

**SAGE TIMBERLINE OFFICE**

**Timberline Construction Company**

**Subcontract**

111 Main Street  
Nashville, TN 37211  
(615) 222-2222 / (615) 222-5555 (fax)

This vendor No. Contact No. must appear on all invoices.

**Vendor No.:** 100  
**Contract No.:** 01001-06  
**Project No.:** 03-001

This Subcontract made and entered into by and between Timberline Construction, doing business in XXXXXX County, Beaverton, OR, hereinafter referred to as "Contractor" and

**A-1 Electric Company**

hereinafter referred to as "Subcontractor"

**WITNESSETH:** That, for the considerations herein contained, the Contractor and Subcontractor covenant and agree as follows:

**ORIENTATION:** The Subcontractor will furnish all materials, labor and equipment necessary to fully construct,perform and in every respect complete after receipt of Notice-to-Proceed from Contractor all of the work noted in the Description of Work herein for

hereinafter called the "Owner"

for the construction of  
**NW Food Warehouse**  
3428 SW 185th Avenue  
Beaverton, OR 97006

hereinafter called the "Project"

according to drawings and specifications prepared by

**A-1 Electric Company**

hereinafter called the "Architect" as listed below:

**CONTRACT DOCUMENTS & GENERAL REQUIREMENTS:**

- A. This Subcontract
- B. Exhibit "B" to the Subcontract "Contract Document List" dated attached hereto.
- C. Project Schedule dated and any subsequent updates to this schedule which may be issued during construction to reflect current progress
- D. Each Subcontractor is required to have a qualified supervisor present at project meetings on the jobsite while working on this project and starting one week before his work commences as follows:  
on at

**DESCRIPTION OF WORK:** Materials to be furnished and the work to be done by the Subcontractor consist of:

Furnish deliver and install all electrical work and equipment required to complete the new construction at the NW Food Warehouse, Beaverton OR. All in accordance with plans dated 5/31/95.

All work is to be coordinated with jobsite superintendant and completed by 12/1/96.

<b>PRICE:</b>	Contractor agrees to pay the Subcontractor for the performance of his work, the sum of	
	Electrical Subcontracts	82,500.00
	<b>TOTAL</b>	<b>82,500.00</b>

eighty-two thousand five hundred and xx / 100

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Sales Tax: Sales Tax is included in this Subcontract.

Retainage: 10.00% Retainage will be withheld from this Subcontract.

DELIVERY DATES: Subcontractor mandatory milestones

Electrical Subcontracts

GENERAL CONDITIONS:

- 1) The work shall be performed to the full satisfaction of said Contractor, the Architect, if any, and the Owner.
- 2) The Subcontractor has carefully examined the location of the Project, is familiar with the existing conditions there, has carefully examined the Contract Documents covering the proposed project and the particular portion of the said project which Subcontractor proposes to undertake, and agrees to be bound thereby. Such Contract Documents and all subsequent Addenda thereto are hereby made a portion of this Agreement. Subcontractor agrees to be bound to the Contractor by the terms of the General Conditions between Contractor and Owner and to assume toward the Contractor all of the obligations and responsibilities which the Contractor has assumed toward the Owner and Architect, if any.
- 3) This obligation to pay is subject to Subcontractor's first submitting an Application for payment (on the form attached) to Contractor by the 24th of each month for the value of work performed and materials under the Subcontract, less amount previously submitted. Contractor shall withhold the percentage required by the Owner, the Architect, if any, or ten percent, whichever is greater. At Contractor's option, checks may be made jointly payable to Subcontractor and Subcontractor's suppliers and/or subcontractors.  
Contractor agrees that the balance and retainage shall be due and payable within thirty (30) days after acceptance of Subcontractor's work by the Owner, or Architect, if any, or Engineer, if any, as the case may be, if the Subcontract be at that time fully performed, and subject to the condition that final payment shall not be due until Subcontractor has delivered to Contractor a complete release of all items arising out of the Subcontract herein, on a form to be furnished by the Contractor and receipts in full covering all labor, materials and equipment for which a lien could be filed or, in the alternative, a bond satisfactory to Contractor indemnifying him against such liens. Subcontractor, by accepting final payment, waives all claims which he might have against Owner or Contractor.  
It is further understood and agreed that no payment on account shall operate as approval of said work or materials, or any part thereof.
- 4) In order that Contractor and Owner shall be liable to pay Subcontractor, Subcontractor will first supply Contractor with a list of all those persons furnishing labor and/or materials to the Subcontractor an itemized list of projected costs for each. Prior to receiving each progress payment, Subcontractor will provide Contractor with proof of payment for the payment period requested from each of the above, at any time, upon Contractor's request.
- 5) The Subcontractor will promptly begin said work as soon as he is notified by the Contractor and will carry forward and complete said work as rapidly as Contractor may judge that the progress of the structure and other said subcontractors will permit. If Subcontractor deems itself delayed by other subcontractors, Subcontractor will promptly notify Contractor in writing and the contractor, if satisfied that said delay is caused by others than said Subcontractor hereunder, will allow additional time sufficient in the judgment of the Contractor to make up the time so lost. This paragraph shall cover any extra work done or materials furnished under this Subcontract.
- 6) The Subcontractor knows that the Contractor must have its contract performed on or before October 30, 2001, and is therefore understood and agreed that the work provided for herein shall be entirely completed on or before the required Delivery Date(s) and to that end, Subcontractor will perform his work as the Contractor directs.
- 7) It is expressly understood and agreed by and between the parties hereto that time is and shall be the essence of the Subcontract on the part of Subcontractor. The Subcontractor will furnish materials, labor and equipment, including all scaffolding, necessary to execute the work under this Subcontract with due diligence, without delay, and will not in any manner, by delay or otherwise, interfere with the work of Contractor, or other subcontractors, and should Contractor conclude the Subcontractor is delaying said work, Contractor shall so notify Subcontractor, who shall within 48 hours thereafter, furnish whatever materials are required by Contractor, and employ additional men, if any, in order to correct such situation as requested by Contractor. If Subcontractor fails to comply with the foregoing, Contractor shall have the right to order said materials and may employ additional men and charge the expense there against the said

