DIVISION OF LABOR STANDARDS ENFORCEMENT
Department of Industrial Relations
By Max D. Norris, Staff Counsel, State Bar # 284974
MOLINA Center
300 Oceangate, Suite 850
Long Beach, California 90802-4339
Telephone: (562) 590-5461
Fax: (562) 499-6438

Attorney for the DIVISION OF
LABOR STANDARDS ENFORCEMENT

BEFORE THE DIVISION OF LABOR STANDARDS ENFORCEMENT

DEPARTMENT OF INDUSTRIAL RELATIONS

STATE OF CALIFORNIA

In the matter of the Debarment Proceeding Against, EVANS ROOFING CO., INC., Respondents.	**Case No.: LB 6270** ORDER OF THE LABOR COMMISSIONER ON STIPULATION TO DEBARMENT

Whereas, Respondent stipulated to debarment as follows:

1. Respondent EVANS ROOFING CO., INC. is the holder of California Contractor's license number 610549.

2. Respondent entered into the attached SETTLEMENT AGREEMENT AND RELEASE including a DEBARMENT STIPULATION, see Paragraph 5, subsection (b)vi.

4. Based on the DEBARMENT STIPULATION, Respondent EVANS ROOFING CO., INC. shall be ineligible for a period of three years, beginning October 31, 2016 to do either of the following:

A) Bid on or be awarded a contract for a public works project; or

B) Perform work as a subcontractor on a public works project as defined as Labor Code sections 1720, 1720.2, and 1720.3.

IT IS HEREBY ORDERED.

DIVISION OF LABOR STANDARDS
DEPARTMENT OF INDUSTRIAL RELATIONS
STATE OF CALIFORNIA

Dated: 11.07.2016

By: Julie A. Su
Julie A. Su
State Labor Commissioner

SETTLEMENT AGREEMENT AND RELEASE

PARTIES

The parties to this Agreement, which was made as of the 27th day of October, 2016, consist of the DIVISION OF LABOR STANDARDS ENFORCEMENT, Department of Industrial Relations, State of California (hereafter "DLSE"), EVANS ROOFING COMPANY, INC. (hereafter "EVANS"), hereinafter jointly referred to as the "PARTIES."

RECITALS

1. On September 22, 2016, DLSE served a Civil Wage and Penalty Assessment (hereafter "CWPA") (attached hereto as "Exhibit 1") in DLSE Case No. 40-49508-557, to TURNER CONSTRUCTION COMPANY (hereafter "PRIME"), GWGG, LLC. (hereafter "GWCC"), EVANS, ZURICH AMERICAN INSURANCE COMPANY OF ILLINOIS (hereafter "SURETY"), and the CITY OF GARDEN GROVE (hereafter "AWARDING BODY") claiming wages and training funds due and owing in the amount of $264,861.12; combined penalties for violations of Labor Code sections 1775 and 1813 in the amount of $370,415.00; penalties pursuant to Labor Code section 1777.7 in the amount of $23,040.00; and potential liquidated damages in the amount of $264,861.12; said amounts alleged to be due and owing by PRIME, EVANS and GWCC as a result of violations of the prevailing wage laws of the State of California involving workers employed by EVANS on a public works project known as "GREAT WOLF LODGE" (hereafter "PROJECT"), awarded by the AWARDING BODY to PRIME as the prime contractor, with EVANS as a subcontractor on the PROJECT.

2. To the extent that the AWARDING BODY has withheld any funds in response to the CWPA, the AWARDING BODY could possibly become duty bound to promptly transmit withheld funds to DLSE pursuant to Labor Code sections 1727 and/or 1742.

3) Mr. BARATTO holds the position of "CEO/PRESIDENT" within the EVANS's corporate structure.

4) There are no other corporate officers besides Mr. EVANS and Mr. BARATTO within EVANS's corporate structure.

5) EVANS stipulates to Debarment pursuant to Labor Code section 1777.1, subdivision (a) for a period of 3 years beginning on October 31, 2016, following the filing of the Order on Stipulation to Debarment of the Labor Commissioner in this matter. During that 3 year period, EVANS, and any firm, corporation, partnership, or association in it has any interest in as defined in Labor Code section 1777.1, subdivision (f), or any substantial interest as defined in California Code of Regulations, Title 8, section 16800, shall be ineligible to do either of the following:

(a) Bid on or be awarded a contract for a public works project; or

(b) Perform work as a subcontractor on a public works project.

vii. In return for the successful completion of the foregoing DEBARMENT STIPULATION and the full payment of the SETTLEMENT AMOUNT, DLSE will release EVANs further liability relating to the CWPA;

4. EVANS is an active California Corporation registered with the California Secretary of State as entity number C1398143 (see Secretary of State website printout attached as Exhibit "2"). EVANS is also a contractor licensed with the Contractors State Licensing Board (hereafter "CSLB") of the State of California under Contractor's license number 610549 (see CSLB website printout attached as Exhibit "3"). During all times mentioned herein, Mr. MARK EVANS was listed with the CSLB as the "RMO" and Mr. BARATTO was listed with CSLB as the "CEO/PRESIDENT" of EVANS. No other active "OFFICERS" were listed for EVANS on the CSLB website. In entering into this Agreement, EVANS, MARK EVANS and BARATTO expressly confirm that said persons retain their corporate offices with EVANS as stated herein.

