

SUBCONTRACT

**THE WHITING-TURNER CONTRACTING COMPANY**

Address Reply to: The Whiting-Turner Contracting Company  
990 Hammond Drive  
Suite 1100  
Atlanta, GA 30328  
770-350-5100  
770-955-8030 fax

SUBCONTRACT NO. 015700-

SUBCONTRACT FOR

SUBCONTRACTOR  
Address

Remittance Address

OWNER University of Kentucky  
411 S Limestone St. #222  
Frank D. Peterson Service Bldg.  
Lexington, KY 40506

PROJECT UK Research Building #2  
760 Press Ave.  
Lexington, KY 40506

This agreement, made this \_\_\_\_\_ day of \_\_\_\_\_, by and between hereinafter called the Subcontractor, and THE WHITING-TURNER CONTRACTING COMPANY, of Baltimore Maryland, with its principal office located at 300 East Joppa Road, Baltimore, Maryland, a body corporate of the State of Maryland, hereinafter called the Contractor,

WITNESSETH, that the Subcontractor and Contractor for the consideration hereinafter named, agree as follows:

**ARTICLE 1. DEFINITIONS--**

(a) As used herein, the following terms shall have the meanings indicated:

"Architect" or "Engineer" means the architect or engineer directing the work as agent of the Owner, or any other person authorized by the General Contract to direct or pass upon any matter or thing connected with the performance of the General Contract.

"Contract Documents" means (a) the General Contract, (b) all general, supplementary and other conditions applicable to the Project, (c) the Drawings and Specifications, and (d) all bulletins and addenda issued in connection with the Project.

"Drawings and Specifications" means the drawings and specifications described in Article 2 hereof, and all addenda and/or revisions thereto.

"General Contract" means the contract executed or to be executed by the Owner and the Contractor in connection with the construction of the Project and any amendments thereto.

Where the contract entered into between Owner and Contractor is a Construction Management Agreement, the term "Contractor" shall be deemed to mean "Construction Manager".

"Subcontract" means this document and all of the Contract Documents which shall be made a part of this Subcontract and are incorporated herein by reference.

(b) Where the term "Contractor" is used in the Specifications, insofar as it has application to the work required to be done by the Subcontractor as provided herein, it shall be deemed for the purposes hereof to refer to the Subcontractor. The term "Contractor" or "General Contractor" when used in the Contract Documents shall be deemed to make reference to the Subcontractor insofar as it has application to the work covered by this Subcontract. The term "Subcontractor" may be referred to as "it" whether Subcontractor is incorporated or not.

**ARTICLE 2. SCOPE OF WORK--**The work to be performed and materials to be furnished by the Subcontractor are as specified in Article 3 hereof and in accordance with Drawings and Specifications prepared by Champlin Architects dated See attached drawing & specifications logs, and as set forth in Exhibit B.

**ARTICLE 3. PROVISION OF LABOR AND MATERIALS--**

(a) The Subcontractor agrees to furnish and pay for all labor and supervision, tools, apparatus, supplies, equipment, and services, and also to furnish, deliver, install, and pay for all materials necessary for the performance and completion of the work described under the Scope of Work, free from all claims and liens of materialmen, suppliers, laborers, truckers, subcontractors, and others making claims through the Subcontractor. All such work shall be done to the satisfaction of the Owner, the Architect and/or Engineer, and the Contractor in accordance with the Contract Documents. Subcontractor agrees to submit daily work reports and monthly progress reports and schedule updates upon request by the Contractor. The Subcontractor agrees that with respect to the Scope of Work hereunder it will stand in the Contractor's shoes with respect to the Contractor's obligations to the Owner under the Contract Documents and will perform all work and obligations as set forth on the Contract Documents to the satisfaction of the Owner. At all times that Subcontractor has personnel at the Project site, it shall also have present an authorized representative of Subcontractor who shall supervise and direct Subcontractor's personnel and be responsible for their actions. Such representative shall be authorized to act on behalf of the Subcontractor and communications to such representative shall be binding upon Subcontractor.

(b) In the event any deviations from the Contract Documents are incorporated in any shop drawings of or by the Subcontractor, such deviations and the reasons therefore shall be fully explained in writing by separate letter to the Contractor and Owner at the time the shop drawings are submitted to the Contractor and Owner. Failure to so specify and explain any such deviation will automatically void any inadvertent approval of the same by the Contractor, Architect, Engineer and/or Owner.

(c) The Subcontractor represents and warrants that it is an expert in the particular line or lines of work herein contracted to be done and that it is competent to know whether the materials, methods and apparatus specified for this work are sufficient and suitable to secure the results contemplated by the Contract Documents. The Subcontractor shall be responsible for fulfilling the requirements of the Contract Documents. Subcontractor agrees to cooperate in carrying out Contractor's quality assurance program including, but not limited to, furnishing necessary documentation and facilitating inspections and quality checks.

(d) In the event that Subcontractor employs union labor the Subcontractor agrees to be bound by the terms and provisions of the agreement establishing the Impartial Jurisdictional Disputes Board, any such successor Board, or any subsequent method agreed to be employers and the unions affiliated with the Building and Construction Trades Department, AFL-CIO, for the settlement of jurisdictional disputes. The Subcontractor also agrees that any assignments of disputed work shall be made in accordance with any agreement of record between the disputing trades, or any published decision of record compiled and published by the Building and Construction Trades Department, AFL-CIO in Agreements and Decisions Rendered affecting the Building Industry.

**ARTICLE 4. DILIGENT PERFORMANCE--**

(a) Subcontractor agrees to commence, pursue diligently and complete the work in such sequence and order and according to such schedules as Contractor shall establish from time to time during the course of the work, and shall perform the work so as not to delay any other trades or contractors, time being of the essence of this Subcontract. Any written dates furnished by the Subcontractor and approved by Contractor and Owner for delivery of materials, samples, shop drawings, etc., shall become a part of this Subcontract. Subcontractor shall furnish information requested by the Contractor in connection with monitoring and updating the Project schedule and shall immediately notify Contractor in writing of any interruption of the work or late delivery which causes or may cause a delay in Subcontractor's performance. No extension of completion date shall be permitted unless approved in writing by the Contractor and Owner, and Subcontractor shall be responsible for any losses or penalties incurred by Contractor as a result of delays in completing Subcontractor's work. If Contractor determines that the Subcontractor is behind schedule or will not be able to maintain the schedule, Subcontractor shall submit a remedial plan to recover, shall work overtime, shift work, or work in an altered sequence, if deemed necessary, in the judgment of the Contractor to maintain the progress of the work. Any such overtime, acceleration, shift or altered sequence work required to maintain progress or to complete the work on a timely basis shall be at Subcontractor's expense and shall not entitle Subcontractor to an extension of time or additional compensation. Contractor may supplement Subcontractor's forces, at Subcontractor's expense, if deemed necessary by the Contractor to maintain the Project schedule. Subcontractor shall be liable to the Contractor for any delay or damages, including consequential or liquidated damages, threatened or assessed against the Contractor to the extent caused by the Subcontractor.

