



## Subhauler Checklist

Date: \_\_\_\_\_ Subhauler: \_\_\_\_\_

### PLEASE SUBMIT THE FOLLOWING ITEMS TO OUR OFFICE:

1. \_\_\_\_\_ R&S TRUCKING SUBHAUL AGREEMENT.
2. \_\_\_\_\_ W-9 FORM
3. \_\_\_\_\_ R&S TRUCKING TRAILER RENTAL AGREEMENT
4. \_\_\_\_\_ PROOF OF CORPERATION OR LLC, FOR PARTNERSHIP: A COPY OF DOCUMENTS FORMING THE PARTNERSHIP, FOR SOLE PROPRIETORSHIP: A COPY OF THE "FICTITIOUS BUSINESS NAME STATEMENT" NOT REQUIRED WHERE THE COMPANY NAME INCLUDES THE OWNERS LAST NAME AND DOES NOT INCLUDE WORDS SUCH AS "& SONS" IMPLYING ADDITIONAL OWNERS.
5. \_\_\_\_\_ A COPY OF YOUR MOTOR CARRIER PERMIT, WHICH STATES THE CA NUMBER AND THE EXPIRATION DATE ALONG WITH THE COMPLETED AND SIGNED "MOTOR CARRIER CERTIFICATE OF COMPLIANCE" FORM.
6. \_\_\_\_\_ DRUG AND ALCOHOL CERTIFICATE WITH DRIVER ENROLLMENT LIST AND PROOF OF ENROLLMENT IN THE DRUG AND ALCOHOL CLEARING HOUSE.
7. \_\_\_\_\_ A COMPLETED AND SIGNED "THIRD PARTY REPORTING AGREEMENT".
8. \_\_\_\_\_ A CERTIFICATE OF WORKER'S COMPENSATION INSURANCE NAMING R&S TRUCKING AS CERTIFICATE HOLDER. REQUIRED OF OWNER OPERATORS.
9. \_\_\_\_\_ A CERTIFICATE OF TRUCK INSURANCE NAMING R&S TRUCKING AS CERTIFICATE HOLDER AND ADDITIONAL INSURED WITH NO LESS THAN \$1,000,000.00 COMBINED SINGLE LIMITS. THE ADDITIONAL INSURED ENDORSEMENT MUST BE ADDRESSED TO R&S TRUCKING, YOUR INSURANCE BROKER MUST REQUEST THIS PAGE FROM THE CARRIER.
10. \_\_\_\_\_ OWNER OPERATORS MUST SUBMIT A CURRENT COPY OF DRIVER'S LICENSE AND MEDICAL CARD.
11. \_\_\_\_\_ CARB CERTIFICATE W/ EQUIPMENT LIST
12. \_\_\_\_\_ PROOF OF PAYMENT OF DIR REGISTRATION TO INCLUDE EXPIRATION AND PAGE ONE AND TWO. COMPLETED LABOR CODE AFFIDAVIT, EXHIBIT B.
13. \_\_\_\_\_ EQUIPMENT / DRIVER INFO LIST.

**IT IS MANDATORY THAT ALL THE ABOVE REQUIREMENTS BE COMPLETED AND RECEIVED BEFORE WORKING FOR R&S TRUCKING.**



V: 707-571-8820  
F: 707-571-0364



141 Stony Circle, Suite 202  
Santa Rosa, CA 95401

RSTrucking.com



**SUBHAUL AGREEMENT**

This SUBHAUL AGREEMENT (Agreement) is entered into as of \_\_\_\_\_

by and between **R&S Logistics, LLC; dba R&S Trucking**, (Prime Carrier), with its principal place of business located at 1688 Almar Parkway Santa Rosa, California, and

\_\_\_\_\_(Subhauler Name)

\_\_\_\_\_(Subhauler DBA)

*Name must match your Motor Carrier Permit, No Exceptions!*

with his or her principal place of business located at:

Street Address: \_\_\_\_\_ City: \_\_\_\_\_

State, ZIP: \_\_\_\_\_

A. Prime Carrier desires to contract with Subhauler as an independent contractor to assist Prime Carrier in the transportation of rock, sand, gravel, earth, asphalt, concrete and other similar construction, construction-related and industrial or other materials capable of being transported in dump truck equipment (collectively, Materials).

B. Subhauler desires to transport Materials at the request of Prime Carrier from time to time as an independent contractor.

In consideration of the mutual promises contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Prime Carrier and Subhauler agree as follows:

1. **Term of Agreement.** This Agreement will become effective as of the date set forth above. This Agreement will remain in effect for an unspecified term until terminated by either party as set forth in paragraph 7, below.
2. **Independent Contractor Status of Subhauler.** It is the express intention of the parties that Subhauler is an independent contractor and not an employee, agent, joint venture or partner of Prime Carrier. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between Prime Carrier and Subhauler or any employee or agent of Subhauler. Both parties acknowledge that Subhauler and any employees or agents of Subhauler are not employees of the Prime Carrier for any purpose whatsoever, including, without limitation, (a) state or federal tax purposes; or (b) eligibility)

inclusion in any retirement benefit or stock option or participation plan for the employees of the Prime Carrier; (ii) sick pay; (iii) paid non-working holidays; (iv) paid vacations or leave days; (v) participation in any plan or program offering life, accident, and/or health insurance for the employees of the Prime Carrier; or (vi) participation in any insurance, medical reimbursement plan or other fringe benefit plan for the employees of the Prime Carrier (including, but not limited to, workers' compensation and unemployment benefits). Except as expressly stated herein, nothing herein shall be construed as prohibiting Subhailer from performing services on behalf of any third party.

