



# Orange County Construction

Setting Industry Standards for Customer Service

Contract between Orange County Construction and Subcontractor (four pages total)

This agreement is made on this day \_\_\_\_\_ 2010 between the Contractor (Orange County Construction) and the Subcontractor (\_\_\_\_\_). This contract is to establish and enforce the responsibilities of the Subcontractor in accordance with all plans, specifications and contracts or documents attached or incorporated into the prime contract for work to be completed for any and all project contracts signed between the two above parties from this day forward. This contract will stay in affect as long as the two parties continue to do business. This contract will be considered a part of all future prime contracts whether written or oral.

## **Section 1. Scope of Work**

Subcontractor agrees to furnish all materials, labor, equipment and other facilities required to complete all work per the construction plans U.O.N. (unless otherwise noted). If it is on the plans, it is considered to be a part of your contract whether Subcontractor itemized it or not in their contract. Each Subcontractor will be hired to complete all work on the plans pertaining to their individual trade U.O.N. Subcontractor to list all items to be excluded pertaining to their trade if any.

## **Section 2. Price & Payment Schedule**

Contractor agrees to pay Subcontractor for the strict performance of their work the sum that is listed on the Subcontractors prime contract. A progress payment schedule must be part of the contract. All payments will be negotiated before signing the contract. All payments are based upon passing inspections both by the City and the Contractor's client. When the City has signed off that portion of work along with the Contractor acknowledging that all work is completed, correct and the project is clean of all Subcontractor debris, then payment will be offered. All payment schedules will include a \$500.00 or 5% retention (which ever is more) until the Subcontractors work has passed their final inspection. At the completion of the final inspection, the balance will be paid to the Subcontractor in a timely manor. Prior to any payments being made, Subcontractor will execute and submit any lien releases that are requested by the Contractor and/or his clients.

## **Section 3. Entire Agreement**

This agreement along with any signed contracts represents the entire agreement between the Contractor and Subcontractor and supersedes any prior written or oral representations. In the event of a conflict or discrepancy between this contract and any additional future contracts between the Contractor and Subcontractor, this contract will take precedence and will become the deciding document. Additional work will not be paid for unless put in writing and signed by both parties prior to doing the work or billing for the work.

## **Section 4. Time**

Time is of the essence of this agreement. Subcontractor shall provide as part of their contract a guaranteed promise of the amount of time to complete their portion of work along with a minimum notice time required to start their work. Upon Contractor complying with the minimum time required for a notice to start work and the job being ready for the Subcontractor, the Subcontractor is responsible for starting their portion of work on time along with finishing their portion of work (including all applicable inspections) on time. All time frames submitted must be reasonable and the completion must be of a timely manor.

## **Section 4a. Delay**

Any delay days in the middle of the Subcontractors work that is not due to the actions of the Subcontractor, his material suppliers or laborers will be added to the Subcontractors completion date. Contractor will offer an additional complimentary three (3) work days for the completion of the Subcontractors work including inspections and clean up. After the completion date and three day grace period has passed, Contractor may impose a back charge penalty to be taken off of the corresponding progress payment a minimum of \$1,000.00 and an additional two percent (2%) of the contract price per day that the Subcontractor runs past his guaranteed promise date of completion. All custom ordered products must be ordered immediately after signing contract so that there is no delays due to custom ordered items.



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## **Section 5. Changes in Work**

Subcontractor shall make no changes in the work that is covered by the contract without prior written notice signed by both parties. Subcontractor will be fully responsible for all monetary damages, time delays, additional material purchases and product replacement for any changes, deviations or substitutions that are done without prior written permission by the Contractor. Subcontractor shall keep in his possession and on the job a "change of work" contract to be executed upon request to not delay the job due to not having paper work or fax machine available. Not having the proper additional work forms on hand will not constitute a delay outside of the Subcontractors control.

## **Section 6. Inspection & Protection of Work**

Subcontractor is fully responsible for the protection of all of their work until final acceptance of the completion of their work. Subcontractor will also make the work accessible at all reasonable times for inspection by the Contractor, Home Owner or City inspectors.

