

Subcontract Agreement signed by an authorized representative of the Subcontractor; an initialed copy of the Contract Requirements and Subcontract Procedures; current contracting license number for the state in which the work is being done (Subcontractor warrants that they are properly licensed to do the work listed in this contract); Federal W-9 form if required; applicable submittals; or any other item which may be required by the Owner, Architect or any authority having jurisdiction over this work. The Subcontractor agrees that the Contractor has the right to withhold payment if any of the above information has not been provided to the Contractor or any of it has expired and current information has not been given to the Contractor as a replacement.

ARTICLE IV - JOB SITE CLEAN-UP

- 4.1 The Subcontractor shall take care of all of its building materials on the job site.
- 4.2 In carrying out his work the Subcontractor shall take all necessary precautions to protect the finished work of other trades from damage caused by its operations, and shall be liable to the Contractor for all such damage.
- 4.3 The Subcontractor shall at all times keep the job site clean of debris arising out of the operations of the Subcontract. If the Subcontractor fails to do so, the Contractor may clean the building and premises of the debris and charge the cost of such cleaning to the Subcontractor.

ARTICLE V - WARRANTIES, BONDS

- 5.1 The Subcontractor warrants that all materials and equipment furnished and incorporated by it in the project shall be new unless otherwise specified, and that all work under this Subcontract shall be of good quality, free from faults and defects and in conformance with the Contract Documents. All work not conforming to these standards may be considered defective.
- 5.2 If at any time during one (1) year from the date of completion and acceptance of the work by the Owner, or later, if so provided in the General Contract between the Contractor and the Owner, any part of the materials or workmanship furnished by the Subcontractor shall prove to be defective, or not in conformance with the plans and specifications, the Subcontractor shall upon receipt of written notice to this effect from the Contractor, repair or replace such defective work to the satisfaction of the Contractor, without cost to the Contractor or Owner.
- 5.3 Should Contractor so require, Subcontractor shall furnish the names and addresses of all material suppliers furnishing materials to the Subcontractor for use in the work.
- 5.4 (If applicable) Subcontractor specifically consents to the provisions of A.I.A. Document A201 General Conditions as required by 5.3.6 of the General Conditions.

ARTICLE VI - COMPLIANCE WITH LAWS, LABOR AGREEMENT

- 6.1 The Subcontractor shall give all notices and comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the work under this Subcontract. The Subcontractor shall secure and pay for all permits, fees and licenses (unless otherwise directed by the Contractor) necessary for the execution of the work described in the Contract Documents as applicable to this Subcontract.
- 6.2 The Subcontractor shall comply with Federal, State and local laws, including but not limited to Social Security, Unemployment and Workmen's Compensation, Occupational Safety and Health, Equal Employment, environmental, and price control laws, insofar as applicable to the performance of this Subcontract.
- 6.3 Subcontractor specifically understands and agrees that the Contractor will award contracts and employ labor upon the job without regard to whether the employees of any Contractor, Subcontractor or Supplier are members or non-members of any labor organization. The Subcontractor agrees that in the event the work is stopped, delayed or interfered with, as a result of the actions of the employees of the Subcontractor or by a labor dispute directed at the Subcontractor, the Contractor may terminate this Subcontract Agreement and proceed with the remedies set forth in this Agreement.
- 6.4 The Subcontractor acknowledges that they are properly licensed with the State Registrar of Contractors for the work included in this agreement.

ARTICLE VII - SHOP DRAWINGS, SCHEDULING, SAMPLES, ETC.