3. **Services to be Performed by Subhailer.** Subhailer will perform all of the services set forth herein in a professional and businesslike fashion and in full compliance with all applicable laws, rules and regulations. Prime Carrier's Request for Subhailer Services. The Prime Carrier, in its sole discretion, will tender Materials for bulk transportation by Subhailer under licenses and certifications maintained by Subhailer. Subhailer agrees, as an independent contractor, to provide such services. At such times as Subhailer's services may be desired, the Prime Carrier will request Subhailer to provide such service and will furnish Subhailer with a description of the reported Material to be transported, together with the time and location of the place of loading (the Load Site) and the destination for unloading (the Dump Site), within a reasonable time prior to the anticipated loading and delivery of such Material. In the event that Subhailer agrees to transport the Materials tendered by Prime Carrier, Subhailer will, without delay, cause said Material to be picked up at the Load Site and transported to the Dump Site as designated by the Prime Carrier or the Prime Carrier's agent or representative. Prime Carrier has no control over the persons or operation of any of the equipment used by Subhailer in providing the services covered by this Agreement. Subhailer will use its best efforts to give Prime Carrier preferential access to its motor vehicles, equipment, labor, drivers and other facilities for the transportation of Materials tendered by Prime Carrier. Notwithstanding, Subhailer shall not be required to furnish any specific number of vehicles or to haul any specific amount of Materials. Nothing in this Agreement shall preclude Prime Carrier from using the services of other subhailers or from performing the services itself.

Subhailer's Method of Performing Services. Subhailer will determine the method, details, and means of performing the services covered by this Agreement, and shall bear all expenses for such operations. The Prime Carrier has no right to, and will not, control the manner or determine the method of accomplishing Subhailer's services, including but not limited to the loading and securing of Materials, the selection of routes, timing of rest stops, working hours, or Subhailer's employees' working hours, compensation, or other terms and conditions of employment.

Subhailer's Employment of Assistants. Subhailer may, at Subhailer's sole expense, employ fully qualified and responsible assistants, employees or other persons (collectively, "Assistants") as Subhailer deems necessary to perform the services required of Subhailer under this Agreement. *Subhailer assumes full and sole responsibility for the payment of all compensation and expenses of any Assistants and for all state and federal income tax, unemployment insurance, workers' compensation insurance, Social Security, disability insurance, and any other applicable charge, tax, withholding or expense, and ensuring compliance with all provisions of this Agreement by such Assistants.* Upon reasonable request by Prime Carrier, Subhailer will provide Prime Carrier with a current report from the California Department of Motor Vehicles of Driver Record Information covering Subhailer and any Assistants.

Subhaulers Operation and Maintenance of Equipment, Instruments and Implements and Charges Incidental Thereto. Subhauler will operate and maintain Subhauler's equipment, instruments and implements at Subhauler's sole expense and shall pay any and all charges, levies, taxes, bonds and expenses arising therefrom, including, without limitation, labor, toll, fuel and repair expenses, and any and all insurance, permits, taxes and licenses levied or assessed. Subhauler shall not incur at any time any indebtedness in the name of, or inuring against, the Prime Carrier unless authorized in advance to do so in writing. If, however, Prime Carrier pays any such expense on behalf of Subhauler, Prime Carrier may charge Subhauler and deduct the amount of each such expense, together with a 15% administrative charge, from any amount owed at that time, or at any future time, by Prime Carrier to Subhauler.

Subhauler will pay all fees, charges, licenses, permit fees, taxes, bonds and fines necessary or incidental to the performance of the services covered by this Agreement. Subhauler agrees that Prime Carrier may withhold from Subhauler such mandated fees and charges as may be imposed on the transportation and required to be paid by Prime Carrier to a governmental agency and, in such event, the Prime Carrier shall pay said fees directly to such governmental agency. Subhauler will conduct regular inspections of his or her equipment, instruments and implements to determine that the same are in safe operating condition and to ensure safe working conditions and that all services under this Agreement are performed in a safe, responsible and lawful manner. Subhauler agrees that its equipment, instruments and implements will be operated and maintained in accordance with all applicable laws and regulations including, but not limited to, all provisions of the California Vehicle Code (including the BIT program and the Pull Notice program) as well as the regulations set forth in Title 13 of the California Code of Regulations and Federal Department of Transportation Regulations related to motor carrier safety.

Subhauler agrees to accept full responsibility for any violation of law or regulation by Subhauler or Subhauler's Assistants.

Prime Carrier's Required Documentation. Subhauler understands and agrees that originals of Prime Carrier's Non-negotiable Bill of Lading and Transportation Agreement, together with any shipping documents, weight tickets or certificates, statements, freight bills, receipts or other documentation required by Prime Carrier (collectively, the "Load Documentation"), fully executed and signed by Prime Carrier's customer, contractor or debtor (the "Customer"), must be submitted to the Prime Carrier in the following ways by 8:00am the next business day:

Email: [admin@rstrucking.com](mailto:admin@rstrucking.com)

