



BRAZOS CONTRACTORS DEVELOPMENT, INC.

9191 Gulf Fwy, Bldg D, Ste 400, Houston, TX 77017

Phone (713) 947-9700 Fax (713) 944-9599

Contract #: 222129.45

Date: 2023-07-28

SUB-CONTRACT AGREEMENT

TO: NATIONAL TAB PROJECT: Freddy's - Nacogdoches (Plaza Street) JOB #: 222129
 ADDRESS: 1329 E KEMPER RD, STUIE 4210 ADDRESS: 3720 North St.
 CITY: CINCINNATI ST; OH ZIP: 45246 CITY: Nacogdoches ST: TX ZIP: 75961
 PHONE: 513-860-2050 FAX:
 CELL: E-mail: WILL@NATIONALTAB.COM

Hereinafter called: "Subcontractor"

SCHEDULE FOR COMPLETION OF WORK: Approx. Start: Approx. Completion:

BRAZOS CONTRACTOR DEVELOPEMENT, INC. hereinafter called "Contractor" and Owner have determined that time and a definite completion date is of the essence: YES NO INT. _____

DESCRIPTION OF WORK: In accordance with the project specifications and drawings, the Subcontractor will furnish and pay for all necessary: Materials Labor, tools, insurance, taxes, and equipment to complete the construction in a timely, professional, and workmanlike manner. Test and balance of HVAC system, as required.

PAYMENT SCHEDULE: Contractor will pay the Subcontractor the sum of \$ 2,060.00 in payments as follows:

To be processed for payment all draws and invoices must have Job #, PO #, and the drawn amount and the Superintendent's signed approval. Unless superseded by the requirements of the Draw Schedule, Contractor will pay the Subcontractor 30 days from the date of the invoice, less 10% retainage. The Subcontractor must submit the invoices/draws to the Contractor's Houston, Texas office for payment processing on the first day of each month. The retained amount shall be paid to the Subcontractor upon completion of the punch list and final acceptance by Owner no later than 30 days after acceptance, provided Subcontractor has furnished evidence to Contractor, in the form of sworn affidavits that all claims of labor and materials have been paid. Prior to payment of multiple draws, Subcontractor will provide Contractor with fully executed Lien Waivers, supplied by Contractor in the form of sworn affidavits showing all claims for labor and materials have been paid on the previous draw. The Contractor may withhold any payments due the Subcontractor in the event Subcontractor is in default of any of its obligations hereunder and the Contractor may retain such amounts until such event of default is corrected. Contractor has the option of submitting dual checks to the Subcontractor and supplier. No payment made under this contract shall be construed to be an acceptance of defective work or improper materials.

TERMS AND CONDITIONS

THIS CONTRACT SHALL TAKE PRECEDENCE OVER ALL DOCUMENTATION AND SHALL NOT BE ALTERED UNLESS BY CONTRACTORS WRITTEN AUTHORIZATION.

CHANGE ORDERS: Subcontractor shall make all alterations, furnish materials for and perform all extra work or omit any work Contractor may require without nullifying this agreement, at a reasonable addition to/or deduction from the contract price hereinafter set forth and pro rata to the same. However, No Alterations or Changes shall be made Except upon Contractor's written order. The amount to be paid by Contractor, or allowed by Subcontractor, as a result of such changes or alterations, shall be stated in such change order, or extra work to be performed Only if approved by Contractor with a signed (by Project Manager or Superintendent) field work order. The Subcontractor must submit a priced proposal for extra work to be signed by the Superintendent before the work is performed including required backup and markup percentage.

ARBITRATION PROVISIONS: Any controversy or claim arising out of this agreement that cannot be resolved is subject to the Construction Industry Arbitration Rules of the American Arbitration Association. The arbitration will be held in Houston, Texas with an arbitrator of mutual agreement, and all parties (including Owner, Contractor, Architect and Subcontractor) shall be bound by this arbitration. If any party does not appear at the scheduled arbitration proceedings, the arbitrator is empowered to decide the controversy in accordance with whatever evidence is presented by the party/parties that do participate. The cost of arbitration will be shared equally between Claimant(s) and Defendant(s).

TAXES: Upon the signing of this Contract, Subcontractor certifies that all Federal and State taxes are current.

NOTICE: Any notice required or permitted under this Agreement may be given by certified or registered mail at the address contained in this Agreement.

ASSIGNMENT: The Subcontractor may not assign this agreement or payment due under this Agreement without the written consent of the Contractor.

QUALIFICATION: This document constitutes the entire agreement of the parties. No other agreement exists. This agreement can be modified only by written agreement signed by both parties.

GOVERNANCE: This Agreement shall be construed in accordance with and governed by the laws of the State of Texas. In the event any provision of this Contract is found to be invalid or unenforceable, the remainder of this Contract shall continue in full force and effect. The location for settling any dispute arising out of this Agreement shall be in Houston, Texas.