(b) To the fullest extent permitted by applicable law, Contractor shall have the right at any time to delay or suspend the work or any part thereof without incurring liability therefore. An extension of time shall be the sole and exclusive remedy of Subcontractor for any delays or suspensions suffered by Subcontractor, but only to the extent that a time extension is obtained from the Owner, and Subcontractor shall have no right to seek or recover from Contractor any damages or losses, whether direct or indirect, arising from or related to any delay or acceleration to overcome delay, and/or any impact or effect of such delays on the Work.

(c) Subcontractor shall cooperate fully with Contractor in providing promptly any information requested by Contractor in connection with preparation of schedules for the Project, including, but not limited to, detailed information concerning the sequence, beginning and ending dates of activities, cost breakdowns related to such activities, and any information requested for Critical Path Method scheduling if used for the Project. The costs of all such activities on the part of Subcontractor are included in the Subcontract Amount.

(d) In the event of any dispute under this Subcontract or as to the work to be performed, Subcontractor shall continue to diligently perform the work as directed by Contractor without interruption, deficiency or delay.

#### **ARTICLE 5. PAYMENT--**

(a) Payment of amounts due under the Subcontract, shall be made as follows: The Contractor shall, pay to the Subcontractor an amount equal to ninety percent (90%) or such higher percentage as required by applicable law of the value of the work performed by the Subcontractor as determined by the Architect and approved by the Contractor during any calendar month within fifteen (15) days after payment therefor has been received by the Contractor from the Owner, or within such shorter period specified by applicable law, statute or regulation. The Contractor shall be under no obligation to make any payment to the Subcontractor except to the extent that the Contractor has received funds from the Owner for the work invoiced by the Subcontractor; that is to say, the Subcontractor shall not be entitled to payment if for any reason, the Owner fails to pay the Contractor in accordance with the General Contract, such payment from the Owner being a condition precedent to any obligation of Contractor to Subcontractor. Subcontractor expressly assumes the risk of the Owner's non-payment and the subcontract price includes this risk as the Subcontractor understands and acknowledges that it is to be paid exclusively out of a fund the sole source of which is the Owner's payment to the Contractor. The Owner's non-payment to Contractor will result in non-payment to Subcontractor by Contractor. Retainage and any other balance of the Subcontract Amount shall be payable fifteen (15) days or within such shorter period specified by applicable law, after the work under this Subcontract has been completed and accepted by the Owner, Architect, and Contractor and following approval by the Architect of the final application for payment, and settlement of all claims, if any, under this Agreement, provided that Subcontractor has fully performed all of its obligations hereunder. The Contractor is hereby authorized to deduct and offset from any payment an amount equal to any and all sums or obligations owing by the Subcontractor to the Contractor and costs necessary to complete the work to be performed under this Subcontract, and any and all claims liquidated or unliquidated, by the Contractor against the Subcontractor, arising hereunder, under any other contract or agreement between the Subcontractor and the Contractor or from any other liability or obligation of the Subcontractor to the Contractor whether under this Subcontract or otherwise.

(b) The Subcontractor agrees to submit to the Contractor applications for payment by the 25th of each month, or at such other time as provided in the Contract Documents so as to enable the Contractor to timely apply to the Owner for payment. As a condition precedent to the payment of any application, the Subcontractor shall (1) produce waivers of mechanics lien rights and claim releases in the form required by Contractor by Subcontractor and all persons supplying labor or materials to the Subcontractor on the Project through the period covered by the application, or (2) exhibit such other evidence as the Contractor may require that charges for all labor and material have been paid. Any payments made by Contractor to Subcontractor are to be held in trust by Subcontractor for the payment of any lower tier Subcontractor or supplier. The Contractor shall have the right to contact Subcontractor's suppliers and subcontractors of any tier, direct or indirect, to determine the current status of indebtedness and Subcontractor authorizes them to provide such information. Contractor in its discretion may make checks payable jointly to Subcontractor and the supplier or subcontractor or directly to the supplier or subcontractor for the account of the Subcontractor.

(c) Payment by the Contractor to the Subcontractor or for its account shall not be deemed to be an admission or approval by the Contractor of the sufficiency and adequacy of the work covered by the payment.

(d) Notwithstanding any other provisions of this Agreement, Contractor shall be under no obligation to make any payment to the Subcontractor under any provision hereof except to the extent that Contractor has received funds from Owner, payment by Owner being a condition precedent to payment of the Subcontractor. Subcontractor expressly assumes the risk of the Owner's non-payment and the subcontract price includes this risk as the Subcontractor understands and acknowledges that it is to be paid exclusively out of a fund the sole source of which is the Owner's payment to the Contractor. The Owner's non-payment to Contractor will result in non-payment to Subcontractor by Contractor. Notwithstanding the foregoing, nothing in this Subcontract shall be construed to prohibit Subcontractor from pursuing its rights, if any, to a mechanic's lien or statutory bond claim in the event that non-payment of the Subcontractor was caused by the failure of the Owner to pay Contractor amounts legally due. Subcontractor further agrees that, prior to exercising its rights or filing any claims, if any, against the Contractor or any surety for non-payment caused by the failure of the Owner to pay Contractor amounts legally due, Subcontractor shall first timely exercise and exhaust any rights and remedies that may exist with respect to enforcing a mechanic's lien on the Project.

(e) Contractor may apply any payments otherwise due Subcontractor hereunder to any other indebtedness, liability or obligation of Subcontractor to Contractor whether under this Subcontract or any other agreement or circumstance.

