

WAYNCO CONSTRUCTION SUBCONTRACT AGREEMENT

MCDONALD'S CORP. LLC - PROJECT SPECIFIC

This Subcontract Agreement is made as of the effective date by and between Waynco, Inc. as the Contractor and the Subcontractor for the work of the Project as set forth herein. The Contractor and the Subcontractor do hereby mutually bind themselves and agree to the terms and conditions of this Subcontract Agreement and to the Contract Documents incorporated herein.

EFFECTIVE DATE: _____

CONTRACTOR: **WAYNCO CONSTRUCTION, INC.**

10213 E Buckeye Lane, Spokane Valley, WA 99206

Phone: (509) 624-3777 Fax: (509) 458-5390

Contractor License No. _____

SUBCONTRACTOR: _____

Phone: _____

Fax: _____

Email: _____

CHECK ONE: Corporation Partnership Sole Proprietorship LLC

FEDERAL EMPLOYER ID NO.: _____

CONTRACTOR LICENSE NO.: _____

PROJECT:

OWNER:

McDonald's USA, LLC

One McDonald's Plaza

Oak Brook, Illinois 60523

ARCHITECT:

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DISTRIBUTION**

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- I. **Work:** The Contractor has entered into a contract for the Work of the Project, a portion of which the Contractor hereby subcontracts to the Subcontractor. The Subcontractor agrees to furnish all necessary materials, labor, tools, equipment and supplies necessary to perform all that portion of the Work in compliance with the plans, specifications, schedule, bid documents and Contract Documents for the Project, said Work set forth as follows: **Include all items in the attached** _____
Scope of Work incorporated herein as Exhibit A. It is understood that _____ is providing a complete lump sum package that includes all major and minor work to be performed as required per the drawings and specifications.

Waynco has contracted for a ____ **calendar-day schedule**. Waynco's superintendent will coordinate your work with other trades and with Waynco's own forces. Progress payments shall be based upon timely performance and successful completion. Clean up within your scope daily. Waynco, Inc. charges \$100 per hour to clean up waste left by subcontractors. Change orders shall be submitted in writing to the Project Manager for approval prior to commencement of work. All submittals shall be reviewed and approved prior to commencing work.

- II. **Price and Payment:** The Contractor shall pay Subcontractor for the Work, subject to all the terms and sum of:
- A. _____
 - B. If unit pricing or time and materials pricing are applicable, such pricing shall be paid per the following schedule: _____
 - C. Retainage Rate: _____ %.
 - D. Payment shall be as set forth herein with Subcontractor's billings due to Contractor's office by the **25th day of each month** or as directed by the Project Manager. A Waynco-approved payment application will be provided to you for convenience.

- III. **Insurance:**
- A. Prior to commencement of any operations by or on behalf of Subcontractor and with respect to all such operations, Subcontractor shall, at its expense, procure, carry and maintain in force and effect at all times on all of its operations related to the Project insurance coverages to include as follows:
 - 1. Workers' Compensation and Employer's Liability Insurance as required by any applicable law, regulation or statute.
 - 2. Comprehensive General Liability Insurance for Personal Injury, Bodily Injury, Death, and Property Damage sustained or alleged to have been sustained by any person. Said insurance shall be in a form acceptable to Contractor and cover all operations of Subcontractor including, but not limited to, the following: Premises, Operations and Mobile Equipment Liability; Completed Operations and Products Liability; Contractual Liability insuring the obligations assumed by Subcontractor in this agreement; Liability which Subcontractor may incur as a result of the operations, acts or omissions of its subcontractors, suppliers or materialmen and their agents or employees; Automobile Liability including owned, non-owned and hired vehicles.
 - 3. Minimum insurance limits to be maintained shall be as follows:
 - \$1,000,000 injury to any one person
 - \$1,000,000 injury any one occurrence

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\$1,000,000 property damage for each occurrence

- B. A Certificate of Insurance evidencing the coverages listed above shall be provided to the Contractor prior to Subcontractor commencing any operations or Work of the Subcontract. Failure to comply with or enforce this term shall not be a waiver of this or any other term of this Subcontract. Waynco Construction and any applicable Owners shall be listed as additional insureds on the certificate of liability insurance.

IV. **Bond:** Bond Required: _____

Unless waived in writing by the Contractor, Subcontractor shall furnish to the Contractor performance and payment surety bond(s) in a form and with a surety acceptable to the Contractor each in an amount equal to the contract price conditioned upon and covering the faithful performance of and compliance with all the terms, provisions, and conditions of this contract and payment for all labor, materials, equipment and supplies used in the prosecution of the Subcontract Work provided herein. Failure to promptly provide a bond(s) as required shall entitle the Contractor to terminate this Agreement.