Fax: 707-571-0364

Hand Delivered **Only**: 141 Stony Circle Suite 202, Santa Rosa, CA 95401

Mailing address: PO box 414, Fulton, Ca 95439

All **originals** must be received in our office within 72 hours of service. **NO EXCEPTIONS!** **Penalties of 5% PER TAG, PER DAY will be deducted from Subhauler's compensation for each tag received after the 72 hour period.** Subhauler understands and agrees that the Load Documentation serves as the principal accounting record of Subhauler's services for the purpose of calculating Subhauler's compensation under paragraph 4, below. Subhauler thus has the responsibility to provide **complete and accurate** Load Documentation with all necessary

signatures from the Customer. Load Documentation received by the Prime Carrier after the timing presented in this section will result in payment to Subhauler as though such services were actually

performed in the month the Load Documentation was received by Prime Carrier. Subhauler understands and agrees that Prime Carrier may return for correction and/or completion any improper, unsigned or incomplete Load Documentation presented by the Subhauler for payment, via the U.S. Mail or any other reasonable method of delivery. Late submission or any such return of Load Documentation may result in a substantial delay of thirty to sixty days of payment to the Subhauler by the Prime Carrier. In the event the Prime Carrier does not receive payment from the Customer for unsigned, improper or incomplete Load Documentation, no compensation to Subhauler shall be made for the transportation services covered by such unsigned, improper or incomplete Load Documentation. Load Documentation should be distributed as follows:

1. GOLD: to Customer
2. PINK: to Subhauler
3. WHITE & YELLOW: to R&S Trucking

#### 4. Compensation to Subhauler.

A. Pay Rate. Unless otherwise agreed to in writing, the Prime Carrier agrees to pay Subhauler compensation for services rendered under this Agreement in an amount equal to but not less than the "Pay Rate" expressed as a rate per ton, per hour or per load received by the Prime Carrier from the Customer for Subhauler's services. Subhauler agrees to accept such compensation as payment in full for Subhauler's services, and such compensation shall be considered binding if the Subhauler provides services at the Pay Rate offered by the Prime Carrier.

B. Monthly Settlement Statement. Prime Carrier shall pay Subhauler for its services no later than thirty (30) days after the end of the month in which the shipment has been completed, excluding Saturday, Sunday and Holidays. Completion of shipment means the Subhauler submits proper, fully signed and complete Load Documentation as required herein, the Prime Carrier will prepare a monthly settlement statement covering, and submit payment for, the transportation services performed by Subhauler under this Agreement. The monthly settlement statement shall be deemed final and binding on Subhauler, unless written notice of any alleged underpayment or overcharge is provided to the Prime Carrier within ten (10) calendar days after receipt thereof by Subhauler. Cashing or otherwise negotiating a check accompanying a monthly settlement statement coupled with a failure to provide written notice of any alleged underpayment or overcharge shall constitute and be deemed a complete waiver by Subhauler of any and all claims of underpayment or overcharge or rights to additional compensation due for such transportation services. Subhauler agrees that Prime Carrier has the exclusive right to handle all billing of freight charges to the Customer for the transportation services provided herein, and, as such, Subhauler agrees to refrain from all collection efforts against the shipper, receiver, or the Customer. Subhauler shall not withhold any goods of the Customer on account of any dispute as to rates or any alleged failure of Prime Carrier to pay charges incurred under this Agreement. Subhauler is relying upon the general credit of Prime Carrier and hereby waives and releases all liens which Subhauler might otherwise have to any goods of Customer in the possession or control of Subhauler.

C. Additional Authorized Deductions from Subhauler Compensation. In addition to the authorized deductions set forth above, Subhauler authorizes the Prime Carrier to deduct

from Subhauler's compensation, as reflected on the monthly settlement statement, any amounts owed by Subhauler to the Prime Carrier under this Agreement, including, but not limited to, the following:

(i.) Service and repair station charges for fuel, repairs, maintenance, tires, tubes, parts, oil, or any other purchases paid for or otherwise incurred by the Prime Carrier on Subhauler's behalf, plus a **15%** administrative and handling charge.

(ii.) Charges for fuel, including all applicable fuel taxes, purchased from the Prime Carrier by Subhauler, plus a **15%** administrative and handling charge.

(iii.) Trailer or other equipment rental charges if Subhauler rents trailers or other equipment from the Prime Carrier. The terms and conditions for such trailer or equipment rental shall be set forth in a separate Rental Agreement between the parties.

(iv.) Cash advances made by the Prime Carrier to Subhauler or at Subhauler's request, plus a **15%** administrative and handling charge thereon, unless such charge is expressly waived in writing by the Prime Carrier or prohibited by law.

(v.) Amounts for which the Prime Carrier may be held liable by failure of the Subhauler to properly perform or otherwise conform to the terms and conditions of this Agreement, including, without limitation, moneys withheld from the Prime Carrier by the Customer due to loss or damage caused by Subhauler or by Subhauler's failure to complete or perform the transportation services (e.g., back charges) or obtain proper, fully signed and complete Load Documentation.

(vi.) Claimed losses arising from or related to any shortages, damages or contamination of cargo transported by Subhauler.

(vii.) Prime Carrier may deduct from any amounts due or to become due to Subhauler any sum or sums owed by Subhauler to Prime Carrier with regard to this Agreement. In the event of the existence or assertion by any other party to any claim or demand (whether in the nature of lien, stop notice, civil or administrative claim or otherwise) arising out of or relating to Subhauler's performance hereunder, Prime Carrier shall have the right to retain out of any payments due or to become due Subhauler an amount sufficient to completely protect and make whole Prime Carrier and any shipper, consignor, consignee or Customer of Prime Carrier from any and all loss, damage, liability or expense related thereto.

(viii.) Subhauler agrees that Prime Carrier is authorized to withhold \$750.00 from the final check due Subhauler, after deducting all the charges and amounts otherwise due Prime Carrier, to cover charges and amounts otherwise due to Prime Carrier, ie: bridge tolls, fuel charges, expenses incurred during leased equipment agreement or other outstanding expenses. Prime Carrier will disperse balance no later than 90 days of the date payment would have otherwise been due. This is without prejudice to and does not limit any other claims, rights, or remedies Prime Carrier may have against Subhauler.