Subcontractor is responsible for scheduling all of their own inspections and for having a representative on site to meet with the inspectors or Deputy inspectors. All corrections must be made and re-inspected during the guaranteed promise date of completion. In the event that the Subcontractor does not have a qualified representative on site to meet with the inspector and the inspection failed, there will be a back charge to be taken off of the corresponding progress payment of \$500.00 for the delay.

Contractor will inspect all of the Subcontractors work prior to payments after the Subcontractor walks the job and inspects it themselves. If deficiencies are documented and then a re-inspection by the contractor is needed before payment and the deficiencies were not corrected, a back charge fee of \$250.00 per incident will be back charged.

## **Section 7. Corrections & Termination**

Should Subcontractor fail to rectify any contractual deficiencies, mistakes or inspection corrections within three (3) business days, then Contractor shall have the right to take whatever steps he deems necessary to correct said deficiencies and back charge the cost thereof to the Subcontractor, who shall be liable for the full cost of Contractors actions, including reasonable overhead, profit and attorney's fees. Contractor will also have the privilege of terminating the contract with the Subcontractor due to a "failure to perform" and the Subcontractor shall recover only the actual cost of work completed to date of termination plus fifteen percent (15%) of the actual cost of the work for overhead and profit. Subcontractor shall not be entitled to any claim or lien against Contractor for any additional compensation or damages in the event of such termination.

## **Section 8. Insurance**

Subcontractor shall, at its expense, procure and maintain insurance on all of its operations and projects that Subcontractor is working on for Contractor. The following insurance is mandatory:

- Worker's compensation for all employees.
- Comprehensive General Liability insurance with a minimum \$1,000,000.00 coverage on all operations naming Orange County Construction and our client as "Additional Insured".
- Automobile liability insurance for all vehicles that are supplying materials or workers to projects.

Before the first progress payment is to be paid to Subcontractor, a copy of worker comp, liability insurance (naming Orange County Construction as additional insured) and a City license will be supplied to our office. You may fax these documents to: (714) 901-1070 Failure to provide these documents to our office before check is due is a delay by the Subcontractor.

## **Section 9. Payments to Subcontractor**

No checks are issued in the field. After all work is completed, inspections by Cit, Contractor & client, job is clean, insurance and workers comp. documents are supplied, Subcontractors company information is supplied (including contractors license number, federal tax id number) and City licenses are supplied, then the progress payment will be paid. All following payments will be paid by mail within ten (10) business days, U.O.N.



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## **Section 10. Claims & Resolutions**

Any controversy or claim between the Contractor and the Subcontractor arising out of or related to this subcontract or the breach thereof, shall be settled by arbitration, which shall be conducted in the same manner and under the same procedure as provided in the Prime Contract with respect to claims between the Contractor and the Subcontractor. If the prime contract does not provide for arbitration or fails to specify the manner and procedure for arbitration, it shall be conducted in accordance with the Construction Industry Arbitration rules of the American Arbitration Association currently in effect unless the parties mutually agree otherwise.

The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

## **Section 11. Warranty of Workmanship & Materials**

Subcontractor warrants that all materials and equipment furnished shall be new, free from faults and defects and of good quality. Subcontractor hereby warrants its work against all deficiencies and defects for ten (10) years. All plumbing and electrical fixtures supplied by Subcontractor will be warranted for one year through Subcontractor. Warranty claims within their time frames will include the fixing and replacement of the warranted item including all materials and labor to complete the warranty. All warranty claims must be handled in a timely manner. Any claim that is not fully corrected within thirty (30) calendar days will result in legal action taken against the Subcontractor. Subcontractor is fully responsible for also arraigning for any other work to be repaired if it is damaged due to their repairs, such as but not limited to drywall, texture, painting, stucco, siding, cabinets, counter tops, flooring, doors & moldings.