V. **Contract Documents:**

- A. The Contract Documents include; but are not limited to: the Contract between the Owner and Contractor with all documents incorporated therein by reference; General and Special Conditions, Project specifications, plans, drawings, addenda, modifications, exercised alternates, schedules, attachments, and other necessary documents for the Project; and, this Subcontract Agreement with all documents incorporated herein by reference.
- B. The Contract Documents are incorporated herein by this reference, and the Subcontractor agrees to be bound by the same.
- C. The Subcontractor acknowledges that it has reviewed or has had the opportunity to review the Contract Documents incorporated herein by reference prior to entering into this Subcontract Agreement. The Contract Documents for which the Contractor has copies are available for review by the Subcontractor in the office of the Contractor.
- D. In performing its work, Subcontractor shall comply with all applicable building codes and related statutes, codes, rules, regulations or standards. In the event of any discrepancy between the same and any contract documents, Subcontractor shall immediately bring the same to the attention of the Contractor and request the Contractor to seek clarification as necessary.
- E. In the event of any ambiguity or inconsistency in the Contract Documents, the Subcontractor shall immediately bring the same to the attention of the Contractor in writing and seek specific clarification of the same. In the event of any unresolved ambiguity, this Subcontract Agreement shall govern.

- VI. **Assumption of Duties:** Subcontractor assumes toward the Contractor all the obligations and responsibilities that the Contractor assumes in and by the Contract Documents toward the Owner, or toward other parties insofar as they are applicable to the work of this Subcontract. The Subcontractor shall act, for all purposes herein, as an independent contractor and not as an employee or agent of the Contractor. Unless otherwise set forth herein, the Subcontractor shall be entitled to all the terms and protections granted to the Contractor by the Owner under the terms of the general conditions, special conditions, specifications and addenda.

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Subcontractor shall be responsible for all construction means and methods utilized in performance of its work of the Subcontract, and shall coordinate its work with other affected parties.

VII. **Employment:** Subcontractor shall employ no person whose employment on or in connection with this contract may be objectionable to the Contractor, and shall remove from job site any such person when objected to by the Contractor, provided that this shall not require the Subcontractor to violate any law or governmental regulation. If the Contract Documents require the payment of wages and related benefits at a specified rate or prevailing wage rate, such provisions and related statutory or regulatory requirements shall apply equally to the subcontractor and to the work of the subcontractors incorporated herein.

VIII. **Submittals and Manuals:** Subcontractor agrees to timely furnish submittals such as shop drawings, samples, and product data as may be required by the Contract Documents and such other information on a timely basis as may be necessary to secure the approval by the Owner and/or Architect of such submittals. Subcontractor shall proceed immediately to obtain, as directed by contractor, copies of such submittals for approval.

Operation and Maintenance Manuals required by the Contract Documents for any portion of the Subcontract Work shall be submitted to the Contractor prior to final payment and in the form and number set forth in the Contract Documents, plus one copy for Contractor's files.

IX. **Schedule and Progress:**

A. Subcontractor agrees to begin and carry out the Work as directed by the Contractor and with all speed and dispatch so as not to delay the progress of the Project. Sequence and scheduling shall be as directed by the Contractor.

B. Time is of the essence in the performance of the Work.

C. No extension of time for performance of the Work shall be recognized without written consent of the Contractor. Subcontractor shall be responsible to have adequate manpower on the project at all times to maintain the project schedule.

D. If Subcontractor delays the Project, and liquidated damages are assessed by the Owner against the Contractor, the Subcontractor shall reimburse Contractor for any liquidated damages resulting from Subcontractor's Work. The liquidated damages clause upon which the Contractor may be assessed such amounts is incorporated herein by this reference and such liquidated damages are at the rate set forth in that applicable clause and contract. Such liquidated damages are a reasonable estimate of the actual damage incurred as a result of Subcontractor's delay, and are not a penalty.

X. **Subcontractor Diligence:** If by reason of strikes, picketing, informational pickets or disputes of any nature between the Subcontractor and any individual group or organization or should the Subcontractor be persistently, repeatedly, or for a period of two (2) calendar days (48 hours) be unable to supply enough properly skilled workmen or proper materials to execute the Work defined in the Subcontract, then the Contractor may cure any lack thereof or terminate this Subcontract for default following 24 hours written notice by Contractor to Subcontractor. Any such notice shall be effective when delivered to Subcontractor at the address set forth above or sent by facsimile to same. In such event, the Contractor may proceed to

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complete the Work of the Subcontractor and change any costs, expenses, or damages for the same to the account of the Subcontractor.

