



SUBCONTRACT NO. _____

DATE _____

**KINETICS MECHANICAL SERVICE, INC.
SUBCONTRACT
(LUMP SUM)**

This Subcontract is made and entered into by and between **Kinetics Mechanical Service, Inc., 6691 Brisa Street – Livermore, Ca 94550** (hereinafter KMS) and _____ (hereinafter SUBCONTRACTOR).

In consideration of the mutual covenants and agreements set forth herein, the parties hereto agree as follows:

**ARTICLE I
PROJECT**

The Project is the construction of _____ to be located on the property of, _____ hereinafter OWNER situated in _____ in accordance with plans, specifications, drawings, addenda and other documents prepared by (____) (hereinafter ARCHITECT/ENGINEER).

The Subcontract Work (also referred to as the "Work") is the construction, labor, materials, tools, equipment, supervision, necessary design, engineering, plant, facilities, safety, insurance, bonds, taxes, permits, fees, inspections and/or other services used or consumed in producing the results required under this Subcontract as described in the Subcontract Documents to complete the Work:

Scope of Work:

**ARTICLE II
SUBCONTRACT DOCUMENTS**

The documents that are binding upon the parties shall consist of this Signature Document, the following enumerated documents and any other documents specifically contained or referenced therein, all of which constitute the entire agreement between the parties, and are hereinafter referred to as the Subcontract or Subcontract Documents.

1. General Conditions of the Subcontract, dated June 30, 1997, consisting of Table of Contents and thirteen (13), reproduced pages.
2. Supplementary Terms and Conditions of the Subcontract, dated (____)
3. Special Conditions of the Subcontract, dated, consisting of_ (N/A), reproduced pages.
4. Insurance Certificates (see attached Insurance Requirements)
5. Copy of Safety Requirements Manual
6. Signed Tax Exemption Certificate (if applicable)



7. Partial Release and Waiver of Liens – with each months invoice. Invoice dues on the 15th of the month.
8. Subcontractor's Release and Certificate
9. Subcontractor's Application for Payment form- Approved AIA form is required
10. Exhibit "A", Subcontract Unit Prices, dated (N/A), consisting of _____ reproduced page
11. Exhibit "B", Subcontract Labor Billing Rates to be approved by KMS prior to perform the work
12. Exhibit "C", Subcontractor, Owned Equipment Rental Rates, dated (N/A), consisting of __ reproduced pages.
13. Certified Payroll Report required. This is a prevailing wage project.

ARTICLE III **PRECEDENCE**

In the event of any inconsistency or conflict between provisions of the Subcontract Documents, the order of precedence shall be: (i) the Signature Document; (ii) the Special or Supplementary Conditions of the Subcontract; (iii) the General Conditions of the Subcontract; (iv) the Specifications and Drawings; (v) any other documents referenced in the Subcontract, which shall have the order of precedence of the document in which it is referenced. Any Amendment shall have priority over the document it modifies, and unless stated otherwise any changed document shall have the precedence classifications as stated in this Article III.

ARTICLE IV **PRICE**

As sole consideration for SUBCONTRACTOR'S promises and for performance of the Work strictly in accordance with the Subcontract and to the satisfaction of OWNER and KMS, KMS agrees to pay and SUBCONTRACTOR agrees to accept the Lump Sum Amount of \$(____) which is firm, fixed and includes, inter alia, all applicable taxes, duties.

ARTICLE V **EXTRA OR CHANGED WORK**

The Subcontract Price will be modified for Extra or Changed Work only pursuant to the terms of the Subcontract Documents.

Should the SUBCONTRACTOR be required and receive approval to perform Extra or Changed Work on the basis of Unit Prices, the Subcontract Price shall be adjusted in accordance with the rates shown in Exhibit "A" attached hereto.

Should the SUBCONTRACTOR be required and receive approval to perform Extra or Changed Work on a cost plus basis, the SUBCONTRACTOR will be reimbursed at the following rates:

1. Direct labor furnished by the SUBCONTRACTOR in accordance with the provisions of Exhibit "B", attached hereto.



2. The net invoice cost of Materials purchased by the SUBCONTRACTOR for the work plus 15% thereof for SUBCONTRACTOR'S overhead and profit, plus taxes and freight charges at cost.
3. The actual cost of SUBCONTRACTOR'S subcontracts, including Sub-subcontractor's labor, not to exceed the hourly rates established in Exhibit "B", plus 10% for SUBCONTRACTOR'S overhead and profit.
4. Rental rates for SUBCONTRACTOR-owned equipment are to be in accordance with SUBCONTRACTOR'S rental cost schedule identified as Exhibit "C" hereto, but not to exceed local prevailing rates.
5. Rental rates for third party leased or rented equipment are to be at net invoice cost plus 15% for SUBCONTRACTOR'S overhead and profit, but not to exceed local prevailing rates.

