or any notice thereof, whether accurate or spurious against Subcontractor, (c) any breach by Subcontractor of any provision or obligation of this Subcontract Agreement or any other contractual arrangement, (d) any doubt that the Subcontract Work can be completed for the balance of the unpaid Contract Amount, or (e) any reasonable doubt by Contractor that the Subcontractor, for any reason, is unable to complete the Subcontract Work. If the foregoing causes are remedied or adjusted to Contractor's satisfaction, the withheld payments shall promptly be made. If the said causes are not so remedied or adjusted, Contractor may, in addition to any other remedy including termination of this Subcontract Agreement, remedy the same from Subcontractor's account and charge the entire cost thereof to Subcontractor, as provided in paragraph 26.

All sums tentatively earned by Subcontractor by the partial or complete performance of the Subcontractor Work and any balance of unearned Subcontract funds shall constitute a trust fund for the purpose of full completion of the Subcontract Work, payment to the subcontractors, laborers, material and service suppliers of Subcontractor who contributed to the performance of the Subcontract Work, and payment of any back charges, legal expenses, and related costs or claims due Contractor from Subcontractor. Such tentative earnings shall not be due or payable to Subcontractor or anyone else claiming in Subcontractor's place and stead, including but not limited to a Trustee in bankruptcy or receiver, until and unless such Subcontract Work is fully completed to Contractor's satisfaction and such persons are fully paid and satisfied.

10. Final Payment/Retainage. If Subcontractor shall fulfill this Subcontract Agreement to the satisfaction of Contractor and Owner, then to the extent that Owner pays Contractor for Subcontractor's work, the Contractor agrees to pay Subcontractor the sum shown on Page 2 subject to additions and deductions as hereinafter provided. Subcontractor agrees that Contractor shall have no obligation whatsoever to pay Subcontractor for any work performed under this Subcontract Agreement until and unless Contractor has been paid for such work by Owner, which payment shall be an express condition precedent to any obligation of Contractor to Subcontractor to pay for any work, including changes and extra work performed hereunder. Notwithstanding and without waiver of the foregoing, and any other provisions of this Subcontract Agreement, Contractor may, in its discretion, pay any part of the Contract Amount at an earlier time than otherwise specified herein. Within ten days after the Contractor has received full payment from Owner, Contractor shall pay to Subcontractor the amount which the estimate of Contractor shows Subcontractor has earned during the period covered by such estimate for Work performed by Subcontractor under the provisions of this Subcontract Agreement and for which Contractor has received payment from Owner. Such final payment shall be made within ten days after same becomes payable and will be based upon the calculated final quantities of work installed, as measured and accepted by the Owner. Subcontractor's acceptance of payment shall constitute full release of all claims by Subcontractor.

No certificates issued or progress payment made under this Subcontract Agreement, including the final payment, shall be considered an acceptance of any part of the Work under this Subcontract Agreement, such Work being subject to final inspection and approval by Owner, warranties, guaranties and other continuing obligations of Subcontractor, submittal of final lien waivers, and any other documentation required from Subcontractor, its subcontractors, if permitted, and suppliers.

11. Negotiations, Change Orders & Claims. Subcontractor agrees not to enter into any separate negotiations with the Owner or General Contractor for any additions, deletions, and change orders, etc., affecting the Work to be performed under this Subcontract Agreement, other work on the project, or the Contract Amount herein stipulated. All negotiations regarding the project or site of the project are to be conducted through and approved by Contractor.

Should Subcontractor agree to an addition, deletion or change order, in the quantity of Work herein contained without the consent of Contractor, Subcontractor shall be liable for all direct and indirect losses incurred by Contractor including attorneys' fees and expenses arising from such unauthorized action.