XI. **Payment:**

- A. Subcontractor shall submit to the Contractor estimates and billings for all work completed and all materials delivered to the Project site to date of billing. All billings must be submitted on a Waynco-provided form to the Contractor's office no later than the day specified above of each month for processing consideration for Contractor's payment submission to the Owner.
- B. Partial lien releases from Subcontractor and its suppliers and lower tier subcontractors for all work completed and all materials and equipment delivered to the Project site to the date of each billing must be submitted with each progress payment. Contractor is not required to process the Subcontractor's progress billing and payment to Subcontractor does not become due until this requirement has been satisfied.
- C. The Contractor agrees to include in its monthly or periodic estimate to the Owner the value of all work, labor and materials of the Subcontractor incorporated in the project covered by this agreement for which estimates or billings have been furnished on a timely basis by the Subcontractor and approved by the Contractor, and to pay the Subcontractor the amount received by the Contractor on account of the Subcontractors work to extent of the Subcontractor's interest therein.
- D. In all cases, payment by the Owner to the Contractor for the Subcontract Work shall be condition precedents to the duty of the Contractor to make any payment to the Subcontractor. No such payment shall be deemed due and owing until these conditions have been satisfied and with the Contractor being paid for the same Work by the Owner. This shall apply to any and all amounts that may become due and owing under the Subcontract, including retainage.
- E. Contractor shall be entitled to withhold from each payment due Subcontractor as retainage the percentage set forth above with such sum to not become due or be released to the Subcontractor until satisfactory final completion of the Subcontract and following payment of the retained funds to the Contractor by the Owner. State law may impose additional requirements on the retained funds, which must be satisfied before payment becomes due and owing.
- F. All payments due to or on account of laborers (including taxes and benefits), subcontractors or suppliers by Subcontractor shall be made by Subcontractor within 10 days of receipt of payment for the same from the Contractor.
- G. Subcontractor shall use the funds received under this subcontract to pay for all materials, labor, tools, equipment and supplies necessary to perform the Subcontractor's Work for the Project before use of any remaining funds for any other purpose. Contractor retains the right, but not the obligation, to issue joint checks to Subcontractor and third parties as Contractor deems necessary.
- H. The Contractor shall be entitled to charge back against Subcontractor, with or without notice and prior to final payment, any amount due or to become due under the Subcontract, for and including but not limited to, damages, costs and/or expenses for delay of the Subcontractor, failure of performance, and damages or expense which the Contractor or any other subcontractor may suffer as a result of the Subcontractor's failure, through causes within Subcontractor's control, to carry out any provision of the Subcontract.

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- I. Unit Pricing: In the event the contract herein is based upon a unit price, either in whole or in part, it is understood and agreed that any quantities and amounts mentioned are approximate only and may be more or less at the same unit price, and subject to final determination based upon final pay quantities as received by the Contractor from the Owner according to terms and conditions as set forth in the plans, specifications or other Contract Documents, or upon such quantities and amounts as may be determined by the Contractor.
- J. Payment of any amount by Contractor does not imply acceptance of any part of the Subcontract work.

XII. Indemnification:

- A. Subcontractor agrees to defend, indemnify, and hold harmless **Waynco Construction, Inc.** from any and all claims, penalties, fines, citations, demands, losses, and liabilities to or by third parties, including, but not limited to public authorities or governmental regulatory entities or agencies, whether federal, state, local or other, arising from, resulting from, or connected with services performed or to be performed under this Subcontract by Subcontractor, its agents or employees, even though such claims may prove to be false, groundless or fraudulent, to the fullest extent permitted by law and subject to the limitations provided below.
- B. Washington Projects Only: For all projects located within the State of Washington, Subcontractor's duty to indemnify Contractor shall not apply to liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of Contractor or its agents or employees. Subcontractor's duty to indemnify Contractor for liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of (a) Contractor or its agents or employees, and (b) Subcontractor or its agents or employees shall apply only to the extent of negligence of Subcontractor or its agents or employees.

Subcontractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51 RCW. Rather, the indemnification obligation under this Subcontract shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable to or for any third party under workers' compensation acts, disability benefits acts, or other employee benefits acts; provided Subcontractor's waiver of immunity by the provisions of this paragraph extends only to claims against Subcontractor by Contractor, and does not include, or extend to, any claims by Subcontractor's employees directly against Subcontractor.

Subcontractor's duty to indemnify Contractor for liabilities or losses other than for bodily injury to persons or damage to property shall apply only to the extent of the fault of Subcontractor or its agents, employees, sub-subcontractors or suppliers of any tier, except in situations where fault is not a requirement for liability in which case indemnity will be provided to the extent the liability or loss was caused by Subcontractor or its agents, employees, sub-subcontractors or suppliers of any tier.

- C. For purpose of this Addendum, any duty to indemnify, hold harmless or defend set forth herein and owed by Subcontractor to Contractor shall include an assumption by Subcontractor of all similar duties correspondingly owed by Contractor to others, including, but not limited to, General or other Contractors and the Owner as identified in any contract documents for this project.
- D. To the extent expended by Contractor, Subcontractor shall reimburse Contractor for all of Contractor's defense costs. Defense costs shall include all fees (of attorneys and experts), and costs and expenses incurred in good faith. In addition, Contractor shall be entitled to recover from Subcontractor and be

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reimbursed compensation for all of its in-house expenses (including materials and labor) consumed in its defense or in assisting in the defense provided by Subcontractor as required herein.