SAFETY REQUIREMENTS: Subcontractor shall take all necessary precautions for the safety of employees on the job/project, and shall comply with all applicable provisions of federal, state and municipal safety laws, ordinances, rules, regulations, building codes, and lawful orders of any public authority having jurisdiction for the health and safety of persons or property or prevent accidents or injury to persons on, about or adjacent to the premises where the work is being performed and to prevent loss or damage to property. Subcontractor shall maintain a Hazard Communication Program (HCP) in accordance with OSHA guidelines and furnish to Contractor's office a list of hazardous substances and Material Safety Data Sheets (MSDS) for all hazardous substances expected to be brought onto this project. The Subcontractor is solely responsible for fines imposed with regard to his scope of work.

CONSTRUCTION SCHEDULE: Work to be performed on Superintendent's time schedule. If Subcontractor at any time refuses or neglects to supply a sufficient and proper number of skilled men or materials or equipment of proper quality or fails in any way to prosecute the work with promptness and diligence or defaults in the performance of this subcontract, Contractor, at its option, may after (2) two day's written notice to Subcontractor, provide any such labor, materials, or equipment and deduct the cost from any money due or to become due to Subcontractor under this subcontract; or Contractor may terminate the employment of Subcontractor and take possession of all materials of Subcontractor located at the jobsite for the purpose of completing the



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work under this subcontract. In addition, Subcontractor shall commence work on punch lists immediately after notification and shall pursue the work required by the punch lists diligently and expeditiously to the satisfaction of the Contractor, Architect and/or Engineer, and Owner. Punch list work not started within two days and performed continuously to the satisfaction of the Contractor, will be accomplished by the Contractor and the cost thereof shall be deducted from any money due Subcontractor.

CONTRACTOR'S RIGHT TO CLEAN UP: At all times the Subcontractor agrees to maintain the premises clean of his rubbish and deposit waste materials in a container supplied by Contractor. When in the opinion of the Contractor, the building and premises are not free from such rubbish, debris, obstructions or hindrance; the Contractor shall have the option to remove the rubbish, debris, obstructions or hindrance at the expense of the Subcontractor.

LEGAL COST: Should Contractor employ an attorney to enforce any of the provisions hereof, or to protect its interest in any matter arising under this contract, or to collect damages for the breach of this subcontract, or to prosecute or defend any suit resulting from this subcontract, or to recover on the surety bond given by Subcontractor under this subcontract, Subcontractor and his surety, jointly and severally, agree to pay Contractor all reasonable costs, charges, expenses and attorney's fees expended or incurred therein.

GUARANTEE: Subcontractor guarantees its work against all defects of materials or workmanship as called for in the contract documents, or if no guarantee is called for by the contract documents, then for a period of one (1) year from the date of completion of the work and the acceptance thereof by the Owner. **Subcontractor shall issue a written guarantee for a period of one year, to be turned in to Contractor, before final invoices will be processed.**

PROTECTION OF PROPERTY: Subcontractor shall effectually secure and protect its work/materials and shall bear and be liable for all loss or damages of any kind which may happen to the work, equipment or any materials incorporated therein at any time prior to the final completion and acceptance thereof.

INSURANCE: Prior to commencement of work, Subcontractor shall furnish Contractor a certificate of insurance, or if required by Contractor, a copy of insurance policies, showing that Subcontractor has and will maintain throughout the contract, with insurance companies rated "A" or better, of the following types and amounts:

- (1) Worker's Compensation and Employer's Liability:
 - (a) Statutory Worker's Compensation for all states in which operations are conducted.
 - (b) Employer's Liability with a limit of or not less than \$500,000 bodily injury/accident; \$500,000 disease/employee; \$500,000 disease policy limit.
- (2) Comprehensive General Liability (other than automobile)
 - (a) Bodily Injury and Property Damage: \$1,000,000 Combined Single Limit, General Aggregate: \$2,000,000
 - (b) Products & Completed Operations Aggregate: \$2,000,000
 - (c) Personal & Advertising Injury: \$1,000,000
 - (d) Fire Damage Liability: \$100,000
 - (e) Medical Expense: \$10,000

The Commercial General Liability policy shall include the minimum coverage: Premises/Operations insurance; Independent Contractor's Coverage; Aggregate Limits of Insurance per Project; Product/Completed Operations; Broad Form Contractual Liability specifically in support of, but not limited to, the indemnity provisions of the Contract Documents; Personal Injury Liability with exclusions related to contractual liability deleted.

- (3) Automobile Liability: (a) To include coverage for all owned, non-owned and hire automobiles.
- (b) Bodily injury and property damage: \$1,000,000 Per Occurrence Combined Single limit.

All policies with the exception of the Worker's Compensation shall be endorsed as naming the Contractor and Owner as Additional Insured. CG2010 and CG2037 or equivalent forms will be used on the CGL policy. Every policy shall be endorsed with a Waiver of Subrogation in favor of and shall be primary, and any insurance carried by contractor or owners shall be considered excess over Contractor's insurance via a form CG 2001 or equivalent. All policies shall provide that they may not be modified or canceled without giving Contractor and Owner at least thirty (30) days written notice.

