



CONSTRUCTION COMPANY, INC.

POWERS & SONS CONTRACT NUMBER, Project_Number

THIS AGREEMENT, made this «Current_Date», by and between POWERS & SONS CONSTRUCTION COMPANY, INC., hereinafter designated the Contractor, and

+++SUBCONTRACTOR+++

Hereinafter designated the Subcontractor.

WITNESSETH

That the Subcontractor hereby agrees for certain hereinafter specified considerations to furnish all materials, labor, and equipment and fully complete as required by the plans and specifications furnish by: _____, plan(s) and specification(s) dated May 10, 2005; the following described

Project_Description
Project_Address
Project_Address
NO ADDENDA
NO ALTERNATES

ENTER SCOPE OF WORK



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And the Subcontractor further agrees to fully relieve the Contractor of all responsibility for finishing and completing the said work in accordance with the Contractor's general contract with _____ hereinafter designated the Owner, in the construction of the above named project, and agreed that the terms and provisions of said contract between the Contractor and said Owner with _____, are made part of this Agreement and further, that the Subcontractor grants to said Contractor those rights, powers, and remedies in every detail and respect and in the same language and intent which Owner reserves to itself in the said general contract.

In consideration whereof the Subcontractor shall receive the sum of **DOLLARS AND ZERO CENTS (\$000.00)** as full compensation for completion of the work described herein and the fulfillment of all stipulations of this agreement in the following manner, to wit:

That within ten (10) calendar days of receipt of payment by the Contractor from the Owner, payment shall be made in the amount of NINETY percent (90%) of the value of work completed the preceding month as payment estimated and approved by the Architect, Owner, and Contractor and upon payment being made by the Owner to the Contractor herein; the remaining TEN percent (10%) to be paid upon final completion and acceptance by the Owner, Architect, and Contractor of the work to be done hereunder, and said payments to be made only upon presentation of formal waivers of liens together with an affidavit that all payments have been made for all labor and material.

It is further understood and agreed that the Contractor may retain out of any moneys at any time due to Subcontractor a sum sufficient to pay all persons who have performed labor or furnished materials for the work included in this contract and/or to protect said Contractor again loss in the event the Subcontractor shall default or fail to perform this contract or any separable part thereof, and said sums may be retained until



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satisfactory evidence is furnished the Contractor that all such claims have been fully satisfied.

The Subcontractor further agrees it as follows:

1. The Subcontractor will commence work immediately upon notice to do so by POWERS & SONS CONSTRUCTION COMPANY, INC., and will prosecute the work until completion with such diligence as is practicable and as is necessary in the opinion of the Owner to enable the Contractor to fulfill the terms of the principal contractor with reference to time of completion.
2. The Subcontractor will not sell, assign, sublet, transfer, or set-over this contract or any part thereof, or any interest therein, or any moneys to be due, or to become due therefrom, without the consent of the Contractor.
3. The Subcontractor shall submit to contractor within five (5) days a schedule listing all items required to be furnished for review and approval action. This schedule shall indicate the approximate date when submittals will be made and the date of delivery after review action.
4. That the Subcontractor will procure at their own expense compensation insurance and/or indemnity accident policy in a reliable insurance company or companies satisfactory to the Contractor, covering full compensation to any employees for any injuries or death under the Workmen's Compensation Act of the State in which the work is prosecuted, and protecting the Owner and the Contractor in case of accident to personnel employed on the building, themselves, and employees, or the public, and to furnish the said Contractor a certificate from the said policies to remain in full force and effect at all times until the complete performance on the part of the Subcontractor of this contract; and to indemnify the Owner and Contractor again all claims, demands, and damages, including



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costs and attorney's fees, in the event of suit arising from accident to persons or property occasioned by said Subcontractor or his employees. The Subcontractor further agrees to procure, at their own expense, general liability insurance in sufficient amounts to indemnify the Contractor from any claims, suits, and/or damages arising from accidents to persons or property during the period that their contract is in force.

The Insurance Requirements are as follows:

General Liability:	
Per Occurrence	
Aggregate	
Products Completed Operations	
Automobile Liability	
Excess Liability	
Workers Compensation:	STATUTORY
Employers Liability	

Additional Insured Required:

1. Powers and Sons Construction Co.
- 2.

NOTES:

1. It must also reference the above-mentioned project.
2. Note on certificate that contractual liability is provided.
3. Cancellation must state 30 days notification of cancellation.