- E. Any indemnification, hold harmless or defense duty herein owed by Subcontractor to Contractor shall include an assumption of all similar duties correspondingly owed by Contractor to others, including, but not limited to, the Owner as identified in any Contract Documents for this project.
- F. In the event Subcontractor fails to fulfill any indemnification obligation, Contractor shall be entitled to be reimbursed for all defense costs including all fees (of attorneys and experts), and costs and expenses incurred in good faith. In addition, Contractor shall be entitled to recover from Subcontractor compensation for all of contractor's in-house expenses (including materials and labor) consumed in defense or assistance provided to Subcontractor therewith whether that defense is provided by Subcontractor or not.
- G. In the event the laws of the state where the Project is located allow greater rights of indemnification than as set forth herein, then Subcontractor agrees to indemnify Contractor to such greater extent.
- H. Any applicable indemnification addendums to this agreement are to be incorporated into and attached to this agreement.
- I. If any portion of this addendum is determined void or unenforceable for any reason, the balance shall remain in full force and effect.

XIII. **Changes in the Work:** The Contractor shall have the right to order the change, omission, or addition of any parts of the Work or materials including as ordered by the Owner or Architect. Fair deductions or increases shall be made in the contract price for such change, omission or additional Work or materials; provided, however, no additional time for completion of the Work with such changes shall be allowed, and no duty of Contractor to pay for the same shall arise unless and until authorized by the Contractor in writing before the work and/or changes are begun. Subcontractor shall submit written change order requests for such proposed time extensions or payment changes.

XIV. **Protection and Guarantee of the Work:**

- A. Subcontractor agrees to adequately and properly protect the Work to be performed by it hereunder, to be responsible for damages to person and property occasioned by its failure to do so, and to be responsible for any defective or improper work or material caused by its failure to do so. The standards of protection shall not be less than those specified in the Owner's Contract Documents, those required of the Contractor, and as may be required by law.
- B. Subcontractor agrees to guarantee its work against all defects in materials or workmanship as called for in the Contract Documents or, if no longer or broader guarantee is otherwise called for, then for a period of one year from the date of completion and acceptance of the Project. Completion and acceptance shall be as defined in the contract between the Owner and the Contractor.

XV. **Claims:**

- A. Claims Against Subcontractor: If notification of any claims have been made against the Subcontractor or the Contractor arising out of labor, equipment or materials furnished the project covered by this agreement, or otherwise on account of any actions or failure to act by the Subcontractor in the performance of this agreement, the Contractor may, at its discretion, pay such amounts or withhold

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such amounts otherwise due to be come due hereunder to cover said claims and any costs or expenses arising or to arise in connection therewith pending legal settlement thereof, and any such amounts paid or withheld by the Contractor will be charged to the account of the Subcontractor. This right of the Contractor shall not be exclusive of any other rights of the Contractor herein or by law provided.

- B. Claims by Subcontractor on Account of Owner: In the event of any claim of Subcontractor for or on account of acts or omissions of Owner, Owner's engineer, architect, consultants or any other agent or representative of Owner which are not resolved by the terms of the Contract Documents or otherwise by agreement, Contractor promises to invoke if requested in writing by Subcontractor any Disputes Clause in the Contract between the Contractor and the Owner and to present, in Contractor's name, all Subcontractor's claims (as prepared by Subcontractor) of any nature including, but not limited to, claims regarding scope of work, execution of work, progress of work, time, extensions, payments for work and time for payments. Contractor shall have the right but not the requirement (to be exercised in Contractor's sole discretion) to present such claims upon Subcontractor's behalf in advance of and without Subcontractor's request thereof.

All claims and notices are to be presented to the Contractor in writing within the time and in the form as required of the Contractor in the Contract Documents, and in sufficient time for Contractor to present the same to the Owner. Subcontractor shall have full responsibility for and shall pay expenses for preparation and presentation of such claims including, but not limited to, attorneys' fees, travel, food and lodging expenses for attorneys and witnesses, witness fees, including expert witness fees, reporter's fees, arbitrators' fees, filing fees and copying charges. Subcontractor agrees that it will not bring any legal action or initiate any administrative proceeding against Contractor or its surety with regard to any such claims and that final determination of such claims pursuant to the applicable Dispute Clause or by the party or board so authorized in the Contract Documents shall be final and conclusive and shall be Subcontractor's full and final remedy for any such claim. Subcontractor shall be bound by Contractor's determination made in good faith as to apportionment among Contractor's and other Subcontractor's claims, of any amounts received from Owner for claims, resolved under the Disputes Clause.

- C. Claims by Subcontractor on Account of Contractor: In the event of any claim of Subcontractor for or on account of acts or omissions of Contractor, its other Subcontractors, agents or representatives which are not resolved by the terms of the Contract Documents or otherwise by agreement, then such claims shall be resolved by arbitration as set forth herein, unless otherwise agreed by the parties.