- 7.1 The Subcontractor shall cooperate with the Contractor in scheduling and performing its work to avoid conflict or interference with the work of others.
- 7.2 The Subcontractor shall promptly submit shop drawings and samples as required in order to perform its work efficiently, expeditiously and in a manner that will not cause delay in the progress of the work of the Contractor or other Subcontractors.
- 7.3 The Subcontractor shall cooperate with the Contractor and other Subcontractors whose work might interface with the Subcontractor's work, and shall participate in the preparation of coordinates drawings in areas of congestion as required by the Contract documents, specifically noting and advising the Contractor of such interferences. The Contractor, however, shall not be liable to the Subcontractor for any delays in scheduling the work to be performed by the Subcontractor.
- 7.4 The Subcontractor shall furnish periodic progress reports, if requested, including information on the status of materials and equipment under this Subcontract which may be in the course of preparation, manufacture or transit.
- 7.5 Time is of the essence. The completion date fixed by the Contract Documents is dependent upon the Subcontractor's timely performance. Therefore, THE SUBCONTRACTOR SHALL START THE WORK WITHIN FORTY-EIGHT (48) HOURS AFTER NOTIFICATION FROM THE CONTRACTOR. The Subcontractor shall employ sufficient men and materials so the Subcontractor's work will be performed and completed in accordance with the Contractor's working schedule. The Subcontractor will reimburse the Contractor for any additional costs of the Contractor or other Subcontractors, including but not limited to overhead and administrative costs, if the Subcontractor causes any delay in the completion date.
- 7.6 In no event will the Subcontractor be allowed more than five (5) calendar days to complete his work. Should the Subcontractor fail to complete the work within the time specified, the Subcontractor shall pay to the Contractor, as liquidated damages, not as a penalty, the sum of \$-0- dollars per day for each and every day required to complete his work beyond the time set forth. The Subcontractor shall not be held responsible for any delays or interruptions caused by the neglect, delay or default of the Contractor, the Owner, the Architect or any other Subcontractor.

ARTICLE VIII - CHANGES IN THE WORK, REQUESTS FOR PAYMENT

- 8.1 The Subcontractor shall make any and all changes in the work from the drawings and specifications of the Contract Documents without invalidating this Subcontract Agreement when specifically ordered to do so in writing by the Contractor. The Subcontractor, prior to the commencement of changes, shall provide Contractor written copies of the cost or credit proposal for such revised work in a manner consistent with the Contract Documents. If the Contractor and the Subcontractor should not be able to agree as to the amount, either in consideration of time or money to be allowed or deducted, it shall nevertheless be the duty of the Subcontractor, upon written notice from the Contractor, immediately to proceed with such alteration or change, and Subcontractor shall be compensated the reasonable value of such additional work. Reasonable value to be the Subcontractor's cost plus a fifteen percent (15%) markup for overhead and profit. Subcontractor's cost shall be made up of actual cost of labor plus labor burden; Cost of materials; Cost of equipment rented from rental companies; And cost of sub-subcontractors (subject to the same cost guidelines as Subcontractor, listed in this paragraph) and any other cost agreed upon in writing by the Contractor and Subcontractor prior to the commencement of the change. Contractor may require Subcontractor and/or any sub-subcontractors to provide payroll records and reports, and invoices from suppliers or rental companies, or any other information the Contractor deems necessary to verify Subcontractor's costs. Subcontractor's and sub-subcontractor's labor spent must be verified daily by the job superintendent. It is the responsibility of the Subcontractor to get the labor verified in writing by the job superintendent daily. Failure to do so may result in the Subcontractor not being compensated for claimed hours spent

on the change. Contractor shall not, however, be liable for a greater sum than Contractor obtains from the Owner for such additional work, less reasonable overhead and profit to the Contractor, and also less professional and counsel fees and costs and expenses incurred by the Contractor in the collection of any such sum of money. The recovery by Subcontractor for such work shall be conditioned upon a prior recovery by Contractor from the Owner. UNDER NO CIRCUMSTANCES SHALL THE SUBCONTRACTOR PROCEED WITH ANY CHANGES IN THE WORK UNTIL SUCH TIME THE SUBCONTRACTOR RECEIVED WRITTEN AUTHORIZATION TO DO SO FROM THE CONTRACTOR.

8.2 Subcontractor agrees to submit all claims for additional costs, extensions of time, damages for delays or otherwise, in sufficient time so that Contractor may comply with the provisions of the Contract Documents for like claims of Contractor upon the Court.

ARTICLE IX - ASSIGNMENT, BANKRUPTCY, FAILURE TO PERFORM, MISC.

9.1 The Subcontractor shall not assign this Subcontract without the written consent of the Contractor, nor subcontract the whole of this Subcontract Agreement without the written consent of the Contractor, nor further subcontract portions of this Subcontract Agreement without written notification to the Contractor when such notification is requested by the Contractor.

9.2 The Subcontractor shall not assign voluntarily or by operation of law such as garnishments, attachments, writs of execution any amounts due or to become due under this Subcontract without the prior written consent of the Contractor.