#### **ARTICLE 6. ADDITIONAL OR OMITTED WORK--**

(a) In the event that the Contractor directs Subcontractor to perform additional work, Subcontractor agrees that it will promptly perform and diligently complete such work whether or not Contractor and Subcontractor have agreed on the cost of such work. Subcontractor shall submit to Contractor a lump sum proposal for such work, which proposal shall include a detailed cost breakdown for each component of the work, indicating both quantities and unit prices, and

such proposal shall be submitted to Contractor not later than 7 days after Contractor directs Subcontractor to perform extra or additional work or such lesser period if required by the Contract between Owner and Contractor. If a lump sum price or unit price for the additional work cannot be agreed upon, or Subcontractor fails to submit such proposal within 7 days after Contractor directs Subcontractor to perform extra or additional work, Subcontractor agrees to do the work on the basis of its actual cost plus percentage fees for overhead and profit as set forth in Article 10. The Contractor shall not be liable for payment for any additional work performed by the Subcontractor unless such work is first expressly authorized by the Contractor in writing and payment is made by the Owner to the Contractor for such extra work, payment by Owner to Contractor being a condition precedent for Contractor to pay Subcontractor for such work. Both authorization in writing by the Contractor and actual payment by the Owner to the Contractor for such extra work shall be conditions precedent to Contractor's obligation to pay Subcontractor for such additional work. Any additional compensation or time to be given to Subcontractor shall be set forth in a Subcontract supplement and shall constitute a full and final equitable adjustment of compensation, time or any other alleged entitlement, known or unknown, arising in connection with the facts and circumstances described in and which gave rise to such contract supplement and Subcontractor waives all damages, direct, indirect and consequential, relating to such facts and circumstances, including, but not limited to, impact, reduced productivity, interference by other trades, lack of coordination of the work by Contractor, inefficiencies, acceleration, delays, extended overhead, diminished bonding capacity or lost profits.

(b) In the event that the Subcontractor performs any such authorized additional work on an actual cost plus basis, it shall furnish each day to the representative of the Contractor, duplicate payroll sheets, timesheets, material tickets, equipment charges, and a statement or slips for all other charges, retaining a copy of each thereof, and securing on each thereof the signature of the duly accredited representative of the Contractor. Such signed copies of payroll sheets, timesheets, material tickets, statements and slips shall accompany the application for payment.

(c) Should the Contractor during the execution of this Contract require the Subcontractor to omit any work embraced within the terms of this Subcontract, said omission being for the account of the Owner, the Contractor, or any other subcontractor on the work, the Subcontractor agrees to omit such work, and the Contractor will deduct from any monies due the Subcontractor the value of such omitted work as reasonably determined by Contractor.

(d) In the event of any dispute, controversy, or claim for additional compensation or time extensions, except for payment for extra or additional work expressly directed by Contractor in accordance with Section 6 (a) of this Subcontract, the compensation for which shall be fully and finally governed by Section 6 (a) of this Subcontract and for which no further claim can or shall be made, notice in writing shall be given to the Contractor no later than seven (7) days following the occurrence on which such claim is based, unless the notice provision in the General Contract between the Owner and Contractor is less than seven (7) days, in which case, Subcontractor shall give notice to Contractor within 2 days less than the time required for Contractor to give notice to the Owner according to the notice provision in the General Contract. Such notice shall describe the dispute, controversy or claim in detail so as to allow Contractor to review its merits. Such notice shall also provide detailed information to substantiate such claim including supporting documentation and calculations, and including any information requested by Contractor. Any claim not presented within such time period shall be deemed waived by Subcontractor.

(e) If the Subcontractor shall make any claim against the Contractor for extra work or additional compensation for which the Owner or its agents may be liable, the Contractor may present such claim or claims to the Architect and/or Owner for determination and decision provided (1) such claim is not, in the judgment of the Contractor, made in bad faith, (2) Subcontractor has given notice in accordance with Article 6 (d) and in the form required by the General Contract, and has presented the claim to Contractor within the time required by Article 6 (d), (3) Subcontractor has both requested in writing that Contractor present the claim and has agreed in writing, on terms satisfactory to Contractor, to pay all costs of Contractor in presenting and pursuing such claim. Further, if Contractor requires that Subcontractor execute a liquidating agreement or similar agreement on terms satisfactory to Contractor further memorializing the understanding of the parties in connection with the presentation of such claims, Subcontractor shall execute such agreement as a precondition for Contractor to submit such claim. Presentation of the claim by Contractor shall not be construed as an acknowledgment of the validity thereof, or a waiver of any right of the Contractor, and such action shall be without prejudice to its rights. If the claim is presented by the Contractor to the Architect and the Owner, the decision of the Architect and/or Owner shall be final and binding upon the Subcontractor to the same extent and purpose that it is final and binding on the Contractor.

(f) No additional time or compensation will be allowed for weather delays or difficulties or inconveniences arising from mud, dust, water, ice, snow, wind, heat or cold or similar natural or physical conditions unless permitted under the General Contract and a claim therefore is made as set forth in Section 6(e). Contractor assumes no responsibility for material received, unloaded or stored for or by Subcontractor. Materials, tools, supplies, equipment, etc., belonging to or leased to Subcontractor are its responsibility and no claim for missing or stolen property will be allowed. Contractor shall not be required to provide hoisting facilities or temporary power, water or heat unless otherwise provided herein.

(g) Contractor may direct Subcontractor to work overtime or premium time and Subcontractor shall comply with such direction. If approved in advance in writing by Contractor's authorized representative, Subcontractor may be reimbursed for such work but only for the difference between regular time and overtime for direct payroll cost and the related payroll taxes, insurance, and benefits, and shall not be entitled to any additional compensation for overhead or profit or for inefficiencies or declines in productivity or other impacts. Subcontractor shall be responsible for the costs of overtime work caused by failure of Subcontractor to provide sufficient manpower, maintain the progress of the Work, or otherwise meet its obligations hereunder.

#### ARTICLE 7. DEFAULT--

(a) In the event the Subcontractor shall, in the judgment of the Contractor, (1) become unable to fulfill its financial obligation, become insolvent, or file or have filed against it any petition in bankruptcy, make an assignment for the benefit of creditors, or commence or have commenced against it or enter into any other proceeding or arrangement for relief of debtors, reorganization or deferral or discharge of debts, (2) fail to pay, when due, for materials, supplies, labor, taxes, or other items purchased or used in connection with the work, (3) fail to pursue the