Any claim for an extension of time or an increase in the Contract Amount shall be given to the Contractor in written form within ten (10) days after the occurrence of the event-giving rise to such claim, or less time if the Contractor's agreement with the Owner so provided. This notice shall be given by Subcontractor before proceeding to execute the Work. No claim shall be valid unless so made within such time period. Any changes in the Contract Amount or additional time resulting from such claim shall be authorized by Change Orders approved by the Contractor in writing.

No payment of any kind, for compensation, or for damages, or otherwise, shall be made to Subcontractor because of any delay even though Subcontractor's extension of time request be granted, unless Owner is obligated to pay Contractor compensation or damages because of such delay, and then, as and when the Owner pays such compensation or damages to Contractor, Subcontractor shall receive that share of such compensation or damages which can be agreed to or proven to have been directly attributable to such delay.

12. Project Cooperation. It is understood and agreed that this Subcontract Work may constitute only a part of the work being performed for Owner by Contractor and/or others. Subcontractor, therefore, agrees to perform the Work called for hereunder in such manner as not to impede, injure or damage any other work being performed by Contractor or others, and further agrees to pay for any damage that may be caused to such work by Subcontractor or its subcontractors, suppliers, invites and others acting for the benefit of the Work to be performed hereunder and their respective agents, servants and employees.

Subcontractor further agrees to cooperate fully in all respects with Owner, Contractor and others working on the project and agrees to notify Contractor immediately of any conflict incurred by Subcontractor. Subcontractor agrees to notify Contractor immediately if the area in which Subcontractor is to work is unavailable or incapable of being worked on by Subcontractor due to some interference either by physical or design conflicts by Contractor or others. All notices shall be in writing.

Subcontractor shall, prior to commencing with its Work, inspect the area in which it is going to work in order to determine that the work performed by others is in a suitable condition. Should this inspection show a deficiency in materials, incorrect grades/elevations, etc., or improper installation by others, then Subcontractor shall immediately inform Contractor of its findings in writing and shall not proceed unless instructed by Contractor. If Subcontractor proceeds with its Work without such notice, Subcontractor shall be deemed to have accepted the work performed by others and any costs, which may arise, by such actions.

13. Site Cleanup. Subcontractor shall clean up and where appropriate, broom clean all waste and debris connected with its work on a daily basis and deposit this waste in an approved manner. Failure to comply will permit Contractor, in its discretion, to clean up the work or debris and charge the cost of same to Subcontractor and deduct same from payments due to Subcontractor.

14. Signs. Subcontractor shall not place signs of any kind upon project site without prior written approval of Contractor.

15. Tools and Equipment. If Subcontractor shall use Contractor's tools or equipment, Subcontractor shall do so at its sole risk. Contractor shall be reasonably compensated by Subcontractor for use of such tools and equipment. In the event that one or more of Contractor's personnel operate said tools or equipment for Subcontractor, said personnel shall be employees of Subcontractor for all purposes while so operating said tools or equipment, whether or not such personnel are placed on Subcontractor's payroll and shall be fully covered by Subcontractor's insurance for operation of such equipment. Should Subcontractor fail to compensate such personnel by placing them on its payroll, Contractor may compensate such personnel on behalf of and for the account of Subcontractor according to usual wage rates, and deduct such compensation, together with the rental due for the use of such tools and equipment from payments due to Subcontractor.

16. Union Subcontractor Provisions and Work Assignments. If, on the project covered by this Agreement, Subcontractor employs or utilizes employees to perform the work of laborers, operating engineers, cement masons and/or carpenters and is not a party to a collective bargaining agreement for the performance of such work with the Laborers District Council of Eastern Missouri, Operating Engineers Local 513, Cement Masons Local 527 and the St. Louis-Kansas City Carpenters Regional Council, then Subcontractor shall pay at least the aggregate amount of the wages and fringe benefits contained in the respective collective bargaining agreement for each of Subcontractor's employees performing work covered by each such agreement when the employee is performing that union's work. Subcontractor shall also comply with the working conditions and working rules contained in each union's collective bargaining agreement for each such employee who performs work covered by that agreement. If Subcontractor employs any employees performing Laborers work on this project, it shall execute the Laborers Supplemental Job Labor Standards Agreement attached to this Subcontractor Agreement as Appendix A.