9.3 In the event of any of the following: 1) the Subcontractor at any time in the opinion of the Contractor refuses or neglects to supply a sufficient number of properly skilled workmen or a sufficient quantity or quality of materials; 2) any proceedings under a Bankruptcy Act should be instituted by or against the Subcontractor or writs of attachments, execution or garnishment are issued against the Contractor for debts, obligations or judgments against the Subcontractor; 3) the Subcontractor becomes insolvent, or makes an assignment for the benefit of creditors; 4) the Contractor, in its sole discretion, reasonably anticipates the Subcontractor will become incapable of satisfactorily performing or completing the work; 5) the Subcontractor fails to pay promptly when due all charges for labor and materials used in the performance of the Subcontract; or 6) the Subcontractor neglects to perform the work properly or fails to perform any provision of this Subcontract, the Contractor at its option, after giving forty-eight (48) hours written notice to the Subcontractor to make good the deficiency, may provide any such labor and materials and/or do all things as may be necessary and deduct the costs from any monies due, or thereafter to become due, under this Agreement. Alternatively the Contractor may immediately terminate the Subcontract Agreement and take possession, for the purpose of completing the work, of all drawings, materials, tools and appliances belonging to or in the custody of the Subcontractor and may finish the work by such means as the Contractor seeks fit, and at the usual and prevailing price for work of this character in the community. In the event of termination, if the unpaid balance of the Subcontract price exceeds the expense of finishing the work, such excess shall be paid to the Subcontractor, but if such expenses exceed the unpaid balance, the Subcontractor shall pay the difference to the Contractor. Inasmuch as the injury or damage to the Contractor by reason of the failure of the performance by the Subcontractor is difficult or impossible to determine with any degree of certainty, it is agreed that in computing the expense of finishing the work as above provided, there shall be added to such expense, all liquidated damages and not by way of penalty, as sum equal to ten percent (10%) of the actual money outlay for such finishing. Any sums owed to Contractor, pursuant to this paragraph, shall be paid by the Subcontractor to the Contractor within five (5) days of demand for payment.

9.4 In the event the Subcontractor claims a breach by the Contractor of any part of this Agreement, the Subcontractor shall within five (5) working days of any such breach, given written notice to the Contractor of such breach setting forth of its claim and the amount of damages claimed. Failure to give such notice shall constitute a waiver by the Subcontractor of the breach and shall release in full the Contractor from any liability to the Subcontractor.

9.5 In the event of litigation arising out of this Contract between the Contractor and Subcontractor, the Subcontractor agrees to pay Contractor's reasonable attorney's fees and costs as determined by Court.

9.6 This Agreement shall be binding upon and inure to the benefits of the parties, their heirs, beneficiaries, administrators, legal representatives, successors, and assigns, subject to the restrictions on Assignment set forth in this Agreement.

9.7 Any notice required or permitted to be given under this Agreement shall be sufficient if in writing, and if sent by registered or certified mail, return receipt requested, or if hand delivered and receipted for by an officer or principal of the Contractor or Subcontractor.

9.8 This Agreement contains the entire Agreement of the Contractor and Subcontractor. It may not be changed orally but only by an amendment in writing signed by the party against whom enforcement of any such amendment is sought.

9.9 This Agreement shall be governed by the laws of the State of Arizona.

9.10 In the event any provision of this Agreement is found to be void, the remaining provisions of this Agreement shall nevertheless be binding with the same effects as though the void part were deleted.

9.11 The addresses listed below shall serve as the addresses in which any notices required or permitted by this contract, shall be sent or delivered.

9.12 Subcontractor acknowledges that he has seen addenda numbers:

9.13 In the event writs of attachment, execution or garnishment, or any of them, are filed against the Contractor in connection with any alleged judgments, debts or liabilities on the Subcontractor, then and in such event all Contractor's costs and expenses, including attorneys fees in connection with such writs shall be paid by the Subcontractor upon demand and if not so paid shall be deducted from any and all sums which may be due the Subcontractor under this Agreement.

9.14 Any controversy or claim arising out of or related to this Contract, or breach thereof, shall be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator or arbitrators shall be final and may be entered in any court having jurisdiction thereof.

ARTICLE X - SUBCONTRACTOR OBLIGATIONS

10.1 Subcontractor agrees that all The Work will be performed under the supervision of the Contractor. The Subcontractor shall perform the work in accordance with and subject to each of the provisions of the Prime Contract to the full extent that each such provision is applicable to The Work. Subcontractor expressly agrees that if the Prime Contract requires the performance of any act or thing by, or imposes any obligation on the Contractor in connection with the performance or completion of any part of The Work, the Subcontractor hereby also assumes such obligations and the Subcontractor shall perform the same to the full extent that the Prime Contract requires of the Contractor. The Contractor shall have the same right and remedies against the Subcontractor with respect to such obligations as the Owner has against the Contractor with the same force and effects as if every such obligation right or remedy were set forth in full herein.