work in accordance with this Subcontract and the schedules established by the Contractor, (4) fail to supply a sufficiency of properly skilled supervisors, workmen, or of materials, tools, equipment, or supplies of the proper quality (including failure occasioned by a strike, picketing, boycott, or other cessation of work by Subcontractor's employees), (5) interfere with or disrupt, or threaten to interfere with or disrupt the operations of the Contractor, the Owner, or any other laborer, materialmen, supplier, subcontractor, or other person working on the job, whether by reason of any labor dispute, picketing, boycotting, or by any other reason, (6) violate any applicable federal, state, or local laws or regulations, (7) advise Contractor or demonstrate to Contractor that Subcontractor will be unable to timely and adequately perform any of its obligations under this Subcontract, or (8) commit any other breach of this Subcontract, then any such event shall immediately with no further action or notice required on the part of the Contractor, constitute a default by the Subcontractor under this Subcontract, and any such event shall be deemed to be a breach of this Subcontract. The Contractor will give the Subcontractor written notice of default. Upon receipt of such notice, Subcontractor shall have two (2) days in which to cure any such default provided, however, that if, in the judgment of the Contractor, such default cannot be cured within a two (2) day period after such notice, or Subcontractor has advised Contractor or Contractor has otherwise determined that Subcontractor is unable to cure or remedy said default, the Contractor will notify the Subcontractor of default but the Subcontractor will not have any right to cure such default and the Subcontractor may be terminated immediately. In the event of a default for which there is no right to cure as provided hereinabove, or in the event of the expiration of the 2-day cure period set forth hereinabove without all such defaults having been fully cured, the Contractor may terminate this Subcontract, take possession of all or any materials, fabricated items wherever located, supplies, equipment and tools pertaining to the Project whether on the Project site, in the Subcontractor's premises or in transit, and may make independent arrangements for completion of the work. Subcontractor grants to Contractor a right of entry into any premises owned or leased by Subcontractor for the foregoing purposes. The amount of completion cost, as well as any other costs, damages, or expenses, including Contractor's legal fees and expense, incurred as a result of such default shall be charged against any unpaid balance due to the Subcontractor under this Agreement or under any other agreement between Contractor and Subcontractor; and, if said total costs, damages or expenses shall exceed the balance due, the Subcontractor agrees to pay the amount of said excess immediately upon demand of the Contractor. The materials, supplies, equipment and tools taken by the Contractor may be used in completing the Project and may be incorporated into the improvements being constructed. With respect to any of such items incorporated into the Project, or consumed in the job, the net reasonable value of the same as of the date of taking shall be taken into account in the calculation of the aforesaid total completion costs, damages, and expenses. With respect to any such items which are not so incorporated or consumed, or which have a salvage value, the Contractor may, at its option (1) assume title to the same or any part of the same, as of the date of default and take into account the net reasonable value thereof as of the date of taking in the calculation of the total completion cost, damages, and expenses or (2) return the same to Subcontractor and take into account the net reasonable value of the use thereof by Contractor in the calculation of the said total completion cost, damages, and expenses

(b) In addition to, and not in substitution of, the remedies herein above specified, Contractor may immediately, in the event of default or failure of Subcontractor to perform its obligations hereunder, provide or arrange for such workmen and materials necessary to continue and complete the work contracted for hereunder for the account of the Subcontractor and at Subcontractor's cost and expense, and apply any and all funds due or to become due to the Subcontractor thereto, all without terminating, rescinding or voiding this Subcontract or releasing the Subcontractor from any liability hereunder or from any damages caused by Subcontractor's failure to perform.

(c) In the event of a default by the Subcontractor under this Subcontract, all sums and obligations owing to the Contractor by the Subcontractor in any right or capacity, whether under this Subcontract or otherwise, immediately shall become due and payable to the Contractor.

(d) In the event the Contractor does not terminate this Subcontract, but assents to delayed completion of the work by the Subcontractor, such assent shall not be construed as a waiver of the Subcontractor's obligation to reimburse the Contractor for any costs, damages, or expenses incurred as a result of such delay; and all such costs, damages, and expenses shall be paid or reimbursed to Contractor upon demand.

(e) In the event that Contractor wrongfully exercises any of its rights under this Article 7, Subcontractor's sole and exclusive remedy shall be payment of the Subcontract Amount for the portion of the Subcontract performed by Subcontractor, and Subcontractor hereby waives any and all other rights, claims and remedies under this Subcontract and/or at law.

#### **ARTICLE 8. RELEASES OF CLAIMS AND WAIVER OF LIENS--**

Subcontractor agrees to provide to Contractor, and to provide and obtain from its subcontractors and suppliers of all tiers, executed releases of claims and/or waivers of liens and lien rights in the form required by Contractor and at such times as may be requested by Contractor. Subcontractor shall hold all monies paid by Contractor in trust for the payment of lower tier subcontractors and suppliers, promptly apply all payments made hereunder to Subcontractor's cost for labor and materials for the Project, and shall further take any and all necessary actions to keep the Project free and clear of all claims for liens and any and all claims against Contractor or Owner or any bonds posted by either of them in connection with the Project. In the event that any person furnishing labor or materials to the Subcontractor files a notice of intent to place a lien on the Project or files a lien on the Project or files a notice of claim or makes a claim against the Contractor or Owner or any bonds posted by either of them in connection with the Project, Subcontractor shall promptly but in no event later than any time required for a release bond to be posted under the General Contract take all necessary steps to have such notice or lien or claim withdrawn, including, if requested by Contractor, the posting of a bond. In the event that Subcontractor does not fulfill its obligations under this Article 8, Contractor may take all actions which it deems reasonable or necessary to protect the Project from liens and claims and the costs of any such actions including the cost of posting a release bond and attorney's fees, shall be deducted from amounts payable by Contractor to Subcontractor under this Agreement or any other agreement or circumstance. Subcontractor shall remain liable in the event that monies payable to it are insufficient to pay any damages or expenses arising from such liens.

#### ARTICLE 9. MISCELLANEOUS--

(a) The Subcontractor shall not sublet, assign or transfer this Subcontract or any part thereof, or the money due or to become due under it, without the written consent of Contractor; and any assignment or transfer without such consent shall be void. Subcontractor hereby assigns to Contractor, upon termination of this Subcontract for any reason prior to its complete performance, all of subcontractor's rights in and to any agreements or purchase orders for labor or materials, equipment or services related to the Project, as well as any shop drawings, plans, specifications, or other documents prepared by or on behalf of the Subcontractor and such assignment shall create no rights in any other person unless accepted by Contractor. Contractor may assign this Subcontract, including but not limited to the Owner, the Owner's lender, or other entities as required by the Owner, to another contractor upon termination of the General Contract, or to any other persons or entities as required by the General Contract.

(b) The Subcontractor shall not cause any unnecessary interference with or delay to the Contractor or to other subcontractors on said Project and shall repair promptly and be responsible for all damage done to the work of the Contractor or other subcontractors by Subcontractor, its agents, employees, subcontractors, or suppliers. Subcontractor shall be directly responsible to the Contractor or other subcontractors whose work is so damaged. The Contractor shall be responsible to the Subcontractor for physical damage to Subcontractor's work only if such damage is directly and proximately caused by the sole negligence of the Contractor.

