

Cummings Electrical, Inc. – Subcontract Clarifications

If the Client and Cumming Electrical, Inc. (Cummings) have already negotiated reasonable contract terms, then those terms will be assumed to apply to this project also. If no previously negotiated terms exist, then Cummings presents the following list as the items for which we normally request equitable treatment. However, upon receipt of and review of all actual contract documents, if there are other terms that we feel need to be discussed with the intent of making them more reasonable, we reserve the right to do so.

Cummings shall be provided copies of and given an opportunity to review all documents to which it shall be legally bound or for which it is required to acknowledge receipt or review of.

Cummings shall be provided timely written notice and a reasonable opportunity to cure or begin curing any claim against Cummings or any party for which it may be liable related to breach, nonperformance, default, or any other action negatively impacting Cummings before Owner or Contractor take curative measures or assess penalties against Cummings.

Cummings shall reasonably protect its work-in-place and stored materials, but shall not bear the risk or be liable for the loss or damage caused by the Owner, Contractor or another Subcontractor.

Cummings will begin its Work when reasonably directed by the Contractor. The Work shall be performed according to the schedule included with this Subcontract Agreement and formulated or reasonably modified with Cummings' input.

Contractor may only assess liquidated damages against Cummings for delays which it caused or for which Cummings is liable, and only in proportion to Cummings' share of the damages actually assessed to Contractor.

Any amounts withheld for retainage must be withheld at a percentage rate equal to what the Owner is withholding from the Contractor, and any reductions received by Contractor from the Owner shall immediately be passed down to Cummings, resulting in equal retainage withholdings at all times for both the Contractor and Cummings.

Cummings will provide, but only to the extent it has been timely paid, conditional lien waivers, contingent releases and/or affidavits attesting that any indebtedness incurred for labor, equipment and materials related to the Work have been paid in full or will be paid upon Cummings' receipt of payment for such amounts covered in the application. Cummings hereby preserves its right to lien for nonpayment and title to materials, whether in-place or stored, will pass upon Cummings receipt of payment for such materials.

Cummings shall be paid within seven (7) calendar days of Contractor's receipt of payment from Owner.

Cummins would request some dollar limit to the amount of disputed change work that it must perform at which point Cummins can stop performing further work until these prior changes are resolved.

If Owner withholds payment from Contractor and such withholding is the fault of Contractor and/or another Subcontractor and no fault of Cummins, Owner or Contractor shall pay Cummins within a reasonable time.

Cummins will indemnify only the Owner, Contractor and their agents and employees from and against claims, damages and losses attributable to property damage and/or bodily injury arising directly from Cummins' Work or those for which Cummins is liable.

In the event Cummins is terminated, Cummins shall be entitled to receive immediate payment for the Work provided under the Subcontract Agreement up to the date of termination, and Cummins shall be entitled to the actual costs incurred as a result of the termination of the contract, including but not limited to profit, overhead and reasonable close-out costs.