



Residential Subcontract

Contract Number: _____
This number and the project name must appear on all invoices and delivery tickets or payment will be delayed.

This subcontract made on _____ by and between Hamilton Stern Construction, LLC, ("Hamilton Stern") and the company named below, hereinafter called Subcontractor.

Subcontractor Company Name: _____

Subcontractor Address: _____

Subcontractor Phone Number: _____

Subcontractor Email Address: _____

Project Name: _____

Project Address: _____

Project Owner: _____

Project Architect/Documents: _____

Hamilton Stern has entered, or is about to enter, into a contract with the Owner in accordance with the Contract Documents prepared by the Architect referenced above. The parties agree that Subcontractor shall perform the following work on the project:

Scope of Work:

Contract Price for the Above Work: Base: \$ _____

Sales Tax: [] Sales Tax Exempt

[] Sales Tax Included

_____% Tax Amount \$ _____

Total Contract Price: \$ 0.00

Additional terms and conditions which are listed on the following pages are included in and part of this subcontract.

Subcontractor Signature Date

Hamilton Stern Construction Signature Date



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ADDITIONAL TERMS AND CONDITIONS TO HAMILTON STERN CONSTRUCTION, LLC RESIDENTIAL CONTRACT

- 1. The Work** Subcontractor agrees to perform and complete the Work (as that term is defined on the front of this Subcontract) according to the General Contract, the plans, specifications, all addenda, and all other duly promulgated related documents (referred to collectively as the Contract Documents), and there shall be no departure by Subcontractor therefrom without the prior knowledge and written consent of Contractor. Subcontractor shall comply with all orders, plans and agreements required by the General Contract as though Subcontractor were a signatory thereto. Definitions: **Furnish** means to supply and deliver F.O.B. to Project Site, Unload and leave ready for installation, **Install** means to unload, store, secure, unpack, move to point of use, assemble, erect, place, anchor, apply, work to dimension, finish, cure, protect, clean and perform all operations which make the Work complete and ready for use. Install also includes providing all scaffolding, hoisting, fasteners, adhesives, tools, equipment and all things necessary to complete the installation. **Provide** means Furnish & Install.
- 2. Quality of the Work** All of the Work shall be performed to the satisfaction of the Contractor, the Architect/Engineer, Engineer and Owner and/or their authorized representatives. Any Work of Subcontractor (whether or not incorporated into the Work) which fails to comply with the Contract Documents shall be removed and replaced by Subcontractor, at Subcontractor's own cost and expense, within 24 hours after written notice from Contractor to such effect. Subcontractor at all times shall keep the Premises free from accumulations of waste materials and rubbish occasioned by its Work. If Subcontractor fails to comply with these provisions, Contractor may, at its sole discretion, perform such work and charge Subcontractor.
- 3. Warranty/Guarantee** Notwithstanding the obligations of any other Subcontractor or supplier in any way related to Subcontractor's work, labor or materials, Subcontractor shall be responsible to Contractor, Architect/Engineer and Owner for the acceptability and guaranty of its Work, labor and materials to the full extent provided for in the Contract Documents. Unless otherwise provided for in the related Contract Documents, Subcontractor fully guarantees to Contractor and Owner all its work for a period of one (1) year from final acceptance by the Owner, or for such longer period required by the Contract Documents. Subcontractor shall provide to Contractor copies of all guarantees and/or warranties Subcontractor receives from any supplier, material man or sub-subcontractor.
- 4. Timely Performance** The Subcontractor will be responsible for any damages (including liquidated damages if called for by the General Contract) due to its failure to perform in a timely manner.
- 5. Payments** All payments made by Contractor to Subcontractor hereunder shall be held in trust and used for the payment of labor, equipment and materials purchased for the Project and for payment of suppliers and sub-Subcontractors of Subcontractor (if any), all in accordance with the requirements of the applicable law. Upon receipt of such payments from Contractor, Subcontractor shall immediately pay its related suppliers and sub-Subcontractors. The Contractor agrees to pay to the Subcontractor for the satisfactory completion of Subcontractor's Work in monthly payments of ninety (90) percent of the Work performed in any preceding month, in accordance with estimates prepared by the Subcontractor, submitted by the date set by the Contractor, and approved by the Contractor and the Architect/Engineer, unless otherwise provided by law. Payments made on account of materials not incorporated in the Work, but delivered and suitably stored at the site, or at some other location agreed upon in writing, shall be in accordance with the terms and conditions of the Contract Documents. Subcontractor will provide monthly completed lien waivers and supplier affidavit forms, in a form satisfactory to the Owner and Contractor. In addition, with each application for payment, Subcontractor shall provide Contractor with the names of all union benefit accounts, subcontractors and suppliers, an acceptable schedule of values showing the amount of each sub-subcontract or the price of such labor, material and equipment needed for its entire portion of the Work, evidence of monthly toolbox talks and any other documentation requested by the Contractor. Payment shall be made by the Contractor to the Subcontractor as follows: Progress payments, final payment and retainage payments to the Subcontractor, otherwise due under the terms of the Contract for satisfactory performance of the Work, shall be made no later than 15 calendar days after receipt by the Contractor of payment from the Owner for the Work. If payment from the Owner for such Work is not received by the Contractor, through

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no fault of the Subcontractor, the Contractor will make payment to the Subcontractor within a reasonable time for the Work satisfactorily performed. Approval and payment of the Subcontractor's monthly estimate is specifically agreed not to constitute or imply acceptance by the Contractor or Owner of any portion of the Subcontractor's Work.