(c) The Subcontractor shall clean up and remove daily from the job site dirt, trash and debris arising from its work as directed by the Contractor. In the event the Subcontractor fails to clean up and remove such dirt, trash and debris, the Contractor may, at its discretion, arrange for the same at Subcontractor's expense.

(d) To the fullest extent permitted by applicable law, Subcontractor agrees to defend, indemnify and hold harmless the Contractor and/or Owner, their officers, directors, agents and employees, from and against any and all claims, suits, liens, judgments, damages, losses and expenses, including, but not limited to, attorney's fees, arising in whole or in part and in any manner from the acts or omissions of the Subcontractor, its officers, directors, agents, employees or subcontractors, in the performance of this Contract, regardless of whether such lien, claim, suit, judgment damage, loss or expense is caused in part by a party indemnified hereunder. Nothing herein shall be construed to require Subcontractor to indemnify Contractor and Owner and/or their respective officers, directors, agents and employees from the sole negligence of Contractor or Owner, and/or their respective officers, directors, agents and employees. The Subcontractor shall defend and bear all costs of defending any actions or proceedings brought against the Contractor and/or Owner, their officers, directors, agents and employees, arising in whole or in part out of any such acts or omissions, provided, however, that the Contractor and/or Owner shall have the right to approve counsel to conduct such defense. Nothing herein shall be construed to create an indemnity obligation prohibited by applicable law or to waive Subcontractor's rights against any other subcontractor or supplier which may have contributed to causing the injury or damage. In claims against any person or entity indemnified under this Section by an employee of the Subcontractor or Sub-Subcontractors, anyone directly or indirectly employed by any of them or anyone for whose acts they may be liable, the indemnification obligation under this Section shall not be limited by a limitation in amount or types of damages, compensation or benefits payable by or for the Subcontractor or Sub-Subcontractors under workers compensation acts, disability benefits, acts or other employee benefit acts.

(e) Subcontractor acknowledges that, before executing this Agreement, it has carefully examined this Agreement, the Contract Documents and the Project site, has made such investigation of the Work required to be done and the material required to be furnished and, based upon such examination and investigation, Subcontractor represents that it fully understands and can perform all requirements of the Contract Documents.

(f) With regard to the subject matter of this Subcontract: (1) Subcontractor shall have no greater rights and/or remedies against Contractor with respect to any matter (including, but not limited to, omissions, alterations, extra work and additional compensation) than Contractor has against Owner pursuant to the Contract Documents; (2) Subcontractor assumes all obligations, duties and responsibilities by which Contractor is bound to Owner pursuant to the Contract Documents; (3) Subcontractor shall be bound to Contractor to the same extent that Contractor is bound to Owner by all of the terms, provisions and conditions set forth in the Contract Documents; and (4) Owner shall have all rights and remedies against Subcontractor that Owner has against Contractor pursuant to the Contract Documents.

(g) The Contractor shall have the right at any time, and for any or no reason, including for convenience, to terminate this Subcontract and require the Subcontractor to cease work thereon. The Subcontractor, in such event, shall be entitled to further payment only as provided in Article 5. The Subcontractor agrees to be bound by any and all provisions in the General Contract respecting renegotiation as well as termination for any reason.

(h) Subcontractor agrees to clearly note on each payment check to, and related invoice of, its subcontractors and material suppliers which exceed One Thousand Dollars (\$1,000.00), as being for work or materials provided pursuant to this Agreement for this Project, by name, all to be subject to Contractor's inspection upon request. Subcontractor also agrees to submit promptly to Contractor, upon request, the name, address and telephone number of each subcontractor or supplier of any tier, to Subcontractor for labor, materials, or equipment used on this Project. Contractor may contact any such subcontractors and suppliers and Subcontractor authorizes them to provide Contractor with any requested information.

(i) The Subcontractor warrants its workmanship and materials furnished against any defects, faults or damages arising therefrom during the period of construction and for a period of one year from the date of final completion of the Project (or for such longer period of time as may be required herein or by the Contract Documents). The Subcontractor shall remedy such defective workmanship, material, or damages at the request of the Contractor, at times convenient to the Owner, and to the satisfaction of Owner, Architect and Contractor.

(j) Subcontractor shall comply with all applicable federal, state, and local laws and regulations by which it is bound and shall perform this Subcontract in strict conformity with applicable laws, codes, ordinances, rules, regulations and requirements of Federal, State, County and Municipal authorities and of the National Board of Fire Underwriters and any local fire Underwriters and any local fire insurance exchange now or hereafter in effect. In the event of any discrepancy between the present requirements of such laws or authorities and the provisions of this Subcontract, the former shall govern, and the Subcontractor shall perform the work as required thereby at no extra cost. Should the Subcontractor incur additional costs because of any future change in such requirements, additional compensation therefor shall be subject to Articles 5 and 6 hereof. If the Subcontractor performs any work or is otherwise in violation

of any such laws, codes, ordinances, rules, regulations or requirements, it shall bear all costs arising or resulting therefrom. Where applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.

(k) Subcontractor shall be represented on the job site during the course of its work by qualified, full-time supervisors acceptable to Contractor. The Contractor shall have the right to require at any or all progress meetings, whether called by the Owner, the Contractor, or others, the presence of a representative of the Subcontractor authorized to act in its behalf. All work hereunder shall be performed by persons well qualified and experienced in the kind of work to be performed and licensed as required by law. Subcontractor shall enforce discipline and good order among its employees, suppliers, and subcontractors engaged in the work. Contractor may require Subcontractor to remove from the project any such employees, suppliers, or subcontractors or others employed on the work that Contractor may deem incompetent, improper, or a hindrance to progress of any work on the Project, whereupon any such employee, supplier, or subcontractor shall be so removed and shall not again be employed on any part of the work without written consent of the Contractor.

(l) The Subcontractor agrees that it shall not engage in discriminatory employment practices in violation of any Federal, State, or local law, or Owner requirements regarding employment discrimination, including any order or regulation of any agency authorized to enforce any such law. To the extent applicable, the Subcontractor agrees to comply with Title VII of the Civil Rights Act of 1964, Executive Order 11246, and all additional orders, regulations, amendments, etc., pertaining thereto, including certification of non-segregated facilities. The Subcontractor agrees to furnish such additional information, certifications, and policies as may be required by the Contract Documents. The Subcontractor agrees to comply with all applicable rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Rehabilitation Act of 1973, the Vietnam Era Veterans Readjustment Assistance Act of 1974, and the Americans With Disabilities Act of 1990. If applicable to the work under this Subcontract, Subcontractor shall comply with the requirements of Executive Order 13496 and 29 C.F.R. 471, Appendix A, and the employee notice set forth therein is incorporated by reference into this Subcontract.