(ix.) Any other charges or fees imposed by Prime Carrier as a result of services rendered, benefits conferred or penalties imposed in accordance with any

written notice furnished by Prime Carrier to Subhauler.

5. **Payment of Prevailing Wages.** Subhauler shall comply with, as applicable, federal prevailing wage law (as per the Davis Bacon Act or the Service Contract Act and related regulations) and/or state prevailing wage law (as per Chapter 1 of Part 7 of Division 2 of the California Labor Code, commencing with Section 1720, and Title 8, California Code of Regulations, Chapter 8, Subchapter 3, commencing with Section 16000), for any covered on or off-site hauling performed on federal and/or state prevailing wage projects under this Agreement ("covered work<sup>1</sup>). Attached hereto as Exhibit A and incorporated by reference herein are California Labor

Code sections 1771, 1775, 1776, 1775.5, 1813, and 1815.

Specifically, Subhauler agrees to:

A. Comply with applicable federal and/or state prevailing wage laws in connection with any covered work performed under this Agreement. For purposes of compliance with the prevailing wage law, the Subhauler shall comply with: state public works contractor registration requirements, as applicable; payment of at least the applicable per diem prevailing wage rates; overtime and working hour requirements; payroll recordkeeping requirements; and other obligations as required by law.

B. For all covered work, provide Prime Carrier with completed certified payroll reports in compliance with applicable law and as applicable, submit electronic certified payroll reports to the California Labor Commissioner pursuant California Labor Code section 1771.4, or submit a completed Statement of Nonperformance certifying that no persons were employed in connection with that project during that time period. **Such payroll reports/ Statements of Non- performance must be completed on a weekly basis and shall be provided to the Prime Carrier and/or the Labor Commissioner, as applicable as, no later than 5 days following the last day of each workweek.**

C. As applicable, comply with the provisions of California Labor Code sections 1775(b) and 1777.7(e) for any subcontractor that Subhauler uses to perform covered work on any state public works project.

D. As applicable to work covered by the state prevailing wage law, prior to final payment, sign and provide to Prime Carrier an affidavit pursuant to California Labor Code sections 1775(b)(4) and 1777.7(e)(4) under penalty of perjury in the form provided as Exhibit B certifying that Subhauler has paid the specified prevailing rate of per diem wages due to its employees on the public works project and any amounts due under Labor Code section 1813.

E. Defend, indemnify, and hold harmless the Prime Carrier from any expenses, damages or liability arising out of or related to alleged violations of the above-referenced prevailing wage laws caused by Subhauler's failure to comply with these provisions. Such expenses, damages or liability shall include but not be limited to back wages, future wages, fringe benefits, training contributions, forfeitures, losses, liquidated damages, fines, penalties, assessments, and attorney's fees and costs.

6. **Representations, Warranties and Additional Obligations of Subhauler.**

A. **Qualifications and Authorizations of Subhauler.** Subhauler represents and

warrants that he or she holds all state, federal, county, city, local or regulatory certificates, permits, registrations, authorizations and licenses which are required or necessary for the conduct of Subhauler's business and for the performance of Subhauler's services and obligations under this Agreement (collectively, the "Authorizations"). Subhauler agrees to continue to hold the Authorizations in full force and effect at all times while performing services under this Agreement. Subhauler further represents and warrants he or she has the expertise and experience necessary to perform the obligations of this Agreement.

B. Drug and Alcohol Provisions and Compliance. Subhauler represents and warrants that Subhauler and his or her Assistants have no addiction to, and otherwise do not currently use, and will not use at any time services are performed under this Agreement, any drug or controlled substance that could detrimentally affect Subhauler's or his or her Assistants' performance hereunder. During the term of this Agreement and, specifically, at all times Subhauler or Subhauler's Assistants are performing services hereunder, Subhauler represents, warrants and agrees, as the context requires, as follows:

(i) Subhauler understands, has implemented and will comply with all State and Federal laws, rules and regulations applicable to drug and alcohol testing and compliance for motor carriers, including, without limitation, 49 CFR Parts 40 et seq., and 382, et seq., and California Vehicle Code, '34520, et seq.

(ii) Subhauler is enrolled in the FMCSA Clearing House and a credible drug and alcohol consortium which has fulfilled the Pre-employment Testing Qualifications as defined in 49CFR §§ 382.301 and 382.413 and randomly tests to required percentages for drugs **(50%)** and alcohol **(10%)** as defined in 49 CFR § 382.305.

(iii) In the event Subhauler or any of Subhauler's Assistants tests positive for drugs or alcohol, Subhauler will immediately remove himself, herself or his or her Assistant out of service and notify Prime Carrier of such test and action.

(iv) In the event Subhauler or any of his or her Assistants refuse to test or otherwise fails to comply fully with the laws, rules and regulations applicable to drug and alcohol testing and compliance, Subhauler will immediately remove himself, herself or his or her Assistant out of service and notify Prime Carrier of such non-compliance and action.

(v) Subhauler agrees to furnish Prime Carrier with appropriate documentation, within 48 hours after obtaining the same, of all necessary and proper drug- and alcohol-related information for CHP CSAT inspection purposes, such as quarterly reports as defined in 49 CFR§ 40.29 and 382.401 and year-end summaries as defined in 49 CFR § 382.403.