6. **Relationship of Payments to Acceptance** No payment made under this Agreement shall be conclusive evidence of the performance of the Work under this Agreement, in whole or in part, and no such payment shall be construed to be an acceptance of any Work or materials.
7. **Insurance** Prior to starting Work the Subcontractor shall procure and maintain in force until final payment under the Owner-Contractor contract is made by the Owner to the Contractor, in the form and with insurance companies acceptable to the Contractor as provided on Exhibit B, Workers' Compensation Insurance, Employer's Liability Insurance, Comprehensive General Liability Insurance with contractual coverage and Automobile Liability Insurance, Property Insurance, and such other insurance required by the Contract Documents for the Subcontractor's Work. The Owner, the Contractor and all other parties as designated in the Contract Documents shall be named as additional insured on a primary and noncontributing basis on each of these policies except Workers' Compensation. Copies of the endorsements shall be attached to certificate. The additional insured endorsement must specifically include completed operations coverage. Before starting Work, the Subcontractor shall complete Exhibit B attached to this Subcontract and shall cause its insurer to complete the certificate of insurance as set forth in Exhibit B. The Subcontractor's Insurance required shall be written on an occurrence basis in the types, for the coverage, and for not less than the limits of liability, on a per project basis, as follows:
 - a. Worker's Compensation and Employer's Liability including Broad Form All States Endorsement, Voluntary Compensation Endorsement, U.S. Longshoremen's and Harborworker's Compensation Act Endorsement, and Maritime coverage as required. A waiver of subrogation shall apply for this project. A waiver of subrogation endorsement in favor of Hamilton Stern Construction LLC and all other parties required by contract to be provided.
 - b. Comprehensive General Liability: Combined Single Limit \$1,000,000 each occurrence, \$2,000,000 general aggregate; such coverage shall include: Premises-Operations, Contractor's Protective, Products-Completed Operations, Contractual Liability covering the liability assumed by this Agreement, Personal Injury, Broad Form Property Damage (including Completed Operations), full Explosion, Collapse, and Underground Coverage, Broad Form Notice of Occurrence. There shall not be a residential exclusion which excludes the work being performed under the contract. Subcontractor shall name Hamilton Stern Construction LLC and any other person or entity required by Prime Contract as additional insured including completed operations on a primary and noncontributory basis. A waiver of subrogation endorsement in favor of Hamilton Stern Construction LLC and all other parties required by contract to be provided.
 - c. Comprehensive Automobile Liability: Combined Single Limit \$1,000,000 each occurrence; Such coverage will include all owned, non-owned, leased and hired automobiles.
 - d. Umbrella Liability: Bodily Injury and Property Damage, Combined Single Limit, \$1,000,000 each occurrence, \$1,000,000 aggregate. There shall not be a residential exclusion which excludes the work being performed under the contract. Subcontractor shall name Hamilton Stern Construction LLC and any other person or entity required by Prime Contract as additional insured including completed operations on a primary and noncontributory basis. A waiver of subrogation endorsement in favor of Hamilton Stern Construction LLC and all other parties required by contract to be provided.

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- 8. Accident Prevention** Subcontractor shall abide by all applicable federal, state and local laws, rules and regulations, especially those regarding a safe work site, including, but not limited to, all laws, rules, regulations and guidelines set forth from time to time by OSHA, and Subcontractor shall require such compliance from its sub-subcontractors suppliers, agents and representatives.
- a. Subcontractor shall submit to Contractor a copy of its safety program prior to beginning work on the Project. This program shall be reasonably acceptable to Contractor, however, Contractor assumes no responsibility for Subcontractor's safety program; and provided further that Contractor shall not be responsible for such safety program and its receipt and acceptance of the safety program shall not be deemed to be a certification or other verification of the adequacy of the program or to impose any responsibility or liability on Contractor whatsoever, and Subcontractor shall be solely responsible for the design and implementation of its safety program. Subcontractor that creates an exposure is responsible to protect it.
 - b. In the event that the Subcontractor uses any facilities, tools or equipment owned, leased or operated by Contractor, the Subcontractor does so at its own risk. In furtherance, and not in limitation of the generality of the foregoing, before using any of such items, Subcontractor shall thoroughly inspect such facilities, tools and/or equipment and assure that they are in proper and safe working order and warranties to Contractor that Subcontractor's operators of such equipment are licensed or otherwise qualified to operate such equipment.
 - c. Contractor's Project Superintendent, Safety Inspector(s) and other authorized representatives (including without limitation, Contractor's "competent person(s)" under OSHA regulations) shall have the authority, but not the obligation, to enforce all statutory or reasonable safety requirements on the Premises, including, but not limited to, the authority to: (i) immediately halt any operation or activity which he or she deems to be unsafe; (ii) to dismiss from the Premises any employee or agent of Subcontractor who is not properly outfitted with personal protective equipment or who is working in an unsafe manner and fails to respond to a verbal notice to cease the unsafe work activities; (iii) to impose monetary fines or safety back charges in accordance with the Contractor's Safety Policy and Procedures (incorporated herein by reference) for violations of Contractor's safety regulations. Any willful or repeated violations of safety rules or regulations or the reasonable safety instructions issued by Contractor's Project superintendent or Safety Inspector(s) by Subcontractor or any of its employees, agents, sub-subcontractors or suppliers or any citation by duly authorized inspectors from OSHA or similar agencies at the federal, state or local government levels for a violation of their rules or regulations shall constitute a material default under this Agreement. Upon such a default, Contractor may immediately terminate this Agreement upon written notice and have the Work hereunder completed by others at Subcontractor's sole cost and expense; and the costs incurred to complete the Work by others shall be charged against any retainages or amounts due Subcontractor for work performed up until the time of default. In the event amounts due are insufficient to fully reimburse Contractor as the result of termination, Subcontractor remains responsible to Contractor for any excess amount incurred to complete the Work. Any work stoppage or other action under this Section T(4) shall not increase the time for completion of the Work. The foregoing notwithstanding, Subcontractor shall at all times be primarily responsible for assuring that its employees, agents and sub-subcontractors act in a safe and responsible manner and no act or failure to act by the Contractor Project Superintendent or Safety Inspector(s) or by anyone else shall be deemed to have altered or relieved Subcontractor from such primary responsibility, and Subcontractor hereby acknowledges that neither Contractor nor its Project Superintendent nor its Safety Inspector(s) shall have any liability for any act or failure to act in connection with the safety program.
 - d. In the event that hazardous substances of a type of which an employer is required by law to notify its employees are being used or stored on the Premises by Subcontractor, Subcontractor's sub-subcontractor or anyone directly or indirectly employed or otherwise retained by them or either of them, Subcontractor shall immediately provide written notice of the chemical composition thereof (including, without limitation, a copy of the applicable Material Safety Data Sheet) to

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Contractor in sufficient time to permit compliance with such laws by Contractor, other subcontractors and other employers on the Premises.

- 9. Indemnification** To the fullest extent permitted by law, the Subcontractor shall indemnify, defend, save and hold the Owner, the Contractor and Architect/Engineer, their respective partners, officers, employees and anyone else acting for or on behalf of any of them (herein collectively called "Indemnities") harmless from and against all liability, damage, loss, claims, demands and actions of any nature whatsoever which arise out of or are connected with, or are claimed to arise out of or be connected with:
- a. The performance of Work by the Subcontractor, or any act or omission of Subcontractor; or
 - b. Any accident or occurrence which happens, or is alleged to have happened, in or about the place where such Work is being performed or in the vicinity thereof (a) while the Subcontractor is performing the Work, either directly or indirectly through a sub-subcontractor or material agreement, or (b) while any of the Subcontractor's property, equipment or personnel are in or about such place or the vicinity thereof by reason of or as a result of the performance of the Work; or
 - c. The use, misuse, erection, maintenance, operation or failure of any machinery or equipment (including, but not limited to, scaffolds, derricks, ladders, hoists, rigging supports, etc.) whether or not such machinery or equipment was furnished, rented or loaned by the Owner or the Contractor or their officers, employees, agents, servants or others, to the Subcontractor.

This Agreement is not intended to provide indemnification for the negligence of the Indemnities except and unless the law allows partial indemnification. In the event such partial indemnification is determined to be appropriate and permissible under the law, there shall be partial indemnification of the Indemnities herein to the extent permitted by law, but in any event not for the indemnities' own negligence.

- 10. Compliance with Law and Permits** Subcontractor shall perform all of its work in strict compliance with all applicable local, state and federal laws, rules, regulations and executive orders, including without limitation those regarding affirmative action for minorities and minority business enterprises and equal employment opportunity for minorities. Subcontractor shall comply with all statutory and other safety requirements applying to its work and/or initiated by Contractor, including without limitation, 29 CFR Part 1926 - OSHA Safety and Health Standards for the Construction Industry, as well as 29 CFR Part 1910 - OSHA General Industry Safety and Health Standards Applicable to Construction, as published by the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA). Subcontractor shall immediately notify Contractor orally, and shall give written notice to Contractor within one (1) day, of the occurrence of any personal injury, whether to an employee or to a member of the public, or of any property damage.
- 11. Entire Agreement** This written Agreement comprises the entire agreement of the parties hereto with respect to the Project. This Agreement cannot be amended, modified or changed in any way except by a written instrument executed by both parties or by changes on this document which are initialed by authorized representatives of both parties.