(m) Subcontractor shall comply with all applicable federal, state and local laws, regulations and orders relating to occupational safety and health, and related procedures established by Contractor and shall, to the extent permitted by law, indemnify and hold Contractor and Owner, their directors, officers, agents and employees, harmless from any and all liability, public or private, penalties, contractual or otherwise, losses, damages, costs, attorney's fees, expenses, causes of action, claims or judgments resulting from a claim filed by anyone in connection with the aforementioned acts, or any rule, regulation or order promulgated thereunder, arising out of this Agreement or any subcontract hereunder. Subcontractor further agrees in the event of a claim of violation of any such laws, regulations, orders or procedures arising out of or in any way connected with the performance of this Agreement, Contractor may immediately take whatever action is deemed necessary by Contractor to remedy the claim of violation. Any and all costs or expenses paid or incurred by Contractor in taking such action shall be borne by Subcontractor, and may be deducted by Contractor from any payments due Subcontractor. Subcontractor shall have the primary responsibility to safeguard and protect its employees on the Project from injuries as well as any other persons or property which could be affected by Subcontractor's operations on the Project. In addition but not in substitution for Subcontractor's primary responsibility for safety, the Subcontractor agrees to (1) comply with all safety rules and regulations and work practices and procedures established by the Contractor and/or the Owner; (2) take all necessary steps to promote safety and health on the job site; (3) cooperate with Contractor and other contractors in preventing and eliminating safety and health hazards; (4) train, instruct and provide adequate supervision to assure that its employees are aware of, and comply with, applicable Federal and State safety and health laws, standards, regulations and rules, safe and healthful work practices and all applicable safety rules, regulations, and work practices and procedures of the Contractor; (5) not create any hazards or expose any of its employees, employees of the Contractor or employees of Subcontractors to any hazards; (6) immediately abate all hazards within its control regardless of whether it created such hazard; and (7) where the Subcontractor is aware of the existence of a hazard not within its control, notify the Contractor of the hazard as well as warn exposed persons to avoid the hazard.

(n) In the event of variations, conflicts, ambiguities or inconsistencies between or among the terms, provisions or conditions of this Subcontract and any other Contract Documents, the terms, provisions and conditions which grant greater rights or remedies to Contractor or impose higher standards with regard to the obligations, responsibilities and scope of work of the Subcontractor shall control. Notwithstanding any other provisions of this Subcontract or of the Contract Documents, no provision hereof shall be construed to permit Subcontractor to pursue against the Contractor rights and remedies available to the Owner against the Contractor in the General Contract unless such rights and remedies are specifically and explicitly made available to the Subcontractor herein. In particular, disputes hereunder shall not be resolved by arbitration, but rather shall be resolved by litigation unless Contractor directs Subcontractor in writing to arbitrate a specific dispute. In the event that arbitration is provided in the General Contract for disputes between Owner and Contractor or Contractor otherwise chooses, at its sole discretion to submit a matter to arbitration, Subcontractor agrees, upon request of Contractor, to submit any disputes as determined by Contractor in its sole discretion, to arbitration and, if necessary, consolidation of said disputes with any arbitration or administrative proceedings between Contractor and Owner or any other party.

(o) The Subcontractor agrees to provide and furnish prior to commencing work, certificates in duplicate of insurance covering its work under this Contract for Worker's Compensation, General Liability Insurance to include Bodily Injury and Property Damage Insurance, and other insurance with limits and coverages as set forth in the Contract Documents or in Exhibit A attached hereto, whichever is greater. All policies of insurance shall be in "occurrence" form and with companies and in amounts acceptable to the Contractor, and shall not be subject to

modifications or cancellation during the terms of the work hereunder without thirty (30) days prior written notice to the Contractor by certified or registered mail. Subcontractor will not change or terminate said policies without the written consent of the Contractor. The Subcontractor accepts exclusive liability for contribution tax or premiums for Unemployment Compensation, Social Security, Withholding Tax and Worker's Compensation.

(p) The Subcontractor agrees to furnish a bond guaranteeing its performance of this Subcontract, and the payment of its subcontractors and suppliers, if so requested by the Contractor, in amount and form and with such surety as are acceptable to the Contractor. The cost of the bond shall be paid by Subcontractor unless otherwise provided herein. Subcontractor shall be deemed not to have provided a bond meeting the requirements of this Subcontract in the event that the bond is conditioned upon the payment of monies due Subcontractor hereunder to an escrow agent or other third party who will disburse payment to subcontractors, material suppliers or other creditors of the Subcontractor.

(q) The Subcontractor understands and agrees that it shall not deal directly with representatives of the Owner, but shall handle all matters connected with this Subcontract, the work, or the furnishing of the materials or payment therefor, exclusively through the Contractor, unless otherwise directed in writing by the Contractor.

(r) This Subcontract shall be governed by the laws of the State of Maryland, without regard to principles of conflict of laws. Any action or suit arising hereunder shall be brought in the jurisdiction where Contractor's principal office is located without regard to principles of conflict of laws or forum non conveniens. In the event of litigation between them, Contractor and Subcontractor waive trial by jury. If requested by Contractor, Subcontractor agrees to submit any dispute under this Subcontract to arbitration under the Construction Industry Rules of the American Arbitration Association, or pursuant to any Arbitration procedure and rules governing the General Contract, if any.

(s) Neither party hereto may waive or release any of its rights under this Agreement, except in writing. The waiver by either party hereto of any breach of any provision of this Subcontract shall not be construed as, or constitute, a continuing waiver, or a waiver of any other breach of any provision of this Subcontract.

(t) If any provision of this Agreement is held by a Court of competent jurisdiction or arbitrator(s) to be invalid or unenforceable, whether in whole or in part, such provision shall be ineffective only to that extent without invalidating or rendering unenforceable any valid portions of the provision and/or any other provision of this Subcontract.

(u) The Parties agree that they have both had the opportunity to obtain the assistance of counsel in reviewing the terms of this Subcontract prior to execution, and as such this Subcontract shall be construed neither against nor in favor of either party, but shall be construed in a neutral manner.

(v) Owner shall be considered a third party beneficiary of all of Contractor's rights under the Subcontract, but not the obligations. Subcontractor shall have no rights or claims directly against Owner except to the extent of any mechanic's lien rights available by statute. All other legal or equitable claims by Subcontractor, including claims against Owner of quantum meruit or unjust enrichment, are hereby waived and released. This Subcontract and the exhibits attached hereto and incorporated by reference herein contain the entire agreement of the parties with respect to the subject matter of this Agreement, and supersede all prior negotiations, agreements and understandings with respect thereto. This Subcontract may be amended only in writing signed by both Contractor and Subcontractor.

