PLAINTIFF'S EXHIBIT

B&R-333

Brown & Root, Inc. Post Office Box Three, Houston, Texas 77001

August 12, 1969

Lipsey, Inc.
P. O. Box 6464
Pasadena, Texas 77502

Attention: Mr. R. L. Lipsey

Re: Subcontract No. 27-5232-2625

Gentlemen:

Attached you will find your copy of Subcontract Number 27-5232-2625 dated August 4, 1969.

This Subcontract has been duly executed by a member of our organization and is for your permanent file.

We acknowledge receipt of your Insurance Certificate and your Payment and Performance Bonds.

Very truly yours,

James L. Worthington
Purchasing Agent

By: W. D. Tellman

WDT:ga

cc: R. E. Flack (1 w/original attachment) This Copy
O. M. Bakken (2 w/attachment)
Ed Eastham (less attachment)
Drew Farmer (less attachment)

EXX 007220

Serving Progress 50 Years, 1919-1969

Form BR[illegible]

BROWN & ROOT, INC.

SUB-CONTRACT

Job Number [illegible]

Subcontract No. [illegible]

P. O. No. [illegible]

THIS AGREEMENT, made this 4th day of August, 1969 by and between BROWN & ROOT, INC., a Texas Corporation, 4100 Clinton Drive, Houston, Texas, (P. O. Box 3, hereinafter called the "General Contractor", and Tipsey, Inc., First Pasadena State Bank Building, P. O. Box 64, telephone: 472-0343
(Name, Street Address and Telephone Number)
a Texas --Corporation with principal offices at
(Give State of incorporation and whether a corporation, partnership or proprietorship)
Pasadena, State of Texas 77502, hereinafter called the "Subcontractor". WITNESSETH
WHEREAS, General Contractor has entered into a contract dated _____, with
Enjay Chemical Corp., hereinafter
(Name of Owner)
called the "Owner", for the construction of PCV Line No. 4, Offsite Cooling Water Facility
(Nature of construction under General Contract)
at Baytown, Texas
(City) (State)

in strict accordance with the General Contract, specifications, schedules, drawings, and general conditions, which are all collectively hereinafter called the "General Contract", and

WHEREAS, Subcontractor desires to perform that portion of the work as required by the General Contract, which is described below as "The Sublet Work";

NOW THEREFORE, it is agreed by and between General Contractor and Subcontractor as follows:

I. SPECIAL CONDITIONS

1 The Sublet Work consists of Furnish labor, equipment and supervision to perform the following:

(a) Bore Two (2) 96-foot X 36-inch diameter sections under M.P. Railroad main line and spur track and jack into place 36-inch steel casing.

(b) Bore two (2) 52-foot x 36-inch diameter sections at same location and install casing.

(c) Bore two (2) 58-foot x 36-inch diameter sections under Travis St. at Milam St. and jack into place 36-inch steel casing.

(d) All welding as required.

(e) Remove dirt from inside of 36-inch casing.

2 The price for the Sublet Work shall be a firm lump sum TOTAL OF FOURTEEN THOUSAND FOUR HUNDRED AND NO/100 DOLLARS ($14,400.00) which includes all Texas State and Local Sales and/or Use Taxes but excludes the reimbursable fee charge for the required $15,000.00 Payment and Performance Bonds. (Invoice fee charge separately.)

In the event of variations, greater or less, from the bore lengths stated above, a unit price of THIRTY-SIX AND NO/100 DOLLARS ($36.00) shall apply as an addition or a deduction to the firm lump sum price.

— Continued on Page 2 —

3. The time of completion of the Subject Work shall be as provided in paragraph 4 of the General Conditions but not later than the schedules and/or dates set by the General Contractor's Job Superintendent.

4. The performance bond provided for in the General Conditions must be delivered before any payment becomes due to Subcontractor hereunder, unless delivery at this time is waived. Immediate Delivery of Bond is Waived_____. Required X

5. Other special provisions of this subcontract are (a) General Contractor will supply the following:
a) excavation, backfill and cleanup
b) 36" casing

(b)

Subcontractor must furnish own warehousing and miscellaneous workmen's supplies.