- XVI. **Correction of Work:** The Subcontractor shall correct, replace and/or re-execute faulty or defective work done and/or materials furnished under this Subcontract when and as required by the Contractor. In the event Subcontractor shall fail to comply with this requirement or to diligently proceed within the time herein provided for, or if the Contractor or any other Subcontractor shall be unable to proceed with the work because of any action by one or more employees of the Subcontractor or by a person or labor organization purporting or attempting to represent any employee of the Subcontractor, the Contractor upon notice to the Subcontractor shall have the right to correct, replace and/or re-execute such faulty or defective work or to take over this contract and complete same, and to charge the cost thereof to the Subcontractor

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together with any damages suffered by the Contractor and caused by a delay in the performance of the Work and any obligations under this Subcontract.

- XVII. **Default:** That in case of default on the part of the Subcontractor under any or all terms of this agreement, the material and equipment of the subcontractor shall be left on the site for the use of the Contractor in completing the work covered by the terms of this agreement.
- XVIII. **Statutory Compliance:** Subcontractor agrees to comply with all Federal and State law, codes, and regulations and all municipal ordinances and regulations effective where the work is to be performed and controlling under the Contract Documents and to pay all costs and expenses connected with such compliance, and to pay all fees and taxes, including sales and uses taxes, on all goods and services purchases by the Subcontractor, and also to pay all taxes imposed by any State or Federal law for any employment or industrial insurance, pensions, old age retirement funds or any similar purpose. Subcontractor shall hold the Contractor, each other subcontractor, and the Owner harmless from any and all loss or damage occasioned by the failure of the Subcontractor to comply with the terms of this paragraph.
- XIX. **Safety:**
- A. Subcontractor agrees to abide at all times and comply with all local, state and federal regulations respecting safety rules, OSHA and the state ISHA and any and all others applicable. For any violations thereof, claims, fines, or penalties that may be levied, assessed or retracted from Contractor herein, the Subcontractor hereby agrees to reimburse and/or hold harmless the Contractor on account of any such claim, fine or penalty which may be paid by the Contractor which arises out of or which is due to any action on the part of the Subcontractor, its agents, employees, subcontractors or suppliers. The sums necessary to hold the Contractor harmless as provided herein shall be deducted from any payment due the Subcontractor as it becomes due.
 - B. Subcontractor to maintain at all times a safe work site for its employees, agents, subcontractors, equipment or material suppliers and all other persons, whether controlled by the Subcontractor or not, who may at any time be in or around any of the work of the Subcontractor.
 - C. Subcontractor to maintain and provide to Contractor a current site specific MSDS Book, Fall Protection Plan, and a Hazardous Waste Communication Program, each to be submitted to Contractor's office prior to commencing work at the Project site and a copy kept at the project site during the work of the Subcontract.
- XX. **Use of Equipment:** The Contractor's equipment shall be available to the Subcontractor only at the Contractor's discretion and on mutually agreed upon terms and conditions. The Subcontractor's equipment shall be available to the Contractor only at the Subcontractor's discretion and on mutually satisfactory terms, except as provided in the event of the default of the Subcontractor.
- XXI. **Royalties, Patents, Fees:** Subcontractor agrees to pay all royalties and license fees and further agrees to defend all suits or claims for infringement of any patent rights involved in the Work of the Subcontractor

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under this agreement, and further agrees to defend and hold the Contractor harmless from damages, loss, cost or expense on account of any claim of such use or infringement by the Subcontractor.

XXII. Dispute Resolution:

- A. Unless otherwise set forth herein, all claims, disputes and other matters in question arising out of, or relating to, this Subcontract, or the breach thereof, except for claims which have been waived by the making or acceptance of final payment, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then in effect unless the parties mutually agree otherwise.
- B. Pending the resolution of any claim or dispute during the course of the Work of the Subcontract, the Subcontractor shall carry on the Work in full compliance with all terms and provisions herein. This term shall be waived only in writing by the Contractor, or upon termination or suspension of the Subcontract.

XXIII. Suspension of Work: Failure of the contractor to make payments as provided herein shall in addition to all other rights entitle the Subcontractor to suspend all Work and shipments during the continuances of such default on the part of the Contractor, and shall further entitle the Subcontractor to an extension of time for the performance of the Work covered by this agreement for the period for which the Work was suspended.

XXIV. Clean-Up: Subcontractor shall provide labor throughout the work of the Project to clean and pick up debris related to Subcontractor's work as needed or as directed by the Contractor. Excess materials shall not be allowed to accumulate. Subcontractor shall be responsible for the removal from the job site of all trash, debris and excess materials.

XXV. Assignment: Subcontractor agrees to not assign this contract, or sublet the same, or any part thereof covering work to be performed at the site of the Project named in this agreement, and to not assign any payments hereunder, without first obtaining the written consent of the Contractor.

XXVI. Severability and Waiver: If any portion of this contract is determined void or unenforceable for any reason, the balance shall remain in full force and effect. The failure of Contractor to insist on compliance with any term or condition shall not be a waiver or relinquishment of the right to enforce such term or condition.