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Subcontractor and deduct same from this Subcontract and should the amount on balance due on said Subcontract be insufficient, Subcontractor shall pay said deficiency to Contractor within ten days from demand. Subcontractor agrees that Contractor shall have the right to terminate this Subcontract by giving 48 hours written notice after any of the following contingencies occur:

- (a) If Subcontractor becomes insolvent or if Contractor has reason to believe that Subcontractor may become insolvent based upon the certification of an officer of a national banking corporation in the city in which the headquarters of Subcontractor is located.
- (b) If Subcontractor refuses or neglects to supply sufficient, properly skilled workmen and materials of the proper quality.
- (c) If Subcontractor fails in the performance of the work to be performed under this Subcontract by at the time designated by Contractor.
- (d) If Subcontractor fails in the performance of any of its obligations under this Subcontract, or,
- (e) If Subcontractor, another subcontractor or contractor, in Contractor's judgment, shall become engaged in a labor dispute.

And, Subcontractor agrees that in event (a), (b), or (c) occurs or in the event Subcontractor, in Contractor's judgment, shall have become engaged in a labor dispute and in event Contractor elects to terminate this Subcontract, Contractor may take possession of all materials, tools, appliances, and anything else which Subcontractor may have placed or have caused to be placed on the site of said project, and may engage any other person or persons to finish the Subcontract work. And in such event, Subcontractor agrees that all expenses incurred by Contractor shall be charged to Subcontractor except that, in event Contractor exercises the right of termination other than by means of Subcontractor's labor dispute, Subcontractor shall receive full payment of all amounts reasonable and actually expended by Subcontractor for materials, supplies, labor or any other usual item or items pertaining to the performance of this Subcontract prior to the date of termination.

8) Subcontractor shall not be excused for delay or failure to proceed with and complete the work to be performed under this Subcontract by and at the time designated by Contractor because of any labor dispute (including but not limited to strike, sit-down, work stoppage, picketing, boycott) involving or directed at the Subcontractor or its employees, Contractor or its employees, and other Subcontractor or its employees, or by or between any other persons.

9) Subcontractor hereby agrees to reimburse, indemnify, and hold Contractor harmless from and against all claims, losses, causes of action, damages, liabilities, expenses, and attorney's fees which Contractor incurs or may incur as a result of Subcontractor's performance (including performance by Subcontractor's agents, servants, subcontractors, or suppliers) or failure to properly perform any of the work or obligations undertaken in connection with the Subcontract.

10) Should Subcontractor default in any provisions of this Subcontract and should Contractor employ an attorney to enforce any provisions hereof or to collect damages for breach of the Subcontract, Subcontractor agrees to pay Contractor such reasonable attorney's fees as Contractor may expend therein.

11) Subcontractor represents the Subcontractor as an independent contractor and agrees to accept full and exclusive liability for compliance with all applicable Federal, State, and local laws, statutes, regulations and ordinances including but not limited to the areas of equal employment, wage and hour, fair hiring practices, labor relations, safety and environment and to conform to the safety policies of the Contractor in the performance of the Subcontract and to obtain and deliver to the Contractor all licenses, permits, etc. necessary or required to perform the Subcontract. Subcontractor agrees to be responsible for the payment of any and all sales taxes, excise taxes, old age benefits, and unemployment compensation taxes upon the material and labor furnished under this Subcontract, as required by the statutes of the United States Government and of the state in which this work is to be performed and, where applicable, of the county or local governing body under whose jurisdiction this work is to be performed.