Subcontractor agrees to make work assignments consistent with decision of record and agreements of record between labor organizations. In the absence of a decision or agreement of record between labor organizations, assignments shall be made based upon established trade and area practice.

17. Discharge of Employees. If any person employed by Subcontractor on the Work should appear to the Contractor, in its sole discretion, to be incompetent or disorderly, the employee shall, at the request of the Contractor be at once discharged and not again employed on any part of the project Work.

18. Civil Rights Compliance. The Subcontractor agrees to comply with the Civil Rights Act of 1964, Executive Orders 11246 and 11395 and all other laws, regulations whether federal, state or local, relating to Civil Rights or Equal Opportunity, including but not limited to prohibitions on discrimination based on Sex, Age, National Origin, Race, Color, Religion, Disability, Veteran's Status, or any other protected status, and to file any and all reports as required.

19. Work Place Safety. The Subcontractor agrees to comply with all federal and state work place safety statutes and regulations including provisions of the Federal Construction Safety Act of 1969, the current guide lines of the Occupational Safety and Health Act of 1970 respecting all work done hereunder, and to indemnify and save harmless Contractor and Owner against all claims, expenses or damages sustained by or arising out of Subcontractor's failure to so comply. Subcontractor shall also implement the Hazard and Communications Standard set forth in 29 CFR section 1910.1200 (a) (1) et. seq.

20. Compliance with Federal, State, Local Law. The Subcontractor shall at all times observe and comply with all federal and state laws, local laws, ordinances, codes, orders, decrees and regulation existing or enacting subsequent to execution of the Subcontract Agreement which in any matter affect the Work.

21. Intellectual Property. If the Subcontractor uses any design, device, material or process covered by letters, patent or copyright, the Subcontractor shall arrange and provide for such use by suitable legal agreement and shall indemnify and save Contractor and Owner harmless from any and all claims for infringement by reason of such use.

22. Independent Contractor. Subcontractor warrants that it is an independent contractor and an employing unit subject, as an employer, to all applicable income tax withholding and unemployment compensation laws. Subcontractor agrees to indemnify and hold Contractor harmless and reimburses Contractor for any expenses or liability incurred under said laws in connection with employees of Subcontractor, including a sum equal to benefit payments to Subcontractor's employees, which are charged to Contractor pursuant to any state unemployment compensation statute.

Subcontractor acknowledges that it controls: (a) the production, purchase and sale, furnishing and delivering, prices and use or consumption of materials, supplies and equipment; (b) the hire, tenure or conditions of employment of employees and their hours of work and rates of and payment of their wages; (c) the keeping of records, making of reports, and the payment, collection, and/or deduction of Federal, State and Municipal taxes, and (d) compliance with all Federal, State and Municipal laws ordinances and regulations.

In the event of picketing of Subcontractor or any type of labor relations or employment situation involving Subcontractor which, in the sole discretion of Contractor, adversely affects the construction project, Contractor shall have the right to terminate this Subcontract Agreement and remove Subcontractor from the project and shall not be liable for any penalty for taking such action.

23. Risk of Loss. Subcontractor shall be responsible for, and shall bear all risk of loss or damage, including vandalism, to the Subcontract Work, and all materials, appliances, supplies and equipment until final acceptance thereof by Owner. Subcontractor agrees to pay for any damage that may be caused to other project work by Subcontractor or its subcontractors, suppliers, invitees and others acting for the benefit of the Subcontractor.