XXVII. Entire Agreement: This shall constitute the entire agreement of the parties hereto and shall supersede any prior proposals, offers, and written communications not incorporated herein and any oral discussions, statements, representations, or agreements. Titles of any section herein are for ease of reference and are not to be relied on for any purpose.

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THE UNDERSIGNED HEREBY CERTIFY THAT THEY HAVE REVIEWED AND AGREED TO THE TERMS AND CONDITIONS SET FORTH HEREIN, AND THAT ALL TERMS, SPECIFICALLY INCLUDING THOSE REGARDING INDEMNIFICATION, HAVE BEEN MUTUALLY NEGOTIATED.

SUBCONTRACTOR:

CONTRACTOR:

WAYNCO CONSTRUCTION, INC.
10213 E Buckeye Lane
Spokane Valley, WA 99206

Signed: _____

Signed: _____

Name: _____

Name: Robert A. Rosier

Title: _____

Title: President

Date: _____

Date: _____

Any applicable addenda, attachments or exhibits follow.

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EXHIBIT A

Scope of Work

The following items are to be included, but not limited, in your scope of work for this project. Furnish and install the complete _____ scope of work in accordance with the plans and specifications, and specifically:

Supply a sufficiently sized crew in order to complete your scope per the schedule. Furnish all equipment necessary to perform the work. Note that Waynco may allow use of Waynco's equipment on an as-available basis at the discretion of Waynco's site superintendent. Provide a site-specific written safety and fall protection plan to Waynco's onsite superintendent prior to beginning work if applicable to your scope. Furnish and use all safety gear as required by any authorities having jurisdiction. Ensure that you are licensed and insured as a contractor in the state of _____.

END OF EXHIBIT A

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EXHIBIT B

Not used.

END OF EXHIBIT B

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EXHIBIT C

McDonald's Code of Conduct and Ethics for Consultants

This Code of Conduct and Ethics for Consultants (the “Code”) sets forth legal and ethical standards of conduct for consultants, including the employees and consultants/subcontractors of third-party vendors and suppliers collectively, “Consultants”), that render services to McDonald's (or any of McDonald's subsidiaries or affiliates) (collectively, “McDonald's”). This Code is intended to deter wrongdoing and to promote the conduct of all business in accordance with high standards of integrity and in compliance with all applicable laws and regulations.

If you have any questions regarding this Code or its application to you in any situation, you should contact the compliance Director of McDonald's.

COMPLIANCE WITH LAWS, RULES AND REGULATIONS

McDonald's requires that all Consultants comply with laws, rules and regulations applicable to McDonald's wherever McDonald's does business. Consultants are expected to use good judgment and common sense in seeking to comply with all applicable laws, rules and regulations and to ask for advice when you are uncertain about them.

If you become aware of the violation of any law, rule or regulation by McDonald's, whether by its McDonald's employees, officers, directors or other Consultants, it is your responsibility to promptly report the matter to the Compliance Director of McDonald's. This Code should not be construed to prohibit you from testifying, participating or otherwise assisting in any state or federal administrative, judicial or legislative proceeding or investigation.

CONFLICTS OF INTEREST

Consultants must act in the best interests of McDonald's. You must refrain from engaging in any activity or having a personal interest that presents a “conflict of interest.” A conflict of interest occurs when your personal interest interferes with the interests of McDonald's. A conflict of interest can arise whenever you, as a Consultant, take action or have an interest that prevents you from performing your duties and responsibilities honestly, objectively and effectively.

It is your responsibility to disclose any material transaction or relationship that reasonably could be expected to give rise to a conflict of interest to the Compliance Director of McDonald's.

INSIDER TRADING

Consultants who have material non-public information about McDonald's or other companies, including our suppliers and customers, as a result of their relationship with McDonald's are prohibited by law and McDonald's policy from trading in securities of McDonald's or such other companies, as well as from communicating such information to others who might trade on the basis of that information.

CONFIDENTIALITY

Consultants must maintain the confidentiality of information entrusted to them by McDonald's or other companies, including our suppliers and customers, except when disclosure is authorized by a supervisor or legally mandated. You understand that, pursuant to Article 12 of the Master Construction Services Agreement (the “Agreement”)

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dated January 1, 2015 by and between McDonald's and Waynco Construction, Inc., you may not use for your own purposes nor disclose to any third party any Confidential Information (as that term is defined in the Agreement) without the express written permission of McDonald's. The confidentiality obligations under the Agreement impose specific obligations and restrictions on you and such obligations will govern to the extent they are, in any way, contrary to the terms of this Code.

Third parties may ask you for information concerning McDonald's. Consultants (other than McDonald's authorized spokespersons) must not discuss internal McDonald's matters with, or disseminate internal McDonald's information to, anyone outside of McDonald's, except as required in the performance of their duties and after an appropriate confidentiality agreement is in place. This prohibition applies particularly to the inquiries concerning McDonald's from the media, market professionals (such as securities analysts, institutional investors, investment advisers, brokers and dealers) and security holders. All responses to inquiries on behalf of McDonald's must be made only by McDonald's authorized spokespersons. If you receive any inquires of this nature, you must decline to comment and refer the inquirer to your supervisor or one of McDonald's authorized spokespersons.