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5. The Subcontractor further agrees that they will have no dealings with anyone other than the Contractor in regard to additions, alterations, or deviations, in connection with this work.
6. The minority manpower requirements shall be _____% of all trades on the project. Subcontractor shall follow city of _____ hiring and minority requirements.
7. Subcontractor shall take precautions to observe and maintain conformance with OSHA safety requirements.
8. Contractor will schedule _____ project meetings the attendance of which shall be mandatory for all Subcontractors either currently working on site or expected on site within two (2) weeks of the scheduled meeting. Attendance is also mandatory for any Subcontractor requested to attend by the Project Manager.
 - a. Subcontractor hereby agrees to accept a fine of _____ for each mandatory project meeting not attended by a minimum of Subcontractor's project manager. NOTE: Subcontractors not on site will be notified of the date of the meeting three weeks prior to date of 1st meeting, unless otherwise notified by Project Manager.
9. Daily clean up for Subcontractor shall be completed each and every day at the end of the scheduled workday. If the work site is left unclean, the General Contractor, without written notice, will clean the area and back charge the Subcontractor for clean up expense.



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10. That, as guarantee of the faithful performance of his part of the contract, the Subcontractor agrees to furnish a corporate surety bond in a company satisfactory to the Contractor in the amount of N/A premiums on said bond to be paid by the Subcontractor herein.
11. That should any imperfect workmanship or material or other faults or defects appear in said building within time specified after the completion and acceptance of said work, and which in the sole judgment of the Owner and Architect arise out of improper materials or workmanship, the Subcontractor shall immediately after notice thereof, make good any such fault at his own expense and upon his default the Contractor may do said work and recover from the Subcontractor the cost thereof.
12. If the Subcontractor shall fail to execute this Agreement according to its terms or shall default in the performance of any of the foregoing conditions, then and in that event the Contractor, by giving three (3) days notice in writing to the Subcontractor of its intentions, so to do, may terminate the Subcontractor's right to proceed with the work or any separable part thereof, and/or may enter upon the employ of other persons to finish said work by contract or otherwise, and/or do further acts as are reserved by the Owner in its principal contract with the Contractor. It is further agreed by the Subcontractor as follows: proceed with the work or any separable part thereof, and/or may enter upon the employ of other persons to finish said work by contract or otherwise, and/or do further acts as are reserved by the Owner in its principal contract with the Contractor.
13. Should the Subcontractor refuse to start work promptly, neglect to supply a sufficient number of properly skilled workmen or sufficient materials of the proper quality, or fail in performance of any of the agreements herein contained, Contractor, without notice to Subcontractor, may provide any such labor or materials and deduct the cost from any money then due or thereafter to become



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- due under this Sub-Contract; but if such expense and damage shall exceed such unpaid balance, Subcontractor shall pay the difference to Contractor and all attorney fees associated therewith.
14. Powers & Sons will not require Subcontractor to install equipment which violates ASTM and CPSC Safety guidelines.
 15. Subcontractor agrees with the terms and conditions of the attached construction schedule, and will exercise due diligence in completing his portion of the work in coordination with the other trades.
 16. NON-ENGLISH SPEAKING WORKMEN: The Subcontractor agrees that should they provide non-english speaking workmen for this project at anytime, there must also be an English speaking translator for said worker(s) present on the project for the entire period that the non-English speaking worker(s) are on the project. Translator(s) must be identified with clear markings on their hard hats and/or clothing. The translator(s) must identify themselves immediately upon reporting to the jobsite to the Project Superintendent. If non-English speaking worker(s) are working in multiple areas and quick emergency communication is not practical in the sole opinion of the Project Superintendent, the Superintendent reserves the right to require an additional translator(s) be provided for the purpose of proper emergency communication.
 17. CHANGES: This Subcontract may only be modified by a written document signed by both parties. Subcontractor expressly acknowledges that only the officers of the Contractor shall have authority to sign a change order or other modifications to this Subcontract. Agents, project managers, superintendents, foremen, or other employees of Contractor shall not have any authority to contractually bind Contractor and Subcontractor agrees that it shall not rely upon



or accept any modifications to this Subcontract unless such modifications are in a written document signed by an officer of the Contractor.

- a. Subcontractor agrees that it will not perform any additional work unless it has received prior written approval from an officer of contractor. Said prior written approval by an officer of Contractor shall be an absolute condition precedent to any rights of Subcontractor to recover for any additional work. In the absence of such prior written approval by an officer of Contractor, any claims by the Subcontractor shall be deemed waived and forfeited, and shall not be valid for any purpose of recovery against the Contractor, its surety, or the Owner.

18. CLAIMS: The Subcontractor agrees to make all claims for which the Contractor and the Owner may be jointly or severally liable in written form and in the same manner and time limitations as provided in the Contract between the Owner and the Contractor. In the event Subcontractor has any claim against the Contractor that cannot be asserted against the Owner, or if the Contract between the Owner and Contractor does not otherwise make provision for asserting any claims against the Owner or Contractor, then Subcontractor shall give written notice of any such claims to Contractor within fifteen (15) days of the date when the Subcontractor first knew, or reasonably should have known, of the facts given rise to the event for which claim is made.

- a. If a claim is timely filed, any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by binding arbitration administered by the American Arbitration Association under the Fast Track Procedure of the Construction Industry Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Any such demand for arbitration must be filed within ninety (90) days of the date when the Subcontractor



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first knew, or reasonably should have known, of the facts giving rise to the event for which claim is made.

- b. If the Subcontractor fails to give timely written notice or fails to timely file a demand for arbitration, any such claims by the Subcontractor shall be deemed waived and forfeited, and shall not be valid for any purpose of recovery against the Contractor, its surety, or the Owner. In any arbitration, or in any other dispute resolution procedures relating to this Subcontract, the prevailing party shall recover its reasonable attorney fees and costs from the other party.

19. ONLY UNION LABOR: Subcontractor agrees that it and any of its lower-tiered Subcontractors working for or through Subcontractor will only employ labor pursuant to the applicable AFL-CIO building trades collective bargaining agreements that are in effect for the site of the Project and that they are signatory to all such collective bargaining agreements. Subcontractor shall, at its sole expense, indemnify, hold harmless, and defend Contractor and its surety from any liability arising from the failure of Subcontractor, or any of its lower-tiered Subcontractors working for or through Subcontractor, to comply with said obligations and/or the provisions of said collective bargaining agreements.

20. SATISFACTION OF ALL CLAIMS AS TO SUBCONTRACTOR WORK: In the event the Contractor has reason to believe that labor, material, equipment or other obligations incurred in the performance of Subcontract work are not being paid by the Subcontractor (or any lower-tiered Subcontractor working for or through Subcontractor), or if any lien or bond claims are asserted or served on the Contractor by any person or entity in regard to Subcontractor work, then the Subcontractor shall not be entitled to any payment for Subcontract work until all such outstanding claims or other obligations asserted in regard to the Subcontract work are fully satisfied by the Subcontractor, and all such claims are finally



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released as to the Contractor, its surety and the Owner. Contractor shall further be entitled to retain out of any payments due or to become due to the Subcontractor a reasonable amount to protect and fully reimburse the Contractor for any and all loss, damage or expense, additional overhead and administrative costs, including attorney's fees and other costs arising out of or relating to any such claim or lien until the claim or lien has been satisfied by the Subcontractor.

21. PAYMENT: Contractor shall not be obligated to pay any portion of the Subcontractor's current payment application until the amount for the Subcontract work requested by the Subcontractor, as incorporated into Contractor's payment application to the Owner, is accepted by the Owner and funds therefore are paid from the Owner to the Contractor. Thus, Contractor's receipt of payment from the Owner for Subcontractor's work is an absolute condition precedent to all obligations of Contractor to pay Subcontractor, and Subcontractor is assuming the entire risk of the failure and/or refusal of the Owner to pay for the Subcontract work. Notwithstanding anything herein to the contrary, Contractor shall not be obligated to make final payment until Subcontractor has completed all of the Subcontract work and all items listed on any punch list(s) that relate to the Subcontract work.

- a. The Subcontractor, and each of its officers, directors, shareholders, employees, successors or assigns, who receive any payments or distributions from the Contractor or any person in regard to the Subcontract work shall hold such payments or distributions as a trustee upon the express trust and fiduciary duty hereby established and acknowledged for the benefit of Contractor, its surety, the Owner, and all laborers, material men, equipment or other components incorporated into the performance of the Subcontract work. The Subcontractor, and each of its officers, directors, shareholders, employees, successors and assigns, who receive or have the right to control such payments or distributions



shall be under a continuing duty to account for such matters, and only use such funds for the purpose of first paying those expenses and costs of the Subcontract work that if unpaid could give rise to a claim for lien against the Owner's property, the funds due from the Owner to the Contractor, or against any bond given by the Contractor and its surety to the Owner in regard to the Subcontract work. Any person receiving or controlling the payment delivered to the Subcontractor shall be jointly and severally liable to the Contractor, its surety and the Owner for all breaches of such trust, or other acts of fiduciary malfeasance or misfeasance in regard to the accounting or application and payment of such funds.

22. TIME: Time is of the essence as to all time periods and dates set forth in this Subcontract.

23. DELAY DAMAGES: If the Contract between Contractor and the Owner provides for liquidated or other damages for delay beyond the completion date set forth in the Contract, and such damages are assessed by the Owner against the Contractor, then the Contractor may assess such damages against the Subcontractor in proportion to its share of the responsibility for such delay and damage. For purposes of establishing any such delay caused by the Subcontractor, the Subcontractor acknowledges and represents that Contractor has provided.

- a. Subcontractor with a schedule for construction operations that sets forth the period in which the Subcontract work is to be performed and completed, and Subcontractor agrees that it will begin and finish the Subcontract work in accordance with Contractor's construction schedule. Subcontractor's failure to either begin or finish the Subcontract work on the dates established in Contractor's construction schedule shall be presumptive of the fact that Subcontractor has caused a delay in the Subcontract work for at least the number of days beyond the start or finish



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dates set forth in such schedule. The assessment and allocation of liquidated or other damages to the Subcontractor hereunder, and as imposed under the Contract between the Contractor and the Owner, shall not constitute a waiver or election by the Contractor as to any rights, claims or damages that the Contractor may have against the Subcontractor for any delay in the performance of the Subcontract work. The assessment and allocation of such liquidated damages to the Subcontractor shall merely be one component of the damages that Contractor may otherwise be entitled to recover from the Subcontractor in the event of any delays caused by the Subcontractor in the performance of the Subcontract work.

24. CONTRACTOR REMEDIES FOR SUBCONTRACTOR NON-PERFORMANCE: If Subcontractor fails or ceases to perform any obligations required under this Subcontract, or otherwise fails to satisfactorily complete the Subcontract, then in addition to any other right or remedy provided by this Subcontract or applicable law, the Contractor shall be entitled to recover from Subcontract as damages for the breach of this Subcontract, all direct, indirect and consequential costs and expenses incurred by the Contractor as a result of the Subcontractor's breach or lack of performance under this Subcontract, including the Contractor's reasonable attorney's fees, costs and other charges or expenses expended or incurred in the course of litigation or other action taken to protect the Contractor's interest under this Subcontract and to enforce performance of the Subcontractor's obligations and completion of the Subcontract work. In addition to such damages the Contractor shall also be entitled to recover from the Subcontractor prejudgment interest at the rate of One and One-half percent (1.5%) per month compounded daily on all funds expended by the Contractor in the course of seeking, correcting, or obtaining the performance of any obligation of Subcontractor under this Subcontract, including but not limited to, any funds expended to settle, resolve, or dispose of any liens or claims filed against the



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interest of the Contractor, its surety, or the Owner, by any laborer, material men, supplier, or Subcontractor of the Subcontractor in regard to the Subcontract work.

25. CORRESPONDENCE: All correspondence (including this contract) should be forwarded to Project_Manager, Project Manager.

26. GOVERNING LAW: This Subcontract shall be governed by and interpreted in accordance with the laws of the State in which the Project is located.

27. INTEGRATION CLAUSE: This Subcontract sets forth the entire agreement of the parties for the Project, prior oral or written agreements notwithstanding.

28. TAX EXEMPT STATUS: This project is/ is not tax exempt.

29. ACCEPTANCE CLAUSE: Acceptance of this contract is assumed if not returned to writer within 10 days from date of issue (no payments will be issued unless signed contract is on file). Beginning work or delivery after receipt of the same also constitutes acceptance.

This Agreement shall be binding upon and insure to the benefits of the respective heirs, executors, administrators, successors and assign of parties hereto.



CONSTRUCTION COMPANY, INC.

POWERS & SONS CONSTRUCTION COMPANY, INC.

«To_Company»

By: _____

By:

Mamon Powers, Jr.

ITS President _____

ITS

ATTEST: _____

ATTEST:

Project_Manager

Attachments (must be completed and returned to Powers & Sons):

- W-9
- AIA Document G702 and G703
- Waiver of Lien to Date and Final Waiver of Lien



CONSTRUCTION COMPANY, INC.

«Current_Date»

«TO_COMPANY»

«To_Address_Line_1»

«To_Address_City_State_Zip»

Re: Project_Description
Powers & Sons Construction Company, Inc.
Contract No. Project_Number

Enclosed please find the following:

1. Two copies of the contract for the above referenced project.
2. W-9 Form

Please complete the W-9 form, sign both copies of the contract and return the W-9 form and contracts as soon as possible. Please note that an acceptable Certificate of Insurance must be received PRIOR to performance of any work.

Pay request may be submitted monthly, however, they must be in our office by the 1st day of each month, or the Friday prior if the 1st falls on the weekend, in order to be included on our pay request. All pay requests **MUST** be submitted on the A.I.A. G702 and G703 forms. In addition, a draft version of your waiver must be attached to your G702 and G703 for our review. **We require a Chicago Title and Trust waiver as well as all appropriate Supplier waivers, a partial and final waiver is attached for your use.**

The project manager is Project_Manager. They can be reached by phone at (219) 949-3100 regarding job meetings and the scheduling of your work.

We look forward to working with your firm and anticipate your full cooperation.

Respectfully,

POWERS & SONS CONSTRUCTION COMPANY, INC.

Project_Manager
Project Manager

Enclosures



CONSTRUCTION COMPANY, INC.

«Current_Date»

«TO_COMPANY»

«To_Address_Line_1»

«To_Address_City_State_Zip»

Re: Project_Description
Powers & Sons Construction Company, Inc.
Contract No. Project_Number

In regards to the above-referenced project, please be informed that in accordance with OSHA's hazard communication standard, each Subcontractor and/or supplier must develop a program to inform workers of the potentially hazardous substances produced or brought into their work areas and to equip them to deal with these hazards safely in everyday work place situations as well as in emergencies. The following is a list of steps that must be taken in order to be in compliance:

1. Material safety data sheets (OSHA Form-174) for each hazardous chemical or material your company uses must be submitted to our office.
2. All chemical containers your company has on site must be labeled with the container's contents, appropriate hazard warnings, and the name and addresses of the manufacturer, distributor, or other responsible party.
3. All employees must participate in weekly training sessions to inform each worker on the following items:
 - a. location and effect of hazardous chemicals on site
 - b. where to find and how to read the MSDS sheets
 - c. work practices, emergency procedures and personal protective equipment to be used.

Your cooperation in this matter will help make a safer work environment. Please note that these steps must be implemented at the beginning of the job. If there are any questions, please contact our office.

Sincerely,

POWERS & SONS CONSTRUCTION CO., INC.

Project_Manager
Project Manager



CONSTRUCTION COMPANY, INC.

«Current_Date»

«TO_COMPANY»

«To_Address_Line_1»

«To_Address_City_State_Zip»

RE: Powers & Sons Job No. Project_Number
Job Site Safety

In accordance with our motto, "Quality And Safety Begin Here", Powers & Sons is making an effort to reduce hazards which could lead to unnecessary injuries. The upkeep of the job sites continues to be a problem. Effective immediately, approval of pay requests may be withheld or back charges may be incurred to cover clean-up costs, if the job site is not free from all hazardous debris. All Subcontractors are responsible for remnants left by their employees. All trash should be disposed of in the proper receptacles provided by our company. Each site will be randomly inspected by a P & S representative to ensure the site is in the proper condition. Unfortunately, excuses will not be accepted.

Powers & Sons has earned the Northwest Indiana Business Roundtable Contractor Safety Award for the years 1993 - 1996. We would like to maintain our reputation as a company which places worker's safety above all else. We appreciate your support in keeping our job sites clean & most importantly safe.

Sincerely,

POWERS & SONS CONSTRUCTION CO., INC.

Mamon Powers, Jr.
President