**ARTICLE 10. SUBCONTRACT AMOUNT**—The Contractor agrees to pay the Subcontractor for the performance of its work hereunder the following sum or sums, which shall unless otherwise specified, include all taxes, insurance premiums, charges for permits and all other fees and charges, and shall be firm and binding on the Subcontractor for the work and not conditioned upon a firm completion date or on any labor increases or material escalation costs which might occur during the course of construction: \_\_\_\_\_

Percentage fees for overhead and profit for extra work, subject to the provisions of Article 6 hereof, shall be: 10% for work performed by Subcontractor's own forces and 5% for work performed by its subcontractors and suppliers. Subcontractor shall likewise be entitled to 10% for work performed by their own forces and 5% for work performed by their subcontractors and suppliers. No fee will be allowed on overtime premiums. Such percentages include all office overhead and supervision above the foreman level.

**ARTICLE 11. CONTRACT ALTERATIONS AND OMISSIONS**—Any terms and conditions, to the extent inserted or added as part of an exhibit hereto by Contractor into this Subcontract, are hereby acknowledged by both parties to form a part of this Subcontract. In the event any terms and conditions are inserted or added as part of an exhibit hereto by Subcontractor, such terms and conditions shall only become part of this Subcontract if, and only if, each such term or condition is initialed by both Parties. In the event of conflict between any such properly added terms and conditions, and the standard terms in this Subcontract, the added terms and conditions shall prevail. In the event any such changes to this Subcontract form, including alterations and omissions noted thereon, are inconsistent with the requirements of the second sentence of Article 3(a), the requirements of the second sentence of Article 3 (a) shall prevail in all respects.

[SIGNATURES ON FOLLOWING PAGE]



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

SUBCONTRACTOR:

\_\_\_\_\_

BY: \_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
TITLE

DATE: \_\_\_\_\_

WITNESS: \_\_\_\_\_

CONTRACTOR:

THE WHITING-TURNER CONTRACTING COMPANY

BY: \_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
TITLE

DATE: \_\_\_\_\_

WITNESS: \_\_\_\_\_

**LIST OF EXHIBITS**

The Exhibits listed below are hereby incorporated into this Subcontract:

Exhibit A – Insurance  
Exhibit B – Scope of Work  
Exhibit C – EEO Letter  
[List other exhibits, if any]

**EXHIBIT A**  
**INSURANCE**

**GENERAL INSURANCE REQUIREMENTS**

Prior to commencement of any work on the Project, Subcontractor shall, at its own expense, maintain, during the term of this Subcontract and any extensions thereof, the following insurance in the forms and with limits to satisfy both the requirements listed on this Exhibit A and those specified by the Subcontract and/or any other applicable Contract Documents.

All insurance policies must be from insurers authorized to conduct business within the state(s) where the project is located. The insurance companies must also have a Best's Rating of at least "A-" and a financial size of "Class VII" or better. Subcontractor shall disclose and shall be responsible for payment of any deductibles or self insured retention under these policies. No self-insured retentions shall be allowed under any of Subcontractor's policies without prior written consent of Contractor. Failure to adhere to these requirements shall constitute a material breach of the Subcontract.

**WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE**

This insurance will pay the subcontractor's obligations under appropriate worker's compensation statutes, including federal benefits under the U.S. Longshore and Harbor Workers Compensation Act, the Federal Employers' Liability Act and the Jones Act, covering all employees who perform any of the obligations of the Subcontractor under this Subcontract.

Employers liability coverage shall provide limits of at least \$500,000 each accident for bodily injury and \$500,000 each employee for disease. The policy limit for disease shall be at least \$500,000.

For Connecticut projects, Subcontractor hereby agrees that Whiting-Turner is reimbursing Subcontractor a sufficient amount as payment for the Workers Compensation Premium for its workers on this Project.

**COMMERCIAL GENERAL LIABILITY INSURANCE**

This insurance must be written on Standard ISO CGL Form CG 00 01 on an "occurrence" basis, responding to claims arising out of occurrences which take place during the policy period. The commercial general liability coverage limits shall be the maximum limits available under the policy, but in no event less than, the following:

\$1,000,000 each occurrence for bodily injury and property damage  
\$1,000,000 each incident for personal and advertising injury  
\$2,000,000 products-completed operations aggregate  
\$2,000,000 general aggregate

The general aggregate limit shall apply separately to each project. The products and completed operations coverage is to be maintained for a period at least equivalent to the period under which the Contractor is potentially liable for work performed whether under the Contract Documents and/or at law, whichever period is greater. The Whiting-Turner Contracting Company is to be included as an additional insured.

The contractual liability coverage shall include protection for the subcontractor from claims arising out of the liability assumed under the indemnification provisions of the Subcontract. There shall be no separate exclusion for liability arising out of explosion, collapse and underground hazards (XCU) or subsidence, if the scope of subcontractor's work involves digging, excavation, grading, or use of explosives.

**BUSINESS AUTOMOBILE LIABILITY INSURANCE**

This insurance shall apply to any auto, including all owned, hired and non-owned vehicles, to a combined single limit of at least \$1,000,000 each accident. For those subcontractors subject to the Motor Carrier Act of 1980, the Motor Carrier Act endorsement # MCS-90 should be attached to the policy, with a primary limit of at least \$1,000,000 each accident.

Any statutorily required "No-Fault" benefits and uninsured/underinsured motorists' coverage should be included. Any deductible under this policy must be disclosed and will be fully assumed by the subcontractor.

**UMBRELLA EXCESS LIABILITY INSURANCE**

This insurance must provide coverage in excess of the limits of employers' liability, commercial general liability and business automobile liability. The umbrella coverage limits shall be the maximum limits available under the policy which shall be at least \$5,000,000 each occurrence and a \$5,000,000 aggregate and include coverage as broad as the primary insurance.

**PROOF OF INSURANCE/ENDORSEMENTS/ADDITIONAL INSURED REQUIREMENTS**

Prior to commencing work and throughout the Subcontract term and any extensions thereof, as a material term of the Subcontract, Subcontractor shall provide Whiting-Turner with certificates of insurance using the ACORD form or its equivalent executed by a duly authorized representative of each insurer and with copies of any necessary riders or endorsements attached. Such riders and endorsements shall be in a form reasonably acceptable to Whiting-Turner, evidencing that Subcontractor's insurance coverage is in compliance with the insurance requirements set forth in this Exhibit A and in the Contract Documents.