10.2 The Subcontractor shall have present on the job site at all times competent supervision acceptable to the Contractor. The Subcontractor shall have present on the job site at all times competent supervision acceptable to the Contractor. The Subcontractor shall not change supervision unless having received written approval prior to such change. Said supervisor shall have full authorization of Subcontractor and authority to act in Subcontractor's behalf. In the event of supervisor's absence, any employee of Subcontractor shall have the same authority of supervisor.

10.3 It is the intent of this Agreement that should there be any misplacement, additional or omission of a word or character of the Contract Documents, or conflict between the plans and specifications, it shall be the Subcontractor's responsibility to bring same to the Contractor's attention in writing. If the Subcontractor proceeds with The Work it will be considered evidence of his acceptance of the conditions as being correct and to his approval.

10.4 Should the Subcontractor proceed with the installation of The Work on any part of the Project, he is implicitly accepting The Work of others upon which he is building.

10.5 The entire responsibility for proper dimensions for prefabrication of any part of The Work shall rest with the Subcontractor.

10.6 The Subcontractor shall pay for all materials, equipment and labor used in, or in connection with the performance of this Subcontract and shall furnish satisfactory evidence, when requested by the Contractor, to verify compliance with this requirement.

ARTICLE XI - INSURANCE

11.1 Subcontractor shall obtain and submit to the Contractor before any work is performed under the contract certificates from the Subcontractor's insurance carriers indicating coverage with limits of liability as set forth in the Principal Contract, but in no event shall the limits be less than those specified therein:

A. Workmen's Compensation and Occupational Disease, including Employer's Liability subject to a limit of not less than One Hundred Thousand Dollars (\$100,000).

B. Comprehensive general liability to cover the indemnity agreement in Article C, although the existence of insurance shall not be construed as limiting the liability of the Subcontract under this contract. Limits of liability shall not be less than One Million Dollars (\$1,000,000) combined single limits each occurrence for bodily injury and property damage liability. The insurance shall include blanket (broad form) contractual liability coverage. If Subcontractor's work includes blasting, or the grading of land, excavation, borrowing, backfilling, tunneling, drilling, pile driving, cotterdam or caisson work, or includes moving, shoring, underpinning, raising or demolition of any building or structure or removal or rebuilding or any structural support thereof, the comprehensive general liability insurance shall not exclude injury to or destruction of property arising out of or caused by such work. Comprehensive general liability insurance shall include Contractor, the Owner, the Architect and others if required by contract documents as additional insureds and must provide Premises, Operations, Elevator, Independent Contractors, Broad Form Property Damage, Contractual Liability, Products and Completed Operations coverage (which shall be maintained in force for a period of five (5) years after completion of the project or for such longer period of time as is desired in the Contract Documents) and must be endorsed as Primary Non-Contributory to any insurance of the additional insureds. Any "XCU" (explosion, collapse or underground) or similar exclusions written in any policy must be deleted when applicable to operations performed by the Subcontractor. A waiver of subrogation in favor of Construction Company shall also be included.

C. Automobile liability for bodily injury and property damage claims arising out of the ownership, maintenance or use of owned, hired and non-owned vehicles subject to the limits set forth in the Principal Contract but in no event less than Five Hundred Thousand Dollars (\$500,000).

D. The certificates and the insurance companies shall be subject to the approval of the Contractor and shall contain provisions for thirty (30) days prior notice of any important change in or cancellation of the insurance. Subcontractor's insurance certificate shall indicate that coverage is afforded to the Indemnification Clause in Article C and as required in the Principal Contract. The Subcontractor agrees to furnish the Contractor with the same evidence of insurance as described above for each sub-subcontractor employed by the Subcontractor. Should the Subcontractor fail to submit certificates required, the Contractor may take such steps as deemed necessary to provide proper protection and charge all costs incurred to the Subcontractor. This Article shall survive the completion of the Work.