(vi) In the event Subhauler or any of its Assistants is involved in any accident or other incident and is required to participate in or perform Post Accident Testing as defined in 49 CFR § 382.601, Subhauler will ensure full and complete compliance with such testing and advise Prime carrier of the results thereof.

(vii) Subhauler maintains a written drug and alcohol company policy as defined in 49CFR § 382.601, and actively enforces such policy on Subhauler and Subhauler's Assistants.

C. Subhauler's Equipment, Instruments and Implements. Subhauler represents and warrants that he or she is lawfully engaged in the trucking and transportation business and that he or she uses equipment, specifically



designed for the transport of Material in the normal course and conduct of Subhauler's business. Subhauler agrees to maintain, operate and use all such equipment, in compliance with the requirements of all applicable regulatory and governmental agencies at all times. While providing services under this agreement. Subhauler will supply all equipment, instruments and implements required to perform all services under this Agreement. Subhauler is not required to purchase or rent any equipment, products, services, instruments or implements from Prime Carrier.

D. Workers' Compensation Insurance. Subhauler represents and warrants he or she has Workers' Compensation Insurance coverage as required by law for all Subhauler's employees, agents or Assistants. Subhauler agrees to maintain and continue such coverage in effect while providing services under this Agreement. Subhauler understands and agrees that Subhauler and Subhauler's employees, agents and Assistants (i) are not eligible for coverage under the workers' compensation policy of Prime Carrier and (ii) are not entitled to make claim under the Prime Carrier's policy. Subhauler will furnish evidence of his or her Workers' Compensation insurance coverage to Prime Carrier together with a list of all employees, agents or Assistants covered by Subhauler's Workers' Compensation insurance policy.

E. Independent Contractor. Subhauler represents and warrants he or she is an independent contractor and will provide all services under this Agreement as such and not as an employee of Prime Carrier.

F. No Assignment of or Breach Resulting from Agreement. Subhauler represents and warrants that Subhauler has made no assignment, grant, license, encumbrance, obligation or agreement, either written, oral or implied, that is in any way inconsistent with this Agreement. Subhauler also represents and warrants that Subhauler has no other agreement of any nature with any person or entity, which would prevent Subhauler from entering into this Agreement. Neither this Agreement nor any duties or obligations under this Agreement may be assigned by Subhauler without the prior written consent of the Prime Carrier.

G. Insurance. Subhauler represents and warrants that it has and maintains policies of Public Liability including property damage insurance and Commercial Auto Liability Insurance, in the coverage amount required by law, covering all operations and activities of the Subhauler, including, without limitation, Subhauler's obligations under this Agreement and any other contract, and **including all vehicles, equipment, instruments and implements operated by Subhauler, whether owned, rented or borrowed.** The limits for said coverage will be no less than the minimum coverages required by law for the services performed under this Agreement, with an additional Combined Single Limit per accident or occurrence of \$1,000,000 (one million dollars). Subhauler will pay all premiums on such coverage, and Subhauler will name the Prime Carrier as an additional insured under this agreement. Subhauler's auto liability insurer will issue the certificate of insurance on form DMV 65 MCP, and include Prime Carrier as additional insured on form CA 2312 (or its equivalent). Subhauler will furnish the Prime Carrier with a certificate evidencing such insurance together with a list of all equipment, instruments, and implements covered by said insurance. CA 2312 must be attached to the certificate of insurance when delivered to Prime Carrier. Subhauler agrees to utilize only the equipment insured and that it meets the insurance requirements stated herein. Should the Subhauler be involved in an incident in doing work for the Prime Carrier whereby the insurance coverage does not meet these standards, the Subhauler agrees to pay for any and all damages and indemnify the Prime Carrier should any claims occur.

H. Indemnity. To the fullest extent permitted by law, Subhauler shall indemnify and hold the Prime Carrier together with its agents, owners, employees, officers, directors,

and representatives harmless, and defend Prime Carrier with the legal counsel of Prime Carrier's choice, against any and all liability imposed or claimed, including attorney fees and other legal expenses, arising directly or indirectly from any act, failure to act, error or omission of Subhauler or Subhauler's Assistants, including, without limitation, (i) all claims relating to the death or injury of any person or damage to any property;

(ii) all claims relating to Subhauler's failure to pay all of the taxes or other levies, fees or charges, whether as an independent contractor or otherwise, set forth in paragraph 5(1), below; (iii) all claims arising out of any injury, disability, or death of any of Subhauler's Assistants; (iv) all claims or damages resulting from any breach by Subhauler of the terms, conditions, representations, warranties or other provisions of this Agreement; and (v) all claims against the Prime Carrier which Subhauler's insurance carrier fails to defend or settle. Subhauler understands and agrees that this indemnity is intended, and shall be interpreted, in the broadest possible manner so as to afford defense and indemnity of the Prime Carrier in all circumstances permitted by law. Such duty to defend and indemnify includes and applies without limitation to any liability imposed by law and to injury and damage to the Prime Carrier, Subhauler or third parties, and their respective property, employees, agents and representatives, regardless of how any such injury or damage may have been caused or suffered by reason of concurrent or contributory negligence, whether affirmative or passive, and regardless of the proportion of fault or the lack thereof, of the Prime Carrier, its agents, employees, representatives or independent contractors. Subhauler's duty to defend and indemnify constitutes a separate and distinct agreement and will not be limited by the provisions of any insurance policy held by or for Subhauler.