- (4) Umbrella Liability: A \$1,000,000 umbrella will be carried by the subcontractor over the required Commercial General Liability, Automobile Liability and Employer's Liability coverages.

The Subcontractor will provide insurance or it will be withheld from moneys owed to the Subcontractor at Contractor's insurance company's rates.

INDEMNITY PROVISION: To the fullest extent permitted by law, the Subcontractor (hereinafter "Indemnitor") agrees and shall indemnify, defend, and hold harmless the Owner, Contractor, Contractor's Officers, Agents and Employees (hereinafter "Indemnittees" from and against any and all claims, liabilities, damages, judgments, losses and expenses, including, but not limited to all expenses of litigation, court costs, and attorney's fees, arising out of or resulting from the performance of the work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including loss of omissions of the Indemnitor

hereunder, its Subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable regardless of whether, or not such claim, damage, loss or expense is caused in part by the negligence of any Indemnittees hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this paragraph. Further, if Subcontractor uses equipment or tools owned or rented by Contractor, Subcontractor shall indemnify and hold harmless Contractor from any liability for all claims, which may result from Subcontractor's use of such equipment or tools. This shall include reimbursement by Subcontractor for loss or damage to the equipment itself. Subcontractor agrees to be solely responsible for safety, training, mechanical and safety devices, inspections and OSHA Compliance prior to equipment use.

Subcontractor has read and is thoroughly familiar with said contract documents and agrees to be bound to Contractor by the terms of said contract documents insofar as they relate in any part or in any way to the work undertaken herein.

ACCEPTANCE OF AGREEMENT FOR JOB #222129

WILLIAM TURNBOUGH - NATIONAL TAB

SUBCONTRACTOR/COMPANY

BY: 

Social Security or Federal ID#: _____

BRAZOS CONTRACTORS DEVELOPMENT, INC.
GENERAL CONTRACTOR

BY: 

Date: _____



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DRAW SCHEDULE FOR JOB # 222129

THIS DRAW SCHEDULE SHALL BECOME A PART OF THIS CONTRACT WHEN SIGNED BY THE SUBCONTRACTOR AND A REPRESENTATIVE FOR BRAZOS CONTRACTORS DEVELOPMENT, INC.

- All draws must be approved and signed by a Project Manager of BRAZOS CONTRACTORS DEVELOPMENT, INC.
- All draws and original invoices shall be submitted to invoices@brazoscontractors.com for payment processing by Accounting according to the agreed terms.

WMT

AGREED TERMS: 30 DAYS: OTHER: APPROVED BY: _____

BY ACCEPTING THIS AGREEMENT, YOU ARE ACKNOWLEDGING OUR INSURANCE REQUIREMENTS AND THAT YOU WILL PROVIDE US WITH A CERTIFICATE OF INSURANCE ADDING BRAZOS CONTRACTORS DEVELOPMENT, INC. AS AN ADDITIONAL INSURED ALONG WITH A WAIVER OF SUBROGATION AND 30-DAY NOTICE OF CANCELLATION IN FAVOR OF BRAZOS CONTRACTORS DEVELOPMENT, INC.

INSURANCE: WORKER'S COMP.: or YES | NO |

 WORKER'S COMP. WAIVER: YES | NO |

 and GENERAL LIABILITY: YES | NO |

DRAW SCHEDULE:

DRAW #1 DRAW #2 DRAW #3

Suppliers List: (List additional on a separate sheet of paper and send in with contract)

Name: _____ Contact: _____ Number: _____

Name: _____ Contact: _____ Number: _____

Name: _____ Contact: _____ Number: _____

LIEN RELEASE AGREEMENT:

AN ORIGINAL SIGNED PARTIAL LIEN RELEASE WILL BE REQUIRED FOR EACH DRAW UPON PAYMENT. EACH DRAW SHALL FOLLOW THE SAME PROCEDURE AND AN ORIGINAL SIGNED FINAL LIEN RELEASE IS REQUIRED AT THE TIME OF RELEASE OF THE TEN PERCENT RETAINAGE.

IF A NEW SUBCONTRACTOR REQUIRES EVIDENCE OF PAYMENT, THE CONTRACTOR WILL TRANSMIT A FACSIMILE OF THE CHECK AND THE SUBCONTRACTOR'S LIEN RELEASE WILL BE PROMPTLY RETURNED TO BRAZOS CONTRACTORS DEVELOPMENT, INC. IF THIS PROCEDURE IS FOLLOWED, IT WILL ENSURE PROMPT PAYMENT.

SUBCONTRACTOR: _____
 COMPANY NAME: **NATIONAL TAB**
 SIGNATURE: *William Turnbough*
 PRINT NAME: **WILLIAM TURNBOUGH**
 DATE: **8/2/2023**

CONTRACTOR: _____
Ren LaVigne
 for BRAZOS CONTRACTORS DEVELOPMENT, INC.
 DATE: _____