SETTLEMENT AGREEMENT

5. DLSE and EVANS, agree to resolve all disputes between them concerning the CWPA identified in Paragraph 1 above, as follows:

(a) EVANS will refrain from entering a Request for Review on the CWPA and the CWPA will be deemed a "final order" no longer subject to judicial review;

(b) DLSE agrees that EVANS will satisfy the "final order" according to the following:

i. THE PARTIES agree that EVANS (or PRIME) will pay to DLSE, the sum of $361,313.15 (hereafter "SETTLEMENT AMOUNT"), to be allocated according to DLSE's own internal policies.

ii. Upon the SETTLMENT AMOUNT clearing DLSE's bank account, DLSE will issue a release of the CWPA to the

AWARDING BODY authorizing the remaining contract balance held by the AWARDING BODY to be released to PRIME.

v. THE PARTIES agree that upon the full payment of the SETTLEMENT AMOUNT to DLSE, DLSE will fully, finally and forever release and discharge PRIME and SURETY and their respective officers, directors, employees, guarantors, successors, predecessors, insurers, assigns, agents and attorneys from any and all claims, past and present demands, rights, actions, causes of action, litigation, costs, fees and liability relating to the CWPA, including without limitation, claims for money on: Unpaid prevailing wages, interest under Labor Code section 1741, liquidated damages under Labor Code section 1742.1, and monetary penalties under Labor Code sections 1775, 1776, 1777.7 and 1813 (including costs and attorney fees) resulting from any claims of work performed by workers employed on the PROJECT by EVANS.

vi. EVANS, by its authorized corporate officers, Mr. MARK EVANS and Mr. BARATTO, stipulate as follows (these terms are hereafter referred to as the terms of the "DEBARMENT STIPULATION"):

1) EVANS holds the California Contractor's license number 610549.

2) Mr. MARK EVANS holds the position of "RMO" within EVANS's corporate structure.

(c) DLSE and EVANS agree that in the event EVANS in any capacity, or any firm, corporation, partnership, or association in which EVANS has any interest as defined in Labor Code section 1777.1, subdivision (f), or any substantial interest as defined in California Code of Regulations, Title 8, section 16800, fail to abide by the terms of the debarment, the remainder of liability on the "final order" entered by this Agreement on the CWPA will become due immediately (less payments made on the SETTLEMENT AMOUNT by any party).

6. The PARTIES agree that signatures to this agreement may be effective upon electronic transmission whether by email, facsimile transmission, or as a PDF attachment to email; that all signatures need not be affixed to a single document to be effective as to the PARTY whose signature is affixed so long as each PARTY signs this Settlement Agreement and Release; and that where this Settlement Agreement and Release is signed by counsel for the PARTY, such counsel warrants that they are expressly authorized by their client to execute this document on their client's behalf.

RELEASE

7. DLSE agrees that, conditioned upon the full payment of the SETTLEMENT AMOUNT, and upon said payment, DLSE does hereby fully, finally and forever release and discharge PRIME and SURETY, and their respective directors, guarantors, predecessors, insurers, employees, officers, sureties, stockholders, successors and assigns, attorneys and agents from all past and present claims, demands, rights, actions, causes of action, litigation, costs and fees arising out of DLSE Case Nos. 40-49508-557. This is a full release of all such CLAIMS against PRIME and SURETY arising out of work performed by workers employed by EVANS on the PROJECT whether known or unknown, suspected or unsuspected.

8. DLSE agrees that, conditioned upon EVANS's **successful completion of the terms of the DEBARMENT STIPULATION in paragraph 5, subsection "vi" and "vii", and only upon said completion and the full payment of the SETTLEMENT AMOUNT**, DLSE does hereby release EVANS, their employees, officers, sureties, stockholders, successors and assigns, attorneys and agents from all CLAIMS arising out of the CWPA issued in DLSE Case No. 40-49508-557. This is a full release of all such CLAIMS against EVANS arising out of said CWPA whether known or unknown, suspected or unsuspected.

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SIGNATURES

I certify that I have read this Settlement Agreement and Release and fully understand it, and in witness I have executed this Release on this 31st day of October, 2016, at Long Beach, California. The undersigned represents and warrants that he has full authority to execute this Settlement Agreement and Release on behalf of the Division of Labor Standards Enforcement, Department of Industrial Relations, State of California, and that no legislative act or judicial act or approval is necessary to give effect to this Release.

DIVISION OF LABOR STANDARDS ENFORCEMENT
Department of Industrial Relations

By: _____ v3
MAX D. NORRIS, Esq.
Attorney for the Labor Commissioner

I hereby certify that I have read this Settlement Agreement and Release and fully understand it, and on behalf of EVANS ROOFING CO., INC., as its "RMO", I agree to be bound by the terms of the Agreement and the DEBARMENT STIPULATION. In witness thereof, I have executed this Agreement on this 31 day of October, 2016, at Santa Ana, California.

EVANS ROOFING CO. INC., INC.

By: _____
Mark E. Evans, Its RMO

I hereby certify that I have read this Settlement Agreement and Release and fully understand it, and on behalf of EVANS ROOFING CO., INC., as its "CEO/PRESIDENT", I agree to be bound by the terms of the Agreement and the DEBARMENT STIPULATION. In witness thereof, I have executed this Agreement on this 31 day of October, 2016, at Santa Ana, California.

EVANS ROOFING CO. INC., INC.

By: _____
Lino L. Baratto, Its CEO/President