(c)

All inquiries that the Subcontractor might have concerning this Subcontract must be made through the general contractor's Job Superintendent and not directly to the Owner.

(d)

Subcontractor to contact the General Contractor's Job Superintendent to schedule and co-ordinate this Subcontract.

(e)

Before commencing work and before this Subcontract becomes effective, the Subcontractor shall furnish the General Contractor with his Insurance Certificate and Payment and Performance Bonds.

EXX 007222

— Continued on Page____ —

(Page 2 is a numbered but otherwise blank page for use as a continuation sheet for paragraph 5, if needed. Insert "3" if it is used, otherwise insert "4" which is the start of General Conditions.)

II. GENERAL CONDITIONS

[illegible] of the General Contract has been made and a copy [illegible] to Subcontractor, Subcontractor represents that it is familiar with the terms and conditions of the General Contract and that it has satisfied itself as to the conditions and nature of the Work to be performed, the manner and means of performing the Work, the character, quality and quantity of the materials and equipment required, the difficulties and restrictions attending performance of the Work, and the conditions affecting labor, materials and equipment needed for the Work. Subcontractor is familiar with the provisions of law and labor conditions and availability of labor and materials in the area of the Subject Work and agrees that [illegible] affecting the performance of the Subject Work. Contractor and Subcontractor agree that the General Contract, which is hereby made a part of this Subcontract with respect to the Subject Work and as to which Subcontractor assumes the Subject Work, the Subcontractor agrees to be bound to the General Contractor by the terms of the General Contract and to assume toward him all of the obligations and responsibilities that the General Contractor by the General Contract assumes toward the Owner, except as expressly provided herein, and General Contractor shall be bound to the Subcontractor by all of the obligations that the Owner assumes to the General Contractor under the General Contract and by all the provisions thereof affording remedies and redress to the General Contractor from the Owner, except as herein or expressly provided herein. Subcontractor shall have an opportunity to be present and to submit evidence in any arbitration or other proceeding involving his rights provided such is agreeable to the Owner. Subcontractor shall make any claim for extras, request for extensions of time and claim for damages or otherwise which are authorized by this Subcontract and give any notice provided for by the General Contract or in this Subcontract to the General Contractor in the manner provided by the General Contract for like claims, requests and notices by the General Contractor upon the Owner, except that Subcontractor agrees that any such claims, requests and notices shall be made well enough in advance to allow General Contractor to comply with the requirements of the General Contract and Subcontractor agrees to be bound by the Owner's decision thereon.

2. Subcontractor agrees to perform the Sublet Work in a careful and workmanlike manner in accordance with the best construction practices and this Subcontract, and to furnish all supervision, labor, supplies, tools, equipment, facilities, storage, and materials (except as Owner or General Contractor specifically agrees herein to furnish) and all other things and services necessary or incidental to perform the Sublet Work.

General Contractor agrees to pay Subcontractor for the performance of the Sublet Work the amount specified in Paragraph 2 of Section I and to make payments, both partial and final, to Subcontractor within ten (10) days after such payments for the Sublet Work are received by Contractor from Owner under the provisions of the General Contract, except that General Contractor shall retain ten percent (10%) of the amount of each estimate on the Sublet Work until final completion of Subcontractor's work and the balance shall be paid within thirty (30) days after final completion and acceptance of Subcontractor's work by Owner upon a proper invoice submitted by Subcontractor accompanied by an affidavit that all bills for labor, materials, taxes, services and other costs of the Sublet Work have been paid and indemnifying General Contractor therefrom and a release by Subcontractor of any further claims against General Contractor. Payment of any installment may be withheld until Subcontractor furnishes satisfactory proof of payment of all bills for labor, materials, taxes, services and other expenses in connection with the Sublet Work and all claims for changes or extra work have been settled. Until final completion and delivery of the Sublet Work, all funds paid to Subcontractor shall be held in Trust for application or payment of laborers, materialmen, fabricators, subcontractors and others furnishing elements of the Sublet Work. Subject to performance by General Contractor of its obligations hereunder, title to all materials, components, fabricated items, and work in process intended for the Sublet Work, and the beneficial interest in all purchase orders or subcontracts therefor shall vest in General Contractor immediately upon delivery to the job site, or identification to this Subcontract, or commencement of fabrication in Subcontractor's or a supplier's shop, or award of a purchase order or subcontract, provided, that this provision shall not relieve Subcontractor of the absolute duty to complete and deliver the Sublet Work in good condition, or any other obligation hereunder.