HONEST AND ETHICAL CONDUCT AND FAIR DEALING

Keeping the best interests of McDonald's in mind, Consultants should endeavor to deal honestly, ethically and fairly with McDonald's suppliers, customers, competitors and employees. Statements regarding McDonald's products and services must not be untrue, misleading, deceptive or fraudulent. You must not take unfair advantage of anyone through manipulation, concealment, abuse of privileged information, misrepresentation of materials facts or any other unfair-dealing practice.

GIFTS AND GRATUITIES

The use of McDonald's funds or assets for gifts, gratuities or other favors to employees or government officials is prohibited, except to the extent such gifts are in compliance with applicable law, nominal in amount, and not given in consideration or expectation of any action by the recipient.

Consultants must not accept, or permit any member of his or her immediate family to accept, any gifts, gratuities or other favors from any customer, supplier or other person doing or seeking to do business with McDonald's, other than items that do not nor could reasonably be expected to affect the recipient's judgment or actions on behalf of McDonald's.

Common sense and moderation should prevail in business entertainment engaged in on behalf of McDonald's. Consultants should provide, or accept, business entertainment to or from anyone doing business with McDonald's only if the entertaining is infrequent, modest and intended to serve legitimate business goals.

Bribes and kickbacks are criminal acts, strictly prohibited by law. You must not offer, give, solicit or receive any form or bribe or kickback anywhere in the world.

WAYNCO CONSTRUCTION SUBCONTRACT AGREEMENT

ACCURACY OF BOOKS AND RECORDS AND PUBLIC REPORTS

Consultants must honestly and accurately report all business transactions. You are responsible for the accuracy of your records and reports. Accurate information is essential to McDonald's ability to meet legal and regulatory obligations.

You may report violations of this Code, on a confidential or anonymous basis, by contacting the Compliance Director of the Company by fax (630-623-7125), mail (McDonald's Corporation, P.O. Box 4567, Oak Brook, Illinois 60522-4567) or e-mail (business.integrity@us.mcd.com) or telephone at 1-800-261-9827. While we prefer that you identify yourself when reporting violations so that we may follow up with you, as necessary, for additional information, you may remain anonymous if you wish.

Failure to comply with the standards outlined in this Code will result in termination of the Agreement. Certain violations of this Code may require McDonald's to refer the matter to the appropriate governmental or regulating authorities for investigation or prosecution. Moreover, any supervisor who directs or approves of any conduct in violation of this Code, or who has knowledge of such conduct and does not immediately report it, also will be subject to disciplinary action, up to and including discharge for cause.

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DISTRIBUTION**

WAYNCO CONSTRUCTION SUBCONTRACT AGREEMENT

CODE OF CONDUCT ACKNOWLEDGEMENT PAGE

I, _____, certify that:

1. I have received and carefully read the McDonald's Code of Conduct and Ethics for Consultants.
2. I have had ample opportunity to ask questions and seek clarification with respect to the McDonald's Code of Conduct and Ethics for Consultants.
3. I understand the McDonald's Code of Conducts and Ethics for Consultants.
4. I have complied and will continue to comply with the terms of the McDonald's Code of Conduct and Ethics for Consultants.
5. I understand that if I fail to comply with the terms of the McDonald's Code of Conduct and Ethics for Consultants, the Agreement (or my services under the Agreement) may be terminated.
6. I understand that any breach of the McDonald's Code of Conduct and Ethics for Consultants by me will cause McDonald's irreparable harm and, in addition to any other remedies which may be available, McDonald's will have the right to, and I consent to, immediate injunctive relief against the breach or threatened breach of my obligations, without proof of actual damages and without the posting of bond or other security. I further agree to pay all costs and attorney's fees McDonald's incurs in enforcing the terms of the McDonald's Code of Conduct and Ethics for Consultants.
7. I consent to the jurisdiction of the State of Illinois for purposes of enforcing the McDonald's Code of Conduct and Ethics for Consultants.
8. I am an employee/consultant/subcontractor of Waynco Construction, Inc. ("**Vendor**") and not an employee of McDonald's or any of McDonald's subsidiaries or affiliates. As an employee/consultant/subcontractor of Vendor, I will look solely to Vendor (if applicable) and not to McDonald's, for the payment of all employee benefits and federal, state and local taxes on my behalf. I further understand and agree that I am not entitled to any employee benefits offered to employees of McDonald's or any of McDonald's subsidiaries or affiliates.

