



Kinetic Systems, Inc
48400 Fremont Blvd
Fremont, Ca. 94538
Tel: (510) 683-6000
Fax: (510) 588-7156

February 11, 2010

Attention: Prospective Bidders

Subject: Request for Proposal
Confidential Client – Downtown Office Tower
Phoenix, Arizona

Contact: Kinetic Systems, Inc
48400 Fremont Blvd.
Fremont, CA 94538

EXHIBIT 1 - INSTRUCTIONS TO BIDDERS

SECTION 1: INTRODUCTION

- 1.1 Kinetic Systems, Inc is seeking a Project Team and Lump Sum Proposal for a Confidential Customer for a 26 story office building project. A detailed project description can be found in the Scope of Work documents included in this Request for Proposal package.
- 1.2 The Project Team is very important to the success of the project. For this reason, Kinetic Systems, Inc. have asked that bidders make a complete commitment regarding their Project Team.

The start of construction requires a very quick mobilization. The bids will be received on **February 11, 2010**, there will be interviews with the bidder's team on the next day, and the project will be awarded by **February 12, 2010**. The successful bidder will be expected to start detailing and submittal efforts immediately.

The contract for this project will be executed under the attached Contract provided in Exhibit 8. Upon project award the successful bidder will be expected to provide an open book estimate that will be used to negotiate, under the commercial terms provided on their bid form, the final contract amount. In order to be considered a responsive Bidder your team must answer to each of the following sections. Provide all documentation and backup for these sections in an organized binder which will allow the Owner and General Contractor to determine how much each Bidder understands the scope of work and the dedication necessary to complete the work. This binder will be evaluated as part of your proposal.
- 1.3 If, after review of the documents, you elect not to bid, please advise Kinetic Systems, Inc immediately so we may adjust accordingly.
- 1.4 Bids will be received **Thursday February 11, 2010 at 11:00pm**.
- 1.5 These instructions are provided to the bidders so that they may properly respond to the request for bid. Each bidder is directed to carefully review these instructions and all the documents prior to submitting their bid.
- 1.6 See the Project Specifics Clarifications in Exhibit 3 for clarifications to scope and requirements specific to this project.
- 1.7 Any questions regarding the bid shall be directed to **The Kinetics Team, Attention Harry Reynolds**.
- 1.8 **Bidders are directed not to contact the Architect or Owner** with questions regarding this bid.
- 1.9 Bidders are encouraged to have their Insurance and Surety agents review the respective sections hereof so that bids are in compliance with the requirements thereof.
- 1.10 Scheduling: The preliminary schedule attached as Exhibit 4 is an overview of the project and the anticipated overall time frame. Please note that although the start date may change, the contractor shall remain responsible to complete the scope of their work within the project time frame. The schedule contains milestones that shall be met within the duration of the project.

- 1.11 All mechanical systems, including plumbing, utility piping and HVAC shall be completely coordinated, detailed and prefabricated to the highest degree. Coordination of piping and ductwork layout with the associated electrical, mechanical and controls systems will be critical. The mechanical contractor will take the lead of coordinating between trades.
- 1.12 Upon commencement of the project, a six week rolling schedule will be created. Kinetic Systems, Inc's Superintendent will, based on weekly progress meeting, revise the rolling schedule to reflect the actual manpower and sequencing requirements of the project. It will be the subcontractor's responsibility to staff the project to accommodate the rolling schedule. A detailed weekly activity plan shall be developed by the subcontractor based on the six week look ahead schedule, which will serve as the basis for the coordination of the work following the Lean Construction Principles of the Last Planner. To assure schedule compliance and to identify adverse conditions for resolution, the Team will develop and maintain productivity trending procedures and Kinetics will track and update the Percent Plan Complete of the Last Planner.
- 1.13 Labor Rates: Provided to Bidders in Exhibit 6.
- 1.14 Overhead and Profit: Provided to Bidders on Bid Form in Exhibit 2.

SECTION 2: DOCUMENTS

- 2.1 The following documents are critical to the bid and should be thoroughly reviewed by the bidders. These documents have been provided for the bidders to generally access the size and scope of the project.
 - A. Flow and Riser Diagrams
 - B. Unit Rate Schedule
 - C. Conceptual Construction Schedule
 - D. Instructions to Bidders: As prepared by Kinetic Systems, Inc.
 - E. Bid Form: As prepared by Kinetic Systems, Inc.
 - F. Amendments to the Instructions to Bidders: Amendments, if any, will be issued after the Instructions to Bidders and are to be acknowledged as received by the Bidder on the Bid Form.
 - G. Drawing Log
- 2.2 Copies of all the documents are available for review at Kinetic Systems, Inc. The fact that a bidder was not formally sent or given all the documents prior to bid shall not alleviate the Subcontractor from the responsibility of including all the documents in their bid.

SECTION 3: SUBMISSION AND FORM OF BID

- 3.1 Only bids from invited bidders will be accepted.
- 3.2 All bids once submitted shall remain valid and binding for Twenty-four (24) hours. Kinetic Systems, Inc. shall at any time during that twenty-four (24) hour period have the right to accept the bid without any changes in either price or time.
- 3.3 **All bids shall be submitted only on the Bid Form prepared by Kinetic Systems, Inc.**
- 3.4 All bids shall be signed by a duly authorized agent of the team submitting the bid.
- 3.5 Receipt of all Addenda and Amendments shall be acknowledged by the bidders on their signed Bid Form.
- 3.6 Telephone bids will not be accepted unless noted otherwise in the Special Provisions hereof.
- 3.7 By submitting a bid, the bidder acknowledges they have thoroughly reviewed and evaluated all the documents and their bid accurately reflects what is required to complete their portion of the work.

- 3.8 Each bid shall include all detailing, material, delivery, labor, taxes, bonds and fees necessary to complete the portion of work being bid upon without qualification or exclusion.
- 3.9 Each bidder shall provide a base bid and unit prices in accordance with the required documents without qualifications or exclusions. Failure to comply with this requirement may cause the bidders bid to be disqualified.
- 3.10 The Owner and Kinetic Systems, Inc. reserve the right to waive any informality in any bid.
- 3.11 The Owner and Kinetic Systems, Inc. reserve the right to accept or reject any or all bids.
- 3.12 Alternative systems, cost savings and value engineering ideas are encouraged. If a bidder would like to propose any of these to the Owner they should be included as a separate attachment to the base bid.
- 3.13 By submitting the bid, the bidder acknowledges that they have reviewed the schedule, understands the time frames and flow of work and that they can accomplish the same, for the bid submitted.
- 3.14 No changes to these Instructions to Bidders shall be made unless included in an official Amendment to the Instructions to Bidders issued only by Kinetic Systems, Inc.
- 3.15 All pricing must include all the costs for fabrication, labor, material, delivery, layout, supervision, equipment, hoisting, uncrating, setting, installation, parking, storage, insurance taxes (federal, state, county and local), shop drawings, submittals, samples, mock ups, bonds, overhead, profit and any other costs necessary to complete the work required by the design specifications and reference drawings.

SECTION 4: BID DELIVERABLES

- 4.1 Kinetics is requesting that **four (4)** copies of your proposal be submitted with your bid.
- 4.2 Proposal: Provide a written proposal letter that includes any clarifications, exclusions or assumptions.
- 4.3 Bid Form: All pricing must be submitted utilizing the **Bid Form, Exhibit 2**.
- 4.4 Bid Workbook: Provide breakdown between material and labor of each system required in the Bid Workbook, provided to Bidders in Exhibit 2. Instructions for populating the worksheets are provided in the workