

TECHNICAL SERVICES SUBCONTRACT AGREEMENT

Subcontract No.

THIS AGREEMENT is made and entered into this _____ day of _____, 20____, by and between Faris Construction Company, a corporation duly organized and existing under the laws of the state of California ("FCC" or "Contractor") and _____ ("Subcontractor").

WHEREAS, FCC will from time to time require technical services in connection with construction of _____ ("Project") which is being built pursuant to the prime contract ("Contract") between FCC and _____ ("Owner"), and

WHEREAS, Subcontractor is able and willing to provide such services under the terms and conditions set forth herein,

NOW, THEREFORE, in consideration of the promises and mutual agreements set forth herein, Contractor and Subcontractor mutually agree as follows:

Article I – Statement of Work. Subcontractor shall furnish all materials, equipment, tools and labor required to fully perform the work described below ("Work") in complete compliance with the applicable requirements of the Contract, which is incorporated herein by reference, and through which Subcontractor is bound to the Contractor in the same manner as Contractor is bound to the Owner:

[Insert Description of Services]

Article II – Period of Performance. Subcontractor agrees to perform the Work in accordance with the schedule provided to Subcontractor by FCC, including any modifications thereto. Time is of the essence in the performance of this Subcontract.

Article III - Compensation. In consideration for the performance of the Work, FCC shall pay Subcontractor:

Dollars (\$ _____). OR [X out one]

For Work performed, at the hourly rates set forth in Exhibit #1, subject to the Guaranteed Maximum Price set forth in Exhibit #2.

Article IV - Payment and Invoicing. Subcontractor shall submit monthly payment applications to FCC on forms provided by FCC, together with such supporting documentation as FCC may reasonably require. FCC shall include the amounts requested by Subcontractor in FCC' payment applications to the Owner. Payments shall be due and payable to Subcontractor within seven (7) days following receipt by FCC of the amounts paid to FCC by the Owner relating to Subcontractor's Work.

Faris Construction Company

Article V – Changes and/or Amendments. FCC shall have the right from time to time, by written notices, to make changes in or additions to drawings, specifications or instructions for the Work, and Subcontractor agrees to comply with such changes. If such changes cause a material increase or decrease in the cost of or in the time for performance of the Work, equitable adjustment in the price and/or time for performance will be made and this Agreement will be modified in writing accordingly. Subcontractor must assert any claim for adjustment within five (5) days after the change is ordered or Subcontractor becomes aware of the events or circumstances giving rise to the change. Subcontractor expressly agrees that the right of Subcontractor to additional compensation or time for performance relating to or arising from any change or disruption resulting from an act or directive by the Owner is expressly limited to any additional compensation or time extension which is due and actually issued by the Owner pursuant to the terms of the Contract. Any claim for additional compensation or time extension by Subcontractor relating to acts of the Owner shall be submitted at Subcontractor's sole expense (including attorneys' fees) through FCC to the Owner under the applicable terms, including the dispute resolution terms, of the Contract, and Subcontractor's right to relief with respect to such Owner-related claims is expressly limited to the relief ultimately obtained from the Owner concerning Subcontractor's Work, excluding mark-ups due FCC under the Contract.

Article VI – Assignment and Subcontracting. Subcontractor's obligations under this Agreement are not assignable or transferable, and Subcontractor agrees not to subcontract any of the Work without the prior written approval of FCC.

Article VII – Indemnification. Subcontractor Specifically Agrees By Acceptance Of This Agreement To Save Harmless, Indemnify And Defend FCC, The Owner And The Architect Against All Loss, Liability, Damage, And Expense (Including Costs And Attorneys' Fees) Caused By Or Connected With The Performance Of The Work By Subcontractor, Including Without Limitation Any Loss, Liability, Damage Or Expense Arising From Any Concurrent Negligent Conduct Of FCC Relating Thereto.

Article VIII – Insurance. For the protection of FCC and the Owner, Subcontractor shall, at its own expense, secure and maintain in force during the life of this Agreement, insurance policies in the following minimum amounts:

- A. Commercial General Liability (CGL) \$2,000,000 per occurrence
Bodily Injury and Property Damage: \$2,000,000 aggregate

FCC and the Owner shall be named as additional insureds under the above-referenced CGL policy with respect to the Work to be performed by Subcontractor pursuant to this Agreement. Such policy shall provide coverage on an occurrence basis and shall include explosion, collapse, underground hazard and products/completed operations. The insurance coverage provided by Subcontractor shall be primary to any insurance coverage carried by FCC or the Owner.

- B. Worker's Compensation – Coverage must be provided in accordance with the statutory limits under the laws of the state in which the Work is performed.

- C. Automobile Liability – Coverage must be provided covering the use, operation and maintenance of any automobiles, trucks, trailers, or other vehicles owned, hired or non-owned by Subcontractor with a minimum combined single limit of \$2,000,000.
- D. Professional Liability and Errors and Omissions insurance, covering the services provided under this Agreement, including contractual liability insurance against the liability assumed in this Agreement, as is acceptable to and approved by the Owner and FCC. Such insurance shall have minimum policy limits of Two Million Dollars (\$2,000,000) in the aggregate and Two Million Dollars (\$2,000,000) per claim and a maximum deductible of Twenty-Five Thousand Dollars (\$25,000). The insurance provided must be primary to any insurance coverage carried by FCC and must provide vicarious liability coverage for both FCC and the Owner. The insurance shall be continued in effect for not less than one (1) year following final payment to Subcontractor.

The insurance policies required above shall be issued by carriers acceptable to FCC, and, prior to the commencement of any of the Work, Subcontractor agrees to provide FCC with appropriate insurance certificates attesting to the existence of the required coverage. In addition, Subcontractor agrees that these required policies will not be cancelled or otherwise allowed to lapse during the term of this agreement, and the policies shall provide that FCC shall receive written notice at least thirty (30) days prior to any cancellation or failure to renew any of the policies. The fees for insurance, including the payment of any deductible amounts applicable to any claim, will be at the expense of Subcontractor.

Article IX – Ownership of Work Product. All technical data, evaluations, reports and other work product of Subcontractor’s Work shall become the property of FCC and shall be delivered to FCC upon completion of the Work. Subcontractor may retain copies thereof for its files and its internal use. Subcontractor shall obtain the written approval of FCC prior to discarding any samples that were taken during the course of the performance of the Work.

Article X – Independent Contractor Relationship. In the performance of the Work, Subcontractor shall be an independent contractor with the sole authority to control and direct the performance of the details of the Work.

Article XI – Legal Requirements. Subcontractor shall secure all licenses or permits required by law and shall comply with all ordinances, laws, orders, rules and regulations pertaining to the Work.

Article XII – Guarantees and Warranty. Subcontractor warrants and guarantees that the Work shall be performed and completed in a workmanlike manner in accordance with the applicable Project plans and specifications and in a manner that is satisfactory and acceptable to FCC and the Owner. Subcontractor shall not, either during or after the term of this Agreement, disclose to any third party any confidential information relative to the Work or the business of FCC, without the written consent of FCC. Representatives of FCC shall at all times have access to the Work for purposes of inspecting same and determining that the Work is being performed in accordance with the terms of this Subcontract.

Article XIII – Termination for Default. In the event Subcontractor fails to perform its services in compliance with the material requirements of this Agreement, FCC may issue notice to Subcontractor that upon Subcontractor's failure to take adequate measures within three (3) days of receipt of the notice to correct such deficiencies, FCC may terminate Subcontractor or undertake any measures required to supplement Subcontractor's work to correct such deficiencies. All costs of completing the Work following termination of Subcontractor or of supplementing Subcontractor's work shall be borne by Subcontractor and either may be deducted from amounts due Subcontractor hereunder or, in the event such amounts are not sufficient to compensate FCC for all additional costs incurred, shall be immediately paid to FCC by Subcontractor upon presentment of an invoice for such costs.

Article XIV – Termination for Convenience. FCC reserves the right to terminate this Agreement at any time for the convenience of FCC. In the event of such termination, Subcontractor shall immediately cease work as directed, and Subcontractor shall be paid all amounts earned to date under the terms of this Agreement, plus any reasonable costs incurred as a result of such termination. Subcontractor waives any claims for recovery of any additional amounts, including lost profits or other consequential damages, relating to or arising from a termination for convenience.

Article XV – Entire Agreement, Amendments and Governing Law. This instrument and the attached exhibits constitute the entire Agreement between the Parties covering the Work. No modifications or amendments to this Agreement shall be valid unless set forth in writing and executed by Contractor and Subcontractor. This Agreement shall be construed in accordance with the laws of the state where the Project is located.

Article XVI – Severability. In the event any provision of this Agreement is held or found to be contrary to applicable law, such provision shall continue in effect to the extent legally permitted and the remaining provisions of this Agreement shall remain in full force and effect to the extent permitted by law.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

FARIS CONSTRUCTION CO.

(Subcontractor)

Address: _____

Address: _____

By: _____

By: _____

Title: _____

Title: _____