Signature: **SAMPLE** _____

Date: **NOT FOR** _____

DISTRIBUTION

END OF EXHIBIT C

WAYNCO CONSTRUCTION SUBCONTRACT AGREEMENT

EXHIBIT D

FORM OF CONFIDENTIALITY AGREEMENT

INTELLECTUAL PROPERTY AND CONFIDENTIALITY AGREEMENT

This Intellectual Property and Confidentiality Agreement ("Agreement") is entered into and is effective as of that date by and between Waynco Construction, Inc. ("Contractor") and _____ ("Subcontractor").

WHEREAS, Subcontractor has entered into an oral or written agreement to provide supplies, materials, or services for the construction, renovation, or repair of a McDonald's restaurant or any portion of a McDonald's restaurant; and

WHEREAS, Contractor has or will provide Subcontractor with certain Proprietary Information (as defined below) for the limited purpose of performing construction related services for a McDonald's restaurant;

NOW, THEREFORE, in consideration of the foregoing and as a condition to the disclosure of Proprietary Information to Subcontractor, Contractor and Subcontractor hereby agree as follows:

1. The term "Proprietary Information" means (a) any and all information, documents, material, data, or procedures in any form (whether oral, written, electronic, digital, photographic, or otherwise) relating to McDonald's USA, LLC, ("McDonald's"), its business, financial information, operations, policies and procedures, products, vendors, supplier relationships, trade secrets, building plans, equipment plans and/or specifications, construction methods or means, know-how, strategies and prospects; (b) any information, material, manuals, documents, or data about McDonald's obtained, discovered, or accessed by Subcontractor during the course of meetings or discussions with Contractor and/or its representatives or agents; and (c) any information, material, manuals, data, ideas, designs, processes, or documents about McDonald's obtained, accessed, or developed while performing services for Contractor. Proprietary Information may be furnished to Subcontractor either orally, in writing, by inspection, through computer, tape or other electronic, mechanical, visual, digital, or graphic media. *For purposes of this Agreement, Proprietary Information shall not include any information which is generally available to the public other than as a result of disclosure by Subcontractor.*

2. All Proprietary Information will remain confidential in accordance with this Agreement. Subcontractor agrees not to release or disclose any Proprietary Information to any employee, agent, or third party unless said individual or entity executes a confidentiality agreement containing provisions that are at least as restrictive as those contained herein or agrees to be bound by this Agreement. Without Contractor's prior written consent, Subcontractor, its employees, agents, and Subcontractors will not, directly or indirectly, (a) use the Proprietary Information for any purpose other than in connection with its performance of services for Contractor and for the benefit of McDonald's or its franchisees(s).

3. In the event the Subcontractor becomes legally compelled to disclose any of the Proprietary Information, it will provide immediate notice to Contractor and McDonald's at the address below, so they may seek a protective order.

4. Upon receipt of written notice from Contractor or immediately upon termination of its agreement with Contractor, Subcontractor will promptly deliver to Contractor and/or destroy (a) all written or tangible materials (including, by way of example and not of limitation, documents, notes and other writings in paper, electronic, or digital form) computer disks, tapes and printouts) containing or reflecting any Proprietary Information, without

WAYNCO CONSTRUCTION SUBCONTRACT AGREEMENT

retaining any copies, summaries, analyses or extracts thereof; and (b) all written or tangible materials whatsoever which have been derived from and, or prepared by Subcontractor.

5. Subcontractor acknowledges that a breach of any of the provisions of this Agreement will have a material and adverse effect and damages arising from such breach may be difficult to ascertain. Subcontractor agrees that in addition to, and without limiting any other right or remedy Contractor may have, Contractor is entitled to equitable relief, including injunction and specific performance.

6. Subcontractor agrees to indemnify, defend and hold harmless Contractor, McDonald's and their respective officers, directors, employees, affiliates, franchisees, agents and representatives from and against any and all losses, claims, expenses, costs or fees including reasonable attorneys' fees and litigation costs (collectively the "**Losses**") relating to: the unauthorized disclosure or use of the Proprietary Information by Subcontractor, Subcontractor's officers, directors, employees, affiliates, agents or subcontractors.

7. This Agreement will be binding on Subcontractor's successors and assigns and shall inure to the benefit of, and be enforceable by, the successors and assigns of Contractor.

8. In the event that any of the provisions hereof are held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, the remaining provisions shall remain enforceable to the fullest extent permitted by law.

9. This Agreement may be waived, amended or modified only by an instrument in writing signed by the party against whom such waiver, amendment or modification is sought to be enforced, and such written instrument shall set forth specifically the provisions of this Agreement which are to be so waived, amended or modified.

10. This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed an original, and all such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have duly caused this Agreement to be executed as of the date first above written.

SUBCONTRACTOR

CONTRACTOR

WAYNCO CONSTRUCTION, INC.

10213 East Buckeye Lane
Spokane Valley, WA 99206

By: _____

By: _____

Its: _____

Its: _____

McDonald's Notice Address:
McDonald's USA, LLC
2915 Jorie Boulevard
Oak Brook, Illinois 60523

END OF EXHIBIT D