All insurance policies shall be endorsed to provide at least 30 days prior written notice to Whiting-Turner of cancellation or non-renewal of any insurance provided pursuant to this Exhibit A or at least 10 days notice of cancellation due to non-payment of premiums.

Whiting-Turner, the Owner and other entities as required by the Contract Documents or otherwise required by Owner or Contractor shall be named as an additional insured under the Commercial General Liability, Auto Liability and Umbrella Excess Liability policies of insurance, and special policies listed below if applicable, per standard ISO endorsement forms 2010 (11/85) for Ongoing Operations and Products/Completed Operations, if available, or otherwise per standard ISO endorsement forms 2010 (07/04) for Ongoing Operations and 2037 (07/04) for Products/Completed Operations, or equivalent. Coverage's shall be maintained by Subcontractor for itself and for the additional insureds for a period at least equivalent to the period under which the Contractor is potentially liable for work performed whether under the Contract Documents and/or at law, whichever period is greater. Such insurance shall include cross-liability coverage as provided under standard ISO forms separation of insured clause. It is expressly agreed and understood by and between Subcontractor and Whiting-Turner that the insurance afforded the additional insureds shall be the primary insurance and that any other insurance carried by Whiting-Turner shall be excess of all other insurance carried by the Subcontractor and shall not contribute with the Subcontractor's insurance. Subcontractor further agrees to provide endorsements on its insurance policies as required to comply with these requirements. Subcontractor further agrees to include, to the fullest extent permitted by applicable law, the following language on its insurance certificate to acknowledge compliance with these requirements; however, Subcontractor's failure to provide such endorsements or acknowledgement shall not affect Subcontractor's agreement hereunder:

*"Whiting-Turner, the Owner, [insert the names of additional insured entities] and other entities as required by the Contract Documents or otherwise required by Owner or Contractor are Additional Insured's under these liability insurance policies on a primary and non-contributory basis for Ongoing Operations and for Completed Operations and such coverage shall comply with the provisions of standard ISO endorsement forms. A Waiver of Subrogation in favor of the above listed parties shall apply to all policies required under this Subcontract. Additional Insured's shall be provided at least 30 days prior notice of cancellation or non-renewal, or at least 10 days notice of cancellation due to non-payment."*

In the event applicable State law prohibits any of the above language from being included in Certificates of Insurance, Subcontractor shall provide a Certificate of Insurance reflecting coverage provided in policies for Additional Insured status for ongoing and product completed operations, Waivers of Subrogation, and a 30 day cancellation notice. The Certificate of Insurance shall contain wording from the policies and endorsements verifying the foregoing are covered by the policies and endorsements. Notwithstanding any other provisions to the contrary herein or in the Subcontract, the additional insured obligations herein are independent obligations from any indemnity obligations under the Subcontract, such that in the event any or all of the indemnity obligations under the Subcontract are determined to be void or otherwise unenforceable, the additional insured obligations shall remain in full force and effect.

#### WAIVER OF SUBROGATION

Subcontractor hereby waives all rights of subrogation against Owner, Whiting-Turner, the Architect and its consultants, and any of Subcontractor's sub-contractors and consultants, and their respective trustees, directors, officers, employees and agents for recovery of damages to the extent those damages are covered by any insurance policies the Subcontractor is required to maintain as set forth herein. Subcontractor agrees to obtain, at its own cost, and deliver to Whiting-Turner copies of any endorsements necessary to provide such a waiver under the applicable insurance coverage.

#### SPECIAL COVERAGE – IF APPLICABLE

1. Mold/Fungi – If the scope of Subcontractor's work involves exterior insulated finish systems (EIFS) the construction of the building envelope (skin, windows, waterproofing, roofing, flashings, etc.), plumbing systems or HVAC systems, or could cause or contribute to water intrusion or the development of "mold", "fungi" or "bacteria", the Subcontractor's general liability policy shall not contain any exclusion for such exposures. If Subcontractor's general liability policy excludes such coverage, then Contractor may require the Subcontractor to carry Pollution Liability Insurance with mold specifically endorsed as a pollutant.
2. Pollution – If the scope of services or work under this Subcontract could result in a potential environmental hazard, including but not limited to, transportation, handling or abatement of hazardous substances, or involve work such as demolition, earthwork, or utilities that could result in a potential environmental exposure, Subcontractor shall purchase and maintain Pollution Liability Insurance which shall be on an occurrence basis with a limit as required by contractor, which shall be not less than \$2,000,000 per claim. If Subcontractor can only provide this insurance on a "claims made" basis, such policy shall provide an "additional reporting period" endorsement providing coverage for at least two years beyond project completion or such longer period of time as specified in the contract documents.
3. Blasting – If the scope of the Subcontractor's work involves any blasting operations, Subcontractor agrees to provide specific evidence, to the satisfaction of Contractor, that the insurance policy covers such operations.
4. Professional Liability – If the scope of Subcontractor's work involves the performance of any design/engineering and Subcontractor's general liability policy excludes such coverage, Subcontractor and engineers working under the Subcontractor shall each have Professional Liability coverage with limits as required by Contractor, which shall not be less than \$2M per claim or the value of the Subcontract, whichever is greater. Unless otherwise agreed to by contractor, this policy shall provide an "additional reporting period" endorsement providing coverage for at least two years beyond project completion or such longer period of time as specified in the contract documents.

**EXHIBIT B**  
**SCOPE OF WORK**

## EXHIBIT C

Dear Subcontractor:

As a government contractor, The Whiting-Turner Contracting Company must comply with the provisions of Executive Order 11246, the Rehabilitation Act, or the Vietnam Era Veterans' Readjustment Assistance Act, and other existing laws related to Equal Employment Opportunity (EEO). Part of our commitment to EEO is to employ and advance in employment, and shall not discriminate against individuals on the basis of their race, color, religion, sex, national origin, sexual orientation, gender identity, status as a qualified individual with a disability or protected veteran (meaning disabled veterans, recently separated veterans, active duty wartime or campaign badge veterans, and Armed Forces service medal veterans.)

You can support and share in our commitment when you assist us with project staffing needs. We encourage you to help identify qualified applicants for employment consideration. Whenever possible, please utilize qualified minorities, women, qualified individuals with disabilities, and protected veterans.

Although, we specifically have requested that you(r) company utilize minorities, women, qualified individuals with a disability and protected veterans, Whiting-Turner welcomes all qualified personnel regardless of any legally protected status.

You are requested to take appropriate action to assist us in complying with our policy and to comply with your own affirmative action obligations.

Sincerely,

*David McGinnis*

David M. McGinnis  
Vice President &  
Equal Employment Opportunity Officer