## **Section 12. Use of Tobacco, Alcohol or Drugs**

**TABACCO:** There shall be no smoking within the structure of said construction site. All smoking must be done at the street to eliminate smoke from blowing into structure. There shall be a fine of \$100.00 deducted, per incident, from the Subcontractors next payment if caught smoking in structure. There shall also be a fine imposed for cigarette butts found on job site that can be linked back to the Subcontractor or its employees of \$100.00.

**Alcohol & Drugs:** The Subcontractor shall be fully responsible for its laborers. Any person found to be under the influence of drugs or alcohol will be immediately removed from the job. This will also be cause for a termination of contract. If any applicable laws were broken, the Contractor will swiftly contact the authorities and file a complete report. A zero tolerance policy is in effect pertaining to the use of alcohol or drugs prior to or on job sites.

## **Section 13. Solicitation of Work**

Subcontractor is not to collect names or phone numbers of any walk on inquiries nor try and do additional work for Contractor's clients without the permission of Contractor. All inquiries for work by neighbors or anyone walking onto the jobsite must go directly to the Contractor. Any Subcontractor caught soliciting work on or around the job site will be terminated immediately and fines will apply.

## **Section 14. Theft & Vandalism**

Theft or vandalism will be immediate grounds for termination and Contractor will contact the authorities for immediate prosecution. If any complaints are presented to the Contractor about theft or vandalism, a meeting will be mandatory between all parties and if a conclusion can't be achieved then the Subcontractor agrees if requested to take a polygraph test and if found to be less than honest the Subcontractor will have to pay for the test. Termination will follow. If the accusations involve the Subcontractors employees, then the Subcontractor is responsible for his or her actions.

## **Section 15. Language & Radios**

Subcontractor is 100% responsible for all of their employees and their actions. Foul language or loud and/or offensive music or radio stations will not be tolerated. All Subcontractors and their employees must conduct themselves as a professional at all times when on the job site. Reports of bad language will be fined after one warning \$100.00 per occurrence and termination may be imposed. Contractor has a zero tolerance for offensive language. We work hard to gain trust and respect from our clients and will not lose that due to a lack of self control or a lack of respect.



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## **Additional Terms & Conditions**

1. Subcontractor must clean jobs daily. Trash piles are acceptable, but not trash throughout the structure. Absolutely no food or food wrappers are to be left on the job site or in the structure.
2. Subcontractor is responsible for removing all their trash off the job site weekly. (except framers)
3. Packaging of items that the Home Owner supplies will be considered the trash of the Subcontractor that installs it.
4. All OSHA violations will be dealt with strictly. Contractor will impose fines and/or contact OSHA.
5. Subcontractor must return Contractor phones calls same day between 7:00am til 5:00pm. Phone calls that are returned late will cause a one week delay in payment per day of non-returned phone calls. Late payments due to not returning phone calls is not cause for delaying or stopping the progress of work per the contract.
6. Subcontractor is not to park in Home Owners driveway. Driveway may be used for loading & unloading only. Absolutely no vehicles that leak oil are aloud on the property for any reason.
7. All contracts between Contractor & Subcontractor will be negotiated & signed at Contractors office. All contracts must be supplied in digital format to the Contractor. Subcontractor must have an email address and is responsible for checking it daily for any updates or changes by Contractor.
8. All contracts provided by the Subcontractor will include everything (per plans) pertaining to the Sub's work. U.O.N.
9. Subcontractor will be fined all profits that Contractor could of made if they discuss pricing with the Home Owner or Contractors client.
10. Subcontractor is responsible to lock and protect all of their tools, equipment and materials.

Note: This document has important legal consequences. A consultation with an attorney prior to signing this document is encouraged. This contract has been designed to be fair to both parties and to fall within industry standards.

By signing below, both parties fully understand the entire contents & consequences and have received a 3 pg. copy.

Contractor: \_\_\_\_\_ Date: \_\_\_\_\_ 2010

Subcontractor: \_\_\_\_\_ Date: \_\_\_\_\_ 2010

Print Subcontractor company name \_\_\_\_\_

Lic # \_\_\_\_\_ Cell Phone \_\_\_\_\_

Email \_\_\_\_\_ Fax \_\_\_\_\_

Address \_\_\_\_\_