ARTICLE VI
PREMIUM LABOR

All premium labor costs are to be borne by the SUBCONTRACTOR except in the event KMS or OWNER requires premium labor in addition to that otherwise required in the Subcontract Documents and provided that SUBCONTRACTOR has received approval to perform Extra or Changed Work pursuant to the Subcontract Documents.

ARTICLE VII
SCHEDULE

SUBCONTRACTOR'S obligations to perform the Work shall commence upon the effective date of this Subcontract (7/7/09). The SUBCONTRACTOR shall prosecute, progress, and complete the Work in accordance with Schedules provided by KMS in the Subcontract Documents. SUBCONTRACTOR shall complete the Work, including SUBCONTRACTOR'S demobilization on or before (___). TIME IS OF THE ESSENCE IN THIS SUBCONTRACT.

ARTICLE VIII
NOTICES

Any written notice required by or provided for under the terms of the Subcontract (except as specifically provided in the case of Insurance) shall be given and deemed to have been duly served as follows: (1) by delivering the written notice in person to KMS's designated representative, or SUBCONTRACTOR'S designated representative; (2) by depositing same, certified mail, postage prepaid, return receipt requested, in the United States mail, addressed to KMS's designated representative, or SUBCONTRACTOR'S designated representative, as indicated below; or (3) by sending same by telefacsimile transmission to KMS's designated representative or SUBCONTRACTOR'S designated representative, as indicated below, with a copy sent immediately thereafter by first-class mail, postage prepaid, and each such notice shall be deemed delivered upon delivery in the case of personal delivery, or three (3) days after depositing in the mail in the case of delivery by certified mail, or upon receipt of printed confirmation in the case of delivery by telefacsimile transmission:

KINETICS MECHANICAL SERVICE, INC.
6691 Brisa Street
Livermore, Ca 95440
Telephone No.: (925) 245-6200
Fax No.: (925) 245-6222
Attention: _____

SUBCONTRACTOR:

Telephone No. _____
Fax No.: _____
Attention: _____



The designation of either KMS's or SUBCONTRACTOR'S representative may be revoked or changed only by written notice from the revoking party to the other party in the manner as hereinabove provided.

ARTICLE IX **INSURANCE**

SUBCONTRACTOR shall furnish Certificates of Insurance to KMS, evidencing satisfaction of the insurance requirements of the Subcontract Documents before beginning the Work and upon renewal of such coverage's during the period in which SUBCONTRACTOR is required to maintain such coverage's pursuant to the terms of the Subcontract Documents. Failure to provide proof of insurance is grounds for Termination for Cause.

ARTICLE X **BONDS**

Performance and Payment Bonds **are/are not** required as of the execution of this Subcontract. Whether now or hereafter required, except as hereinafter provided, the premium chargeable for such bonds shall not exceed **1.5%**. In the case of any change in the Subcontract Price, the not-to-exceed limit stated above shall be adjusted proportionally to the change in the Price.

ARTICLE XI **ENTIRE AGREEMENT**

The Subcontract Documents embody the entire agreement between the parties and shall supersede all prior subcontracts, contracts, proposals, representations, negotiations, or letters pertaining to the Work, whether written or oral. Neither OWNER nor KMS shall be bound by or be liable for any statement, representation, promise, inducement, or understanding of any kind not set forth in the Subcontract, or in a subsequent Amendment thereto.

ARTICLE XII **GOVERNING LAW**

This Subcontract shall be construed under and governed by the laws of **California**, without regard to the conflicts of law provisions thereof.

ARTICLE XIII **EQUAL EMPLOYMENT OPPORTUNITY**

SUBCONTRACTOR agrees not to discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, or handicap and further agrees not to engage in any unlawful employment practices.

ARTICLE XIV **CALIFORNIA CONTRACTS**

Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the date of the alleged violation. Any questions concerning a contractor may be referred to the following:



Registrar
Contractors' State License Board
P.O. Box 26000
Sacramento, California 95826

ARTICLE XV
LITIGATION

In the event of any dispute between the parties arising out of this agreement, or otherwise, the prevailing party shall be entitled to all of its reasonable attorneys fees and costs, including but not limited to expert witness fees and costs and all other costs whether or not permitted by California Code of Civil Procedure section 1033.5.

IN WITNESS WHEREOF, the parties hereto have executed this Subcontract on the day and year below written, but effective as of the day and year first set above.

KINETICS MECHANICAL SERVICE, INC.

SUBCONTRACTOR:

By: _____ (SIGN)

By: _____ (SIGN)

Print: _____

Print: _____

Title: _____

Title: _____

Date: _____

Date: _____

Contractor's License No. _____

License Classification: _____

License Expiration Date: _____