ARTICLE XII - INDEMNIFICATION

12.1 The Subcontractor hereby assumes entire responsibility and liability for any and all damages or injury of any kind or nature whatever (including death resulting therefrom), to all persons whether employees of Subcontractor or otherwise and to all property caused by, resulting from, arising out of, or incurring in connection with his execution of The Work and if any claims for such damage or injury (including death resulting therefrom) be made or asserted, the Subcontractor agrees to indemnify and save harmless the Contractor, and Owner, their officers, agent, servants and employees from and against any and all such claims and further from any and all loss, cost, expense, liability, damage or injury, including legal fees and disbursements that Contractor and Owner, their officers, agent, servants and employees may directly or indirectly sustain, suffer or incur as a result thereof. The Subcontractor, or demand, agrees to and does hereby assume, on behalf of Contractor and Owner, their officers, agents, servants and employees, the defense of any action at law or in equity which may be brought against Contractor, Owner, their officers, agents, servants and employees upon demand, the amount of any judgment that may be entered against Contractor and Owner, their officers, agents, servants and employees in any such action. In the event that any such claim, loss, cost, expense, liability, damage or injury arise or are made, asserted or threatened against Contractor and Owner, their officers, agents, servants or employees, Contractor shall have the right to withhold from any payments due or to become due to the Subcontractor an amount sufficient in Contractor's judgment to protect and indemnify Contractor, Owner, their officers, agents, servants and employees from and against any and all such claims, loss, cost, expense, liability, damage or injury, including legal fees and disbursements or Contractor, in its discretion, may require the Subcontractor to furnish a surety bond satisfactory to Contractor guaranteeing such protection, which bond shall be furnished by the Subcontractor within five (5) days after written demand has been made thereof. THIS AGREEMENT OF INDEMNITY EXPRESSLY INDEMNIFIES CONTRACTOR AND OWNER AGAINST ALL LIABILITY, CLAIMS, SUITS, DAMAGE, LOSS, JUDGMENT OR EXPENSE, INCLUDING ATTORNEY'S FEES, WHICH CONTRACTOR OR OWNER MIGHT INCUR BECAUSE OF CONTRACTOR'S OR OWNER'S NEGLIGENT FAILURE TO DISCOVER OR REMEDY A DANGEROUS CONDITION CREATED BY SUBCONTRACTOR.

ARTICLE XIII - SAFETY

13.1 The Subcontractor, at his own expense at all times, shall take all reasonable precaution to protect persons and property at or adjacent to the site from damage, loss or injury resulting from the Subcontractor, his employees or other agents performance of The Work. If any accident occurs, person is injured, or property damaged at or near the site resulting from the performance of The Work, the Subcontractor shall immediately notify, in writing, the Contractor thereof.

13.2 The Subcontractor shall conform to the basic safety policy of the Contractor, and comply with all specific safety requirements, promulgated by any governmental authority, including without limitation, the requirements of the Occupational Safety Health Act of 1970.

13.3 Subcontractor shall indemnify and hold harmless Contractor from and against all liability, loss, damage, cost, claims, awards, judgments, fines, expense including litigation expenses, reasonable attorney's fee, claims or liabilities for harm to person or properties, expenses incurred pursuant to or attendant to any hearing or meeting and any other applicable costs which may be incurred by Contractor resulting from Subcontractor's failure to fulfill the covenants set forth in this paragraph.

13.4 In the event Subcontractor fails to comply with any order issued by said authority, Contractor may in his discretion exercise the rights and remedies provided under the terms of this Subcontract Agreement.

13.5 The Subcontractor, his employees and other agents SHALL WEAR HARD HATS AT ALL TIMES while on the site. The Subcontractor constantly shall police this requirement.

ARTICLE XIV - CONTRACT DRAWINGS AND SPECIFICATIONS

List of Plans

SHEET NUMBER

TITLE

DATE

Job #, Store # Customer's Name

A0	Title Sheet	3/17/06R
R1	Remodel Region Plan	3/17/06R
D1	Demolition Floor & Ceiling Plan	3/17/06R
A1	Floor & Reflected Ceiling Plan	3/17/06R
A2	Arch. Floor Finish Plan & Partition Type	3/17/06R
A3	Door & Room Finish Schedules	3/17/06R
S2.1	Roof Framing Plan	3/17/06R
M1	Mechanical Floor Plan	3/17/06R
M2	Mechanical Details & Schedules	3/17/06R
P1	Partial Floor Plans, Details & Schedules	3/17/06R
E1	Lighting & Power Plan	3/17/06R
E2	Electrical Details, Schedules & Single Line Diagram	3/17/06R
EC1	Energy Calculations	3/17/06R
EC2	Energy Calculations	3/17/06

Contractor:

McDavid Construction, Inc.
2239 E. Rose Garden Loop
Phoenix AZ 85024
(602) 340-9696

Subcontractor:

(000) 000-0000
License #

By: _____
Title: Vice President

By: _____
Title: _____