24. Indemnification. Subcontractor hereby assumes the entire responsibility and liability for any and all damage or injury of any kind or nature whatsoever (including death resulting therefrom) to all persons, whether employees of the Subcontractor or otherwise, and to all property, caused in whole or in part by, resulting from, arising out of, or occurring in connection with the execution or failure to perform any of the Subcontract Work provided for in this Subcontract Agreement; and if any person shall make a claim for any damage or injury (including death resulting therefrom) to person or property as herein above described, Subcontractor agrees to fully indemnify and hold harmless the Owner, Contractor and its agents, servants and employees from and against any and all loss, expense, damage, or injury including legal fees and disbursements, that Contractor may sustain resulting from, arising out of, or occurring in connection with the execution or failure to perform any of the Work, and Subcontractor agrees to pay on behalf of Contractor upon its demand, the amount of any judgment and Court costs that may be entered against Contractor as a result of the actions or inactions of subcontractor, in any such action without limitation. In the event of any such loss, expense, damage or injury or if any claim or demand for such damages is made against the Owner, Contractor, its agents servants or employees, the Contractor may withhold from any payment due or hereafter to become due to the Subcontractor under the terms of this Subcontract Agreement, an amount sufficient in the Contractor's judgment to protect and indemnify Contractor from any and all such claims, expenses, including legal fees and disbursements, loss, damage or injury, or Contractor, at its discretion, may require the Subcontractor to furnish a surety bond satisfactory to the Contractor guaranteeing such protection, which bond shall be furnished by the Subcontractor within five (5) days after written demand has been made therefore.

25. Insurance. Before commencing the Work described in this Subcontract Agreement, Subcontractor shall procure and maintain at Subcontractor's own expense until completion and final acceptance of the Work at least the following amount of insurance provided by companies acceptable to Contractor and Owner: SEE ATTACHED EXHIBIT "A" "INSURANCE REQUIREMENTS"

Before commencing the Work, Subcontractor shall furnish certificates from all insurance companies showing that the attached required insurance is in full force and effect setting forth the policy numbers, dates of coverage and limits of liability there under and further providing that the insurance will not be canceled, amended or changed in any fashion without at least thirty (30) days prior written notice of such cancellation or change to Contractor directly by said insurance company.

Before commencing work, Subcontractors shall add the Contractor and Owner to the Subcontractor's general liability policy as an "additional insured". Subcontractor agrees that its liability coverage is primary and non-contributing with respect to any other insurance or self-insurance that may be maintained by Contractor or Owner. Subcontractor further agrees to notify its insurer of this provision. Subcontractor shall promptly provide to Contractor certificates of insurance specifying coverage. In the event that Subcontractor's general liability policy requires an endorsement to add the Contractor and Owner as an additional insured, Subcontractor agrees to consult with its insurer and receive such endorsement prior to beginning the work. Subcontractor hereby warrants, represents, and promises to the Contractor and Owner that an endorsement to the policy has been made adding the Contractor and Owner as an "additional insured."

Subcontractor further agrees that it has reviewed the terms and conditions of its general liability policy and consulted with its insurer and hereby warrants and promises that the Subcontractor's general liability policy authorizes the Subcontractor to waive subrogation. In the event that the general liability policy requires an endorsement be made to the policy, Subcontractor agrees to consult with its insurer and receive such endorsement to the policy prior to beginning the work. Subcontractor hereby promises and warrants to the Contractor and Owner that an endorsement to the policy has been made specifically providing for the subrogation waiver.

If Subcontractor fails to procure and maintain such insurance or Bond as herein above provided, Contractor shall have the right to procure and maintain said insurance or Bond for and in the name of the Subcontractor and Subcontractor shall pay the cost thereof and shall furnish all necessary information to make effective and maintain such insurance or Bond. At the option of the Contractor, the cost of said insurance or Bond purchased by the Contractor for the Subcontractor shall be retained from any monies then due or which would thereafter become due to the Subcontractor.