I. Equipment Lease. Subhauler authorizes Prime Carrier to deduct (15%) from Subhauler's compensation for all services performed with a trailer rented/leased by Prime Carrier to Subhauler. Subhauler is responsible for any physical damage to rented/leased equipment and Prime Carrier shall have the right to withhold payments until claims, including attorneys' fees and costs to settle. Subhauler agrees to maintain insurance coverage on such equipment in the amounts equal to their replacement value. Additional terms in "Trailer Rental Agreement" will apply.

J. State and Federal Taxes and Other Withholdings. Subhauler understands and agrees that Subhauler is solely responsible for the payment of any taxes, assessments, levies or other charges imposed on account of payments made to Subhauler under this Agreement, including, without limitation, unemployment insurance tax; federal, state and foreign income taxes; Social Security and Medicare payments, disability insurance taxes and any workers' compensation insurance. Subhauler understands and agrees that Prime Carrier will not withhold from Subhauler, or pay on behalf of Subhauler, any of the foregoing charges.

K. Non-Solicitation. Subhauler agrees that it will not transport Materials for any shipper, consignor, consignee or Customer of Prime Carrier where (1) the availability of such shipments first became known to Subhauler as a result of Prime Carrier's efforts. or (2) the shipments of the shipper, consignor, consignee or Customer of Prime Carrier was first tendered to Subhauler by Prime Carrier. If Subhauler breaches this Agreement and moves shipments obtained directly from customers of Prime Carrier during the term of this Agreement or for twelve {12} months thereafter without utilizing the services of Prime Carrier, Subhauler shall be obligated to pay Prime Carrier, for a period of fifteen {15} months thereafter, commission in the amount of thirty-five percent (35%) of the transportation revenue resulting from traffic transported for the Customer, and Subhauler shall provide

Prime Carrier with all documentation requested by Prime Carrier to verify such transportation revenue. Subhauler shall not utilize Prime Carrier' or the Customer's name or identity in any advertising or promotional communications without written confirmation of Prime Carrier's consent.

L. Subcontract Prohibition. Subhauler specifically agrees that all freight tendered to it by Prime Carrier shall be transported on equipment operated only under the authority of Subhauler, and that **Subhauler shall not in any manner sub-contract. Broker, or in any other form arrange for the freight to be transported by a third party without the prior written consent of Prime Carrier.**

M. No Right Title or Interest. Subhauler agrees that it shall not obtain any right, title, or interest in any Materials hauled by Subhauler or its Assistants, and that as a transporter of Materials it shall not be entitled to assert any lien, stop payment notice, or payment bond claim regarding any Materials or any construction project, and Subhauler shall refrain from making any such claim, and shall promptly satisfy and cause to be removed any such claim by an employee or Assistant of Subhauler. In the event Subhauler fails to cause any such claim or demand to be removed from the Materials or project, Subhauler agrees to reimburse Prime Carrier for all damages, costs, and expenses, including attorney's fees, in the removal of such

lien, stop payment notice, or payment bond claim.

## 7. Termination.

A. Termination With or Without Cause on Ten Days' Notice. Either party to this Agreement may terminate it at any time with or without cause upon ten (10) calendar day's written notice to the other party.

B. Immediate Termination by Prime Carrier. This Agreement may be terminated immediately by the Prime Carrier upon written notice to Subhauler upon the occurrence of any of the following:

(i) The occurrence of circumstances that make it impossible, impracticable or undesirable, in the sole and absolute discretion of the Prime Carrier, for the business of the Prime Carrier or the engagement of Subhauler to be continued.

(ii) The involuntary or voluntary dissolution, liquidation or bankruptcy of either party.

(iii) Any breach of Subhauler's obligations, representations or warranties under this agreement.

(iv) The sale of all or any portion of Prime Carrier's business.

C. Automatic Termination Without Notice. This Agreement will terminate automatically and without notice upon:

(i) The death of Subhauler.

(ii) The cancellation, non-renewal or non-obtainment of any license, permit, certification, application or insurance policy which Subhauler is required to procure and maintain under this Agreement; or

(iii) Subhauler's failure to comply with any drug and alcohol testing and compliance laws, rules and regulations or failure to advise Prime Carrier of and information required by paragraph 5(B), above.

D. General Provisions Applicable to Any Termination. Upon termination of this Agreement for any reason, nothing herein will be construed to release Subhauler from his or

her continuing obligations to the Prime Carrier under this Agreement or of any obligation matured prior to the effective date of such termination, including but not limited to, the timely and complete procurement and delivery to Prime Carrier of the Load Documentation, compliance with prevailing wage obligations under Section 5, defense and indemnification obligations under Section 6.H., and no solicitation under Section 6.J.

8. **General Provisions.**

A. **Review, Comprehension and Interpretation of Agreement.** Subhauler acknowledges careful review of this Agreement and represents and warrants that he or she understands its terms. This Agreement supersedes any prior agreement and sets forth the entire agreement and understanding of the parties relating to the subject matter discussed or described in this Agreement. Subhauler acknowledges, represents and warrants that Subhauler has entered into this Agreement voluntarily, and that Prime Carrier and its agents, officers and representatives have made no representation or promise whatsoever upon which Subhauler has relied, in whole or in part, other than any representation or promise contained in this Agreement. Each party agrees that this Agreement shall not be construed or interpreted for or against the party drafting it. This Agreement will be governed by and construed in accordance with the laws of the State of California.