3. Subcontractor agrees to commence the Sublet Work immediately when instructed and to prosecute the same in coordination with the work of others and with sufficient equipment, supervision and manpower to insure completion of each part of the Sublet Work within the time of completion herein provided so as not to cause damage or delay in the work of others. Subcontractor shall perform the Sublet Work at the times and in the sequence directed by Genera. Contractor, or Owner, from time to time, and, in the absence of such instructions from Genera. Contractor or Owner, at the times and in the sequence reasonably necessary to avoid delay in the performance of the work required by the Genera. Contract at whatever rate of progress General Contractor may make in performing the work. In the event Subcontractor be delayed by the Owner, General Contractor or another contractor performing work on the project, or by the ordering of extra work, General Contractor shall owe Subcontractor a day for day extension of time and then only if written request therefor is made by Subcontractor within forty-eight (48) hours from the beginning of the delay.

4. If any part of Subcontractor's work depends, for proper execution or results, upon the work of any other contractor, Subcontractor shall inspect the work of the other contractor and promptly report to Genera. Contractor any defects in such work that render it unsuitable for the performance thereof that adversely affects the proper execution of and the obtaining of the desired results of the Sublet Work. Subcontractor's failure to inspect and report any such defects shall constitute an acceptance of the work of others as fit and proper to be performed Subcontractor shall indemnify and save harmless Contractor, Owner, Architect and any other subcontractor, materialman or other person arising from Subcontractor's own acts or omissions [illegible] any manner relating to the performance of the Sublet Work, and in the event Genera. Contractor or Owner shall be sued, Subcontractor shall defend such suit and pay or satisfy any judgment rendered thereon against Genera. Contractor and shall pay all reasonable attorneys' fees incurred by Genera. Contractor or Owner.

5. Subcontractor shall at its own expense procure all required permits and licenses and shall give all notices necessary and incident to the due and lawful prosecution of the Sublet Work. Subcontractor shall comply with the requirements of the laws and regulations of any governmental restrictions and any permit requirement and shall be responsible for any violation made by federal, governmental agency or authority and with the requirements of any contract agency with jurisdiction over the Sublet Work. It is performed. Subcontractor shall be responsible for any part of the Sublet Work that is performed [illegible] of the General Contractor, Owner.

6. [illegible] Contractor shall have the right to enter upon the Sublet Work [illegible] of equipment and materials and performing such [illegible] Work as Owner or General Contractor may desire. Subcontractor agrees to furnish facilities [illegible] necessary for the General Contractor and Owner for the proper inspection of the Sublet Work and [illegible] to the Owner and General Contractor all [illegible] and materials furnished by Owner or General Contractor. Subcontractor shall protect the Sublet Work and [illegible] and be liable for all [illegible] that may occur

— Continued on Page 5 —

damage to the Vessels or Owner's in the Sublet Work [illegible] the Subcontractor's [illegible] Subcontractor's [illegible] Sublet Work [illegible] the General Contract [illegible] warrants to them [illegible] Sublet Work is free from defects in material and [illegible] agrees to make [illegible] Sublet Work [illegible] one year from the time [illegible] to Owner for the Work [illegible] it.

9. Subcontractor agrees to indemnify and to save General Contractor and Owner harmless from and against all claims, costs, including counsel fees and other expenses of same, whether [illegible] judgments and damages [illegible] account of any actual or [illegible] injuries resulting to persons including any damage or injury to the employees of any tier of Subcontractor, General Contractor, or Owner's vessel and the vessel or vessels alleged to have been salved or rescued or part of which may have or be alleged to have occurred in connection with the performance of the Sublet Work and that Subcontractor does not hereby assume responsibility for the sole negligence of General Contractor but does assume responsibility where there is concurring negligence of General Contractor and Subcontractor.