26. Default. In the event Subcontractor should neglect or fail to prosecute the Subcontract Work with due diligence or should cease work, or should fail to perform work in an acceptable manner, or should otherwise violate any provision of this Subcontract Agreement, including, but not limited to, any reason for withholding payment listed in paragraph 9, Contractor may call the same to the attention of Subcontractor by a twenty four (24) hour written notice to Subcontractor ("Notice of Default"). Any attempt by Subcontractor to cure any such claim default during the notice period must be bona fide and effective to correct the default in order to merit rescission of the Notice of Default. If such delay, neglect, failure, violation or other matter or thing complained of still exist after twenty four (24) hours from the date the Notice of Default is received by Subcontractor, then said Subcontractor shall be in default under this Subcontract Agreement whereupon Contractor may complete the remaining Subcontract Work, using either Contractor's own forces or such other subcontractor or subcontractors as Contractor may deem most expedient to complete the Work. In this regard Subcontractor acknowledges that it shall be reasonable for Contractor to employ a reputable substitute contractor upon a cost-plus or time and material basis to complete the Work. Contractor may appropriate or use any and all material and equipment on the site that may be suitable or acceptable or to use such other methods as in its sole opinion may be required for the completion of the Subcontract Work in an acceptable manner. Any loss, cost or expense including, but not limited to legal fees, disbursements and court costs resulting therefrom shall be charged to Subcontractor and against any unpaid portion of the Contract Amount and if any deficiency shall exist between the unpaid balance and the amount insured to complete the Work Subcontractor shall, upon demand, pay the amount of such deficiency to Contractor. If, after the Work has been completed, it is determined that there is a balance due Subcontractor, then the balance due will be paid to the Subcontractor.

In addition to the remedies afforded to and reserved by Contractor in the foregoing paragraph, Subcontractor further agrees to reimburse Contractor for all costs and damages sustained by Contractor due or attributable to delays in performance past the completion date required of Subcontractor under this Subcontract Agreement and the general contract, which cost and damages in addition to Owner charged liquidated damages, if charged, shall include Contractor's additional payroll, supervision, health and welfare benefit payment and insurance and costs of keeping Contractor's equipment, field office, and utilities on the job site for said additional period plus ten percent (10%) of the aggregate of same for general overhead.

27. Liquidated Damages. In the event that Subcontractor fails to perform or delays performance of this Subcontract Agreement, the Work and/or any project work, and such delays cause or contribute to cause Contractor being liable for liquidated damages as set forth in the general contract between Contractor and Owner, then Subcontractor agrees to pay its proportionate share of liquidated damages assessed against Contractor by reason of Subcontractor's delays in performance.

28. Entire Agreement. This Subcontract Agreement and its attached exhibits comprise the entire agreement between the parties. All prior negotiations, quotes, and dealings between them are merged in, integrated and superseded by this Subcontract Agreement which is binding upon and inures to the benefit of the parties and their successors, legal representatives and assigns. Notwithstanding the foregoing, Subcontractor shall not assign this Subcontract Agreement, or sublet or subcontract all or any part of the Work hereunder without the prior written consent of Contractor. All modification of this Subcontract Agreement must be in writing and signed by all parties hereto to be valid.

29. Waiver. Failure by Contractor in any instance to insist upon observance or performance by Subcontractor of any of the terms, conditions, or provisions of this Subcontract Agreement shall not be deemed a waiver by Contractor of any such terms, conditions or provisions, and observance or performance thereof; no waiver shall be binding upon the Contractor unless the same is in writing, signed by the Contractor and shall then be for the particular instance referred to in said writing only; waiver of any one breach shall not be deemed a waiver of any other breach; payment of any sum by the Contractor to Subcontractor shall not be deemed to be waiver of such breach or any other breach.

30. Choice of Law. In the event that any provision of this Subcontract Agreement shall at any time contravene, in whole or part, any applicable law, ruling or regulation, then such provision shall remain in effect only to the extent permitted, and the remaining provisions hereof shall remain in full force and effect. This Subcontract Agreement shall be interpreted under the laws of the State of Missouri, without regard to the conflicts of laws principles thereof. The parties agree that the exclusive venue for any dispute between Contractor and Subcontractor shall be the St. Louis County, Missouri Circuit Court.

31. Government Contract. If the Work is for any agency of the Federal Government, or other governmental agency, Subcontractor agrees to sign and deliver with this Subcontract Agreement a statement acknowledging for the Work the following clauses of the prime contract: "Equal Opportunity", "Davis Bacon Act" , "Contract Work Hours and Safety Standards Act - Overtime Compensation" , "Apprentice and Trainees", "Payrolls and Basic Records" , "Compliance with Copeland Act Requirements" , "Withholding of Funds" , "Subcontracts" and "Contract Termination Debarment." It is understood by the Subcontractor that the above enumerated clauses may not encompass all such clauses that appear in the prime contract and that the Subcontractor is on notice that Subcontractor shall comply with all such clauses whether enumerated or not. Subcontractor shall procure a like statement from any subcontractor for delivery by Contractor to the Owner. Contractor shall have the right to inspect any and all documents and supporting material required by any governmental agency within 24 hours of verbal or written request to Subcontractor. If this work is for a Federal or other governmental agency which issues plans and specification prepared by such agency without an independent Architect or Engineer, all references to Architect or Engineer herein shall be deemed to refer to "Owner."

IN WITNESS WHEREOF, the parties have hereunto executed this Subcontract Agreement the day and year first above written.

CONTRACTOR: Gershenson Construction Co., Inc.

WITNESS:

By: _____
Title: _____
Date: _____

Name: _____
Date: _____

SUBCONTRACTOR:

WITNESS:

By: _____
Title: _____
Date: _____
Telephone: _____
Facsimile: _____
Cellular Phone: _____
E-mail: _____
EIN: _____

Name: _____
Date: _____

EXHIBIT A

INSURANCE REQUIREMENTS FOR ALL SUBCONTRACTORS

Insurance Certificates – Submit one original copy of the certificate of insurance stating complete compliance with the following specifications:

Prior to starting work, the subcontractor shall procure and maintain in force a certificate of insurance signed by an authorized representative of the insurance company. Notwithstanding any other provision of the subcontract, Contractor shall have no obligation to make any payment to subcontractor until Contractor has received such certificates. Certificate shall be forwarded to:

Gershenson Construction Co., Inc.
#2 Truitt Drive
Eureka, MO 63025

Subcontractor's insurance shall be written for the following types and limits and shall be maintained, at their expense, for the life of the Subcontract Agreement.

A. Workers' Compensation & Employer's Liability

1. Coverage A – Statutory
2. Coverage B – Employer's Liability
 - Bodily Injury by Accident \$ 1,000,000 Each Accident
 - Bodily Injury by Disease \$ 1,000,000 Policy Limit
 - Bodily Injury by Disease \$ 1,000,000 Each Employee
3. Waiver of Subrogation in favor of Gershenson Construction Co., Inc. where permitted by law.

B. Commercial General Liability

1. Combined Single Limit \$ 1,000,000 Each Occurrence
\$ 2,000,000 Aggregate
2. Coverage Required: Premises-Operations; Explosion; Collapse Underground; Products/Completed Operations; Independent Contractors; Blanket Contractual Liability; Broad Form Property Damage; Personal Injury Liability
3. Coverage shall include per project aggregate endorsement.
4. Primary Additional Insurance: The following wording must appear on the certificate. We will not accept an endorsement attached to the certificate.

Gershenson Construction Co., Inc., and Owner are additional insured under Subcontractor's general liability policy. Coverage under such policy shall be primary with Gershenson Construction Co., Inc. and the Owner's insurance policies being excess over the Subcontractor's coverage.

C. Commercial Automobile Liability

1. Combined Single Limit of \$ 1,000,000 Each Occurrence
2. Coverage Required: All owned automobiles, non-owned automobiles, and hired automobiles.