B. **Amendments.** This Agreement can only be amended, revised or changed in a writing signed by both parties.

C. **Partial invalidity** If any provision in this agreement is held by a court of competent jurisdiction or other authorized arbiter to be invalid, void, unenforceable or illegal, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

D. **Dispute Resolution.** Any claims or dispute resolution procedure incorporated in a written agreement between the Prime Carrier and the Customer shall be deemed incorporated into this Agreement and shall apply to any disputes arising hereunder. In the absence of a claims or dispute resolution procedure in the Prime Carrier/Customer contract, all claims, disputes, and other matters in question between the parties arising out of or relating to this Agreement or the breach thereof may, at the sole election of the Prime Carrier, be decided by binding arbitration in Sonoma County, California, in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in existence. The foregoing agreement of Subhauler to arbitrate at the sole election of the Prime Carrier shall be specifically enforceable under California law. Any award rendered by the arbitrators shall be subject to review only as provided in California law, and judgment may be entered on it in accordance with that law in any court having jurisdiction to do so. The Prime Carrier reserves the right to litigate any claim, dispute, or other matter in question in any court of competent jurisdiction at its sole election. The parties agree that any such litigation will be venued in Sonoma County Superior Court. The prevailing party in any action at law or in equity, or in any arbitration matter commenced hereunder, will be entitled to reasonable attorney fees and reimbursement of its costs incurred in addition to any other relief to which that party may be entitled.

Executed at the Santa Rosa, County of Sonoma, State of California, on the date set forth above.

**PRIME CARRIER**

**SUBHAULER**

\_\_\_\_\_

R&S Trucking

\_\_\_\_\_

(Print Name)

\_\_\_\_\_

Authorized Agent or Officer

\_\_\_\_\_

Signature



## Subhauler Contact Information Sheet

Subhauler Name: \_\_\_\_\_ Account # \_\_\_\_\_

Owner/Name: \_\_\_\_\_

Contact Number: \_\_\_\_\_

Mobile Number: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Account Type: Full unit, \_\_\_\_\_ Puller, \_\_\_\_\_ (check one)

R&S Equipment Trailer Unit #: \_\_\_\_\_ Type: \_\_\_\_\_ (SB, FB, DB)

Equipment Type: (number of each type of equipment)

\_\_\_\_\_ 10W \_\_\_\_\_ TF \_\_\_\_\_ SD \_\_\_\_\_ ST \_\_\_\_\_ DB \_\_\_\_\_ SB \_\_\_\_\_ FB

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## EXHIBIT A

### CALIFORNIA PREVAILING WAGE STATUTES

#### § 1771. Payment of general prevailing rate

Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works.

This section is applicable only to work performed under contract, and is not applicable to work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance work.

#### § 1775. Penalties for violations

(a)(l) The contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director for the work or craft in which the worker is employed for any public work done under the contract by the contractor or, except as provided in subdivision (b), by any subcontractor under the contractor.

(2)(A) The amount of the penalty shall be determined by the Labor Commissioner based on consideration of both of the following:

(i) Whether the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) Whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations.

(B)(i) The penalty may not be less than forty dollars (\$40) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) The penalty may not be less than eighty dollars (\$80) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the contractor or subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.

(iii) The penalty may not be less than one hundred twenty dollars (\$120) for each calendar



day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1.

(C) If the amount due under this section is collected from the contractor or subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that contractor or subcontractor shall be satisfied before applying that amount to the penalty imposed on that contractor or subcontractor pursuant to this section.

(D) The determination of the Labor Commissioner as to the amount of the penalty shall be reviewable only for abuse of discretion.

(E) The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the contractor or subcontractor, and the body awarding the contract shall cause to be inserted in the contract a stipulation that this section will be complied with.

(b) If a worker employed by a subcontractor on a public works project is not paid the general prevailing rate of per diem wages by the subcontractor, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had knowledge of that failure of the subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with all of the following requirements:

(1) The contract executed between the contractor and the subcontractor for the performance of work on the public works project shall include a copy of the provisions of this section and Sections 1771, 1776, 1777.5, 1813, and 1815.

(2) The contractor shall monitor the payment of the specified general prevailing rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor.

(3) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project.

(4) Prior to making final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.

(c) The Division of Labor Standards Enforcement shall notify the contractor on a public works project within 15 days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages.

**§ 1776. Payroll records; retention; inspection; redacted information; agencies entitled to receive nonredacted copies of certified records; noncompliance penalties; rules**

(a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct.

(2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract and the Division of Labor Standards Enforcement of the Department of Industrial Relations. A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public may not be given access to the records at the principal office of the contractor.

(c) Unless required to be furnished directly to the Labor Commissioner in accordance with paragraph (3) of subdivision (a) of Section 1771.4, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(e) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund (29 U.S.C. Sec. 186(c)(S)) that requests the records for the purposes of allocating contributions to participants shall be marked or obliterated only to prevent disclosure of an individual's full social security number, but shall provide the last four digits of the social security

number. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's social security number.

(f)(l) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided nonredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number.

(2) An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subdivision.

(g) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

(h) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

(i) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section.

(j) The director shall adopt rules consistent with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

**§ 1777.5. Employment of registered apprentices; wages; standards; number; apprenticeable craft or trade; exemptions; contributions; compliance program**

(a) This chapter does not prevent the employment of properly registered apprentices upon public works.

(b)(l) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.

(2) Unless otherwise provided by a collective bargaining agreement, when a contractor requests the dispatch of an apprentice pursuant to this section to perform work on a public works project

and requires the apprentice to fill out an application or undergo testing, training, an examination, or other pre employment process as a condition of employment, the apprentice shall be paid for the time spent on the required pre employment activity, including travel time to and from the required activity, if any, at the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered. Unless otherwise provided by a collective bargaining agreement, a contractor is not required to compensate an apprentice for the time spent on pre employment activities if the apprentice is required to take a pre employment drug or alcohol test and he or she fails to pass that test.