10. Subcontractor, notwithstanding the provisions of Paragraph 9, assumes all risks of loss or damage to Subcontractor's tools, equipment or property from any cause including the negligence of Owner, General Contractor or any other Subcontractor performing work in connection with the work described in the General Contract. In the event General Contractor or Owner loans or furnishes tools or equipment to Subcontractor or permits Subcontractor aboard their vessels in connection with the Sublet Work, Subcontractor agrees not to make its own determination before commencing work that such vessels are seaworthy and such tools and equipment are adequate for the safe performance of the work by Subcontractor, but that such tools, equipment or vessels are loaned or furnished and accepted by Subcontractor without warranty or representation by General Contractor or Owner as to their condition, and to return such vessels, tools and equipment to General Contractor or Owner at the conclusion of such use in same condition as when received, ordinary wear and tear excepted, and (b) to indemnify and hold General Contractor and Owner harmless from all claims, demands, causes of action, damages and injuries resulting from Subcontractor's use of said vessels, tools and equipment, including any claims, demands, causes of action, damages or injuries resulting from or alleged to result from negligence of General Contractor or Owner, or from the inadequacy or unseaworthiness of said vessels, tools and equipment for the performance of the Sublet Work.

11. In the event after seven (7) days written notice from General Contractor to Subcontractor pointing out generally any deficiencies either in respect to the nature of the Sublet Work or in respect to the promptness with which the Sublet Work is being performed, Subcontractor has not corrected such deficiencies to the satisfaction of the individual in charge of this job for General Contractor in the field, General Contractor shall have the right to supplement the work of Subcontractor or to take over completely the performance of the remainder of the Sublet Work either with his own forces or by contract with others. Subcontractor grants General Contractor the option to use all or any part of Subcontractor's tools, equipment, machinery, materials, and supplies then in use in performing the Sublet Work, and in the event General Contractor elects to use all or any part thereof, no rental shall be paid or given thereof and no credit accrues thereto, except insofar as the lack of any rental charge thus reduces the cost of completing the Sublet Work. Subcontractor also expressly waives any claim which he could assert in connection therewith for use of such equipment in whole or in part on other projects and any profits anticipated thereon during the period such equipment, or any portion thereof, are so utilized by General Contractor in accordance with this provision or any provisions of the General Contract. In the event the cost of supplementing or completing the Sublet Work is more than the amount of money Subcontractor is entitled to on the price basis provided herein, Subcontractor agrees to pay to General Contractor upon demand the amount of such excess cost, and in the event such cost of supplementing or completing the Sublet Work is less than the amount of money Subcontractor is entitled to on the price basis specified herein, General Contractor agrees to pay Subcontractor upon demand the amount of such difference between price and cost; provided that if General Contractor shall supplement or complete the work with his own forces, General Contractor may charge Subcontractor with an additional ten (10%) percent of the cost thereof. This right may be exercised from time to time as deemed proper and may be exercised even prior to the time specified for completion of the Sublet Work, and such exercise shall not be treated as a repudiation of this Subcontract or interference with the Subcontractor in the performance of the Sublet Work, and the exercise of such rights shall not be regarded as relieving Subcontractor of his duties in respect to the performance of the Sublet Work, nor shall the exercise or non-exercise of such right prejudice any other remedy the General Contractor or Owner may have, including, without limitation, those specified in the General Contract. Subcontractor agrees that the decision of the [illegible] superintendent in exercising the rights provided for herein shall be final and conclusive but if Subcontractor objects and disputes the judgment of the [illegible] Superintendent he may appeal therefrom, within said 7 day period, to an executive officer of General Contractor designated [illegible] the President of General Contractor and the written decision of that designated officer after hearing Subcontractor shall be final, absent actual fraud. Subcontractor agrees to cooperate fully with General Contractor and not to complain thereafter of the manner or cost of supplementing or completing the Sublet Work.