If Subcontractor does not own any vehicles, the certificate must show Hired and Non-Owned Automobile Liability and must attach a letter stating that Subcontractor does not own any vehicles.

D. Umbrella Liability \$ 1,000,000

E. Professional Liability (if required) \$ 1,000,000

F. The foregoing policies shall contain a provision that coverage's afforded under the policies will not be cancelled or not renewed until at least thirty (30) days written notice has been given to Gershenson Construction Co., Inc.

G. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting Gershenson Construction Co., Inc.'s interest shall not be effective (1) for such period as the laws of the state (in which this Subcontract Agreement is to performed) prescribed, or (2) until thirty (30) days after the insurer or the Contractor gives written notice to the Contracting Office, whichever period is longer.

CERTIFICATE OF INSURANCE

Date(mm/dd/yy)

PRODUCER Insurance Agent's Name Insurance Agent's Mailing Address Insurance Agent's City, State & Zip	THIS CERTIFICATE IS ISSUE AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND, OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. <div style="text-align: center;">COMPANIES AFFORDING COVERAGE</div> COMPANY A COMPANY B COMPANY C COMPANY D
INSURED Subcontractor's Name Subcontractor's Street Address Subcontractor's City, State & Zip	COMPANY A COMPANY B COMPANY C COMPANY D

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM, OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS, AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY <input checked="" type="checkbox"/> Commercial General Liability Claims Made <input checked="" type="checkbox"/> Occur Owner's & Contractor's Prot _____	**Required** Per Project Aggregate Applies	Eff Date	Exp Date	General Aggregate	\$2,000,000
					Products-Comp/Op Agg	\$1,000,000
					Personal & Adv Injury	\$1,000,000
					Each Occurrence	\$1,000,000
					Fire Damage (Any one fire)	\$ 50,000
					Med Exp (Any one person)	\$ 5,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> Any Auto <input type="checkbox"/> All Owned Autos <input type="checkbox"/> Scheduled Autos <input checked="" type="checkbox"/> Hired Autos <input checked="" type="checkbox"/> Non-Owned Autos _____	**Required**	Eff Date	Exp Date	Combined Single Limit	\$1,000,000
					Bodily Injury (per person)	\$
					Bodily Injury (per accident)	\$
					Property Damage	\$
	GARAGE LIABILITY <input type="checkbox"/> Any Auto _____				Auto Only-Ea Accident	\$
					Other than Auto Only	\$
					Each Accident	\$
					Aggregate	\$
A	EXCESS LIABILITY <input checked="" type="checkbox"/> Umbrella Form <input type="checkbox"/> Other than Umbrella Form	**Required**	Eff Date	Exp Date	Each Occurrence	\$1,000,000
					Aggregate	\$1,000,000
						\$
A	WORKERS COMPENSATION AND EMPLOYERS LIABILITY The Proprietor/ Partner/ Executive Officers are: <input checked="" type="checkbox"/> Incl <input type="checkbox"/> Excl	**Required**	Eff Date	Exp Date	<input checked="" type="checkbox"/> Statutory Limits	\$
					Each Accident	\$1,000,000
					Disease-Policy Limit	\$1,000,000
					Disease-Each Employee	\$1,000,000
	OTHER _____ _____					

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL LIMITS
 SHOW PROJECT NAME AND DESCRIPTION
 Gershenson Construction Co., Inc. and owner, are additional insured under Subcontractor's General Liability Policy. Coverage under such policy shall be primary with Gershenson Construction Co., Inc. and the owner's insurance policies being excess over the subcontractor's coverage. Waiver of subrogation applies in favor of Gershenson Construction Co. Inc. under workers compensation coverage where permitted by law.

CERTIFICATE HOLDER Gershenson Construction Co., Inc. #2 Truitt Drive Eureka, MO 63025	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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