(c) Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 are eligible to be employed at the apprentice wage rate on public works. The employment and training of each apprentice shall be in accordance with either of the following:

(1) The apprenticeship standards and apprentice agreements under which he or she is training.

(2) The rules and regulations of the California Apprenticeship Council.

(d) If the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprentice craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the dispatch of apprentices to the contractor. A contractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that program. "Apprentice craft or trade," as used in this section, means a craft or trade determined as an apprentice occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. As used in this section, "contractor" includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).

(e) Before commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the awarding body, if requested by the awarding body. Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.

(f) The apprenticeship program supplying apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities.

(g) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship program operates if the contractor agrees to be bound by those standards. However, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.

(h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. When an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Administrator of Apprenticeship, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

(i) A contractor covered by this section who has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or who has been previously approved for an apprenticeship program in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, but in no event less than the 1-to-5 ratio required by subdivision (g).

(j) Upon proper showing by a contractor that he or she employs apprentices in a particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen, the Administrator of Apprenticeship may grant a certificate exempting the contractor from the 1-to-5 hourly ratio, as set forth in this section for that craft or trade.

(k) An apprenticeship program has the discretion to grant to a participating contractor or contractor association a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:

(1) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.

(2) The number of apprentices in training in the area exceeds a ratio of 1 to 5.

(3) There is a showing that the apprentice craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.

(4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

(l) If an exemption is granted pursuant to subdivision (k) to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors shall not be required to submit individual applications for approval to local joint

apprenticeship committees, if they are already covered by the local apprenticeship standards.

{m}(l) A contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprentice craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract.

{2}(A) At the conclusion of the 2002-03 fiscal year and each fiscal year thereafter, the California Apprenticeship Council shall distribute training contributions received by the council under this subdivision, less the expenses of the Department of Industrial Relations for administering this subdivision, by making grants to approved apprenticeship programs for the purpose of training apprentices. The grant funds shall be distributed as follows:

{i} If there is an approved multiemployer apprenticeship program serving the same craft or trade and geographic area for which the training contributions were made to the council, a grant to that program shall be made.

{ii} If there are two or more approved multiemployer apprenticeship programs serving the same craft or trade and county for which the training contributions were made to the council, the grant shall be divided among those programs based on the number of apprentices from that county registered in each program.

{iii} All training contributions not distributed under clauses {i} and {ii} shall be used to defray the future expenses of the Department of Industrial Relations for the administration and enforcement of apprenticeship standards and requirements under this code.

{B) An apprenticeship program shall only be eligible to receive grant funds pursuant to this subdivision if the apprenticeship program agrees, prior to the receipt of any grant funds, to keep adequate records that document the expenditure of grant funds and to make all records available to the Department of Industrial Relations so that the Department of Industrial Relations is able to verify that grant funds were used solely for training apprentices. For purposes of this subparagraph, adequate records include, but are not limited to, invoices, receipts, and canceled checks that account for the expenditure of grant funds. This subparagraph shall not be deemed to require an apprenticeship program to provide the Department of Industrial Relations with more documentation than is necessary to verify the appropriate expenditure of grant funds made pursuant to this subdivision.

{C) The Department of Industrial Relations shall verify that grants made pursuant to this subdivision are used solely to fund training apprentices. If an apprenticeship program is unable to demonstrate how grant funds are expended or if an apprenticeship program is found to be using grant funds for purposes other than training apprentices, then the apprenticeship program shall not be eligible to receive any future grant pursuant to this subdivision and the Department of Industrial Relations may initiate the process to rescind the registration of the apprenticeship program.

(3) All training contributions received pursuant to this subdivision shall be deposited in the Apprenticeship Training Contribution Fund, which is hereby created in the State Treasury. Upon appropriation by the Legislature, all moneys in the Apprenticeship Training Contribution Fund shall be used for the purpose of carrying out this subdivision and to pay the expenses of the Department of Industrial Relations.

(n) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprentice occupations with the prime contractor.

(o) This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars (\$30,000).

(p) An awarding body that implements an approved labor compliance program in accordance with subdivision (b) of Section 1771.5 may, with the approval of the director, assist in the enforcement of this section under the terms and conditions prescribed by the director.

**§ 1813. Forfeiture for violations; contract stipulation; report of violations**

The contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article. In awarding any contract for public work, the awarding body shall cause to be inserted in the contract a stipulation to this effect. The awarding body shall take cognizance of all violations of this article committed in the course of the execution of the contract, and shall report them to the Division of Labor Standards Enforcement.

**§ 1815. Overtime**

Notwithstanding the provisions of Sections 1810 to 1814, inclusive, of this code, and notwithstanding any stipulation inserted in any contract pursuant to the requirements of said sections, work performed by employees of contractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.

EXHIBIT B

**LABOR CODES § 1775(b)(4), 1777.7(e)(4)**

**AFFIDAVIT**

I, \_\_\_\_\_, the undersigned am \_\_\_\_\_  
(Name) (Title/Position)

with the authority to act for and on behalf of \_\_\_\_\_  
(Subhauler name)

and certify under penalty of perjury that (1) \_\_\_\_\_  
(Subhauler name)

has been paid or has paid the specified general prevailing rate of per diem wages  
to its employees on

\_\_\_\_\_ and any amount due pursuant to Section 1813 and (2)  
(project name)

has employed the required number of apprentices on the project.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_