12. The employees, representatives and agents of Owner and General Contractor shall [illegible] to insist upon the strict observance of any [illegible] of the agreement between the parties to the end [illegible] the Sublet Work [illegible] and workmanlike manner as provided herein. No waiver by the Owner or General Contractor [illegible] any [illegible] of this Subcontract or of any term or condition thereof, whether [illegible] expressed or implied, shall be deemed to constitute a waiver of or consent to any subsequent breach of the same or of any other term or condition of this Subcontract.

13. In the performance of the Sublet Work the Subcontractor is an independent contractor with the right to supervise, manage and control the performance of the duties thereof hereon. Contractor and Owner, however, shall be entitled only to the results of the same and being entitled to inspect the performance of the Sublet Work by Subcontractor only to the extent necessary to assure such results.

14. Subcontractor shall not subcontract the Sublet Work [illegible] or any part thereof nor assign any portion of the money due or to become due under this Subcontract without the written consent of General Contractor, and any attempt at such subletting or assignment without such consent shall be void. Subcontractor shall remain fully responsible for the performance of the Subcontract notwithstanding.

15. All written notices between the parties shall be duly given, properly stamped, addressed and delivered to [illegible] certified mail and such notice shall be effective as of the date of the [illegible] mailing. Notices to Subcontractor shall be addressed to the address shown on page one of this Subcontract, unless written notice has been given of a new address.

—Continued on Page 6—

[illegible] with all applicable laws, ordinances, rules and regulations [illegible] governmental agency [illegible] certificates, wages [illegible] Contractor and Owner [illegible] therewith. Subcontractor shall [illegible] Standards Act.

[illegible] and maintain in [illegible] this Subcontract [illegible] insurance as [illegible] General Contractor [illegible] less than the amounts and coverage herein specified and shall furnish certificates [illegible] General Contractor before commencing work. Certificates shall [illegible] insurance shall not be cancelled, reduced [illegible] allowed to expire except upon [illegible] written notice [illegible] registered mail. In the event Subcontractor sublets any part of the Sublet Work, it shall [illegible] Subcontractor to require that every such Subcontractor comply with the insurance and the requirements [illegible] Subcontract. Insurance shall be placed with companies acceptable to General Contractor and Owner. Subrogation [illegible] General Contractor, Owner and other contractors performing work in connection with the work described in the [illegible] waived by Subcontractor and the policies shall be endorsed accordingly. The minimum insurance [illegible] the following amounts and coverage:

	Statutory
a. Workmen's Compensation (If marine operations are involved, endorsements shall provide maritime coverage including Voluntary-Marine Endorsement, Outer Continental Shelf and U. S. Longshoremen's & Harborworkers' Act)	
b. Comprehensive Public Liability (endorsed to include contractual and completed operations coverage hereunder)	
Bodily Injury	$100,000 per person $300,000 per accident
Property Damage	$100,000 per accident
c. Automotive (Owned or Non-Owned)	
Bodily Injury	$100,000 per person $300,000 per accident
Property Damage	$100,000 per accident
d. If Marine vessels are involved: Hull Protection and Indemnity Insurance	Full Value Full Value but not less than $200,000
e. Other:	

17. There shall be no change in the unit prices, if any, described in paragraph 2 of Section I of this Subcontract due to any variances between estimated and actual quantities of the Sublet Work, and there shall be due and owing from General Contractor [illegible] such sums as result from the application of the unit prices, if any, described in that paragraph to the quantities of the Sublet Work performed for which General Contractor received payment from the Owner.

18. Subcontractor shall keep the premises under his control neat and orderly at all times and shall remove all trash and debris daily and at the end of the contract.

19. Subcontractor agrees to furnish a performance bond within ten days should General Contractor so request in writing, whether before commencing the Sublet Work or at any time before completing the Sublet Work. Such bond shall be in form and with corporate sureties satisfactory to General Contractor, and in such amount as may be specified by General Contractor as adequate to cover performance of the Sublet Work and any damages that may result from the breach of this Subcontract. If immediate delivery is required by the Special Provisions, Subcontractor shall pay the premium. If immediate delivery is waived by the Special Provisions, General Contractor shall pay the normal premium if the bond is required by General Contractor at a later date.