12) Subcontractor agrees to furnish Contractor a Certificate of Insurance certifying that the Subcontractor is insured as follows: (a) Insurance against all liability under the Terms of the Tennessee Workers Compensation Law - Statutory Limits, (b) General liability for bodily injuries and property damage or death of any person with policy limits as follow: Combined Single Limit each occurrence \$1,000,000/Aggregate combined limit \$2,000,000, and (c) Automobile liability including owner, non-owned and hired car automobile for bodily injuries and property damage or death of any person with policy limits as follows: Combined single limit each occurrence \$1,000, 000. (d) The Certificate of Insurance shall contain the following provision. "As to the Worker's Compensation, Employer's Liability and Liability coverages, all subrogation

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rights against Contractor are waived. As to the liability coverage, Contractor is to be named as Additional Insured. Such insurance shall be primary and non-contributory to any other insurance that may be available to the Additional Insured." (e) In the notice of cancellation statement, the words "endeavor to" and "but failure to do so shall impose no obligation or liability of any kind upon the insurer, its agents or representatives" must be deleted by the issuer of the Certificate. Subcontractor further agrees that mobilization and manpower for this project will not occur without the issuance of the appropriate certificate. If an appropriate certificate is not issued or renewed and/or the insurance policies are not in force, Subcontractor agrees that he is liable for any and all claims and damages associated with not providing such certificate, including, but not limited to, additional premiums, medical costs, legal fees, disability benefits, etc. Contractor may deduct any of these amounts from the amount required to be paid to Subcontractor under this Subcontract.

13) The Subcontractor will provide sufficient, safe and proper facilities (in order to fully comply with all applicable Federal, State and Municipal laws and ordinances) at all times for the inspection of the work by the Contractor, Owner or Architect, if any, or an authorized representative of the Contractor, Owner or Architect. Subcontractor shall, at once, remove all materials and take down and rebuild all portions of work condemned by the Contractor, Owner or Architect, if any, upon receiving notice in writing of such condemnation.

14) Contractor reserves the right to order work changes in the nature of additions, deletions, or modifications without invalidating this Subcontract, and agrees to make corresponding adjustments in this Subcontract price and time of completion. All changes will be authorized by a written change order signed by the Contractor. The change order will include conforming changes in this Subcontract and completion time, specifying in detail the extra work or changes desired, the price to be paid or the amount to be deducted, should said changes decrease the amount to be paid hereunder. Any changes or extra work must be submitted to the contractor within 21 days of occurrence. No extra work or changes in this contract will be recognized or paid for, unless such change order is agreed to in writing before the work is done or changes made.

15) Subcontractor agrees that Subcontractor will within ten days from the request by Contractor furnish a bond in the sum of this Subcontract conditioned upon the faithful performance of this Subcontract and the payment of all materialmen and laborers duly executed with Surety company acceptable to Contractor as surety, and in form and content acceptable to Contractor. Cost of bond shall be paid by Contractor.

16) Subcontractor represents and warrants to Contractor that all equipment and materials used in this work, and made a part of the structures thereon, or placed permanently in connection therewith, will be new unless otherwise specified in the Contract Documents, of excellent quality, free of defects and in conformity with the Contract Documents. It is understood between parties hereto that all equipment and materials not so in conformity are defective, Subcontractor further warrants and assures Contractor that all work performed by him and materials supplied by him and those working under him will be performed in a workmanlike manner, and all warranties shall continue and Subcontractor shall promptly correct all deficiencies therein, if demand is made by Owner or Contractor upon Subcontractor within 365 days after acceptance of the completed project by Owner.

17) Subcontractor further agrees that in the event he should cease to work on the project described in the Subcontract prior to completing that portion which is covered hereunder, that he will execute a lien waiver affidavit in exchange for a final payment for work done, providing assurance to the Contractor that this final payment settles all claims which Subcontractor and all persons claiming through Subcontractor might have against Contractor arising out of this project.

18) Subcontractor is responsible for its own clean up and haul off. If Subcontractor chooses to use Contractor's dumpster, Subcontractor will be billed accordingly for the amount owed for dumpster usage.

19) This Subcontract shall not be assigned by the Subcontractor in whole or in part without prior written consent of the Contractor. Any attempt to assign the Subcontract without written consent shall operate, at the Contractor's option, as an instant forfeiture and repudiation thereof by the Subcontractor and rights of the parties shall be determined in the same manner as though Subcontractor had at the time of such attempted assignment failed and refuse to continue to perform the Subcontract. Subcontractor further agrees that in the event it is a partnership, the death of any partner, or if Subcontractor is an individual, the death of the individual, shall be effective to terminate the Subcontract at the option of the Contractor, provided Contractor gives notice of its election to terminate the Subcontract within thirty (30) days from written notice to the Contractor of date of death.

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20) All negotiations and agreements prior to the date of this memorandum and Subcontract are merged herein. We have read and fully understand this agreement.

21) The Contractor and the Subcontractor for themselves, their successors, executors, administrators, heirs and assigns hereby agree to the full performance of the covenants of this agreement and further agree that they shall be bound by all terms and conditions.

22) The Subcontractor agrees to adhere to all safety policies and procedures of OSHA, TOSHA and of the Contractor whether posted or verbally instructed.

**SIGNATURES:**

**The parties hereto have executed this Subcontract this date of January 22, 2001**

**A-1 Electric Company**

**Timberline Construction Company**

**BY:** \_\_\_\_\_

**BY:** \_\_\_\_\_

Project Manager

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**DATE**