20. Subcontractor shall conform to the highest standards of safety practices in performance of the Sublet Work and specifically shall conform to all safety practices and requirements of Owner, a General Contractor, General Contractor's current safety regulations are attached hereto or may be inspected at General Contractor's office.

21. The entire agreement between the parties with respect to the work required by the General Contractor is expressed in this written Subcontract and it is agreed that this Subcontract has not been based upon any oral representations, or misses or statements of any one representing any party hereto and that this agreement is therefore based entirely upon the written documents constituting this Subcontract between the parties, and supersedes all proposals and negotiations not expressly set forth herein. It is further agreed that this agreement shall not be changed, modified, abrogated or superseded by any subsequent agreement unless it be in writing and signed by both parties. In the event a Purchase Order, Work Order or other similar document is utilized in conjunction with this Subcontract, it is understood that any printed provisions of such other document have no application and that the printed provisions of this Subcontract form are controlling, but the typewritten or handwritten provisions of such

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other document shall constitute a part hereof and shall be construed with all of the printed, typewritten and handwritten provisions hereof. Any requirement shown on the drawings, but omitted from the specifications, or any requirement shown in the specifications but omitted from the drawings shall be considered as being required under this agreement as if set forth in both.

22. All work which is manifestly necessary to carry out the intent of the drawings and specifications pertaining to the Sublet Work, or which is customarily done in performing this type of work for the Owner or General Contractor shall be performed by the Subcontractor as a part of the Sublet Work.

23. General Contractor may at any time by a "Change Order" in writing signed by General Contractor's authorized representative and without notice to the sureties on any bond, change or issue additional instructions, change or issue additional specifications and plans, and change, omit or require extra or additional work to be performed by Subcontractor. In such event, General Contractor will have full authority to specify the amount and kind of work to be done, or omitted, the materials to be used, and the equipment to be furnished as fully as though such changes had been set forth in this subcontract. When any change order shall authorize extra or additional work, Subcontractor shall make every effort to complete the sublet work as changed within the time originally agreed upon for completion, the time for completion not being extended unless expressly extended by General Contractor in writing. The General Contractor is authorized to make changes in the work which do not substantially increase the cost of the sublet work without the Subcontractor being entitled to any additional compensation therefor. If such change orders substantially increase or decrease the cost of the sublet work to Subcontractor, there shall be an increase or decrease in the consideration to subcontractor (1) in accordance with the unit prices specified in this subcontract agreement or, if General Contractor agrees that the unit prices are not applicable, either (2) pursuant to a lump sum proposal acceptable to General Contractor or (3) by the actual direct cost to Subcontractor of such change in the sublet work plus ten percent thereof, which costs directly related thereto will be supported by approved payrolls and paid invoices on additions to the sublet work and by agreed estimates of labor and materials deleted for decreases in the sublet work. Subcontractor further agrees that no extra work, or changes in the Sublet Work, or in the Subcontract will be recognized or paid for unless agreed to in writing and approved by General Contractor and Owner before such work is done or such changes are made.

24. Subcontractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, or sex. Subcontractor agrees that it will comply with all applicable Federal, State and local Fair Employment Practices Act, or similar Act, Rules and Regulations, and whether or not applicable will comply with the Federal Civil Rights Act of 1964. The terms and provisions of Executive Order 11246 and any Executive Order superseding same, are incorporated herein with respect to any Sublet Work subject thereto.

25. Regardless of any provision hereof or of any approval hereof the Owner is not a party to this Subcontract and the Subcontractor agrees that the Owner is under no obligation to Subcontractor.

26. The Pages of this Subcontract consist of Pages 1, 2, 4, 5, 6, 7 and the Safety Regulations.

APPROVED:

_____
Owner

By _____

(Title) _____

Date _____

BROWN & ROOT, INC.
(General Contractor)

By [signature]
James L. Worthington
Title Purchasing Agent

Lipsey, Inc.
Subcontractor

By [signature]

(Title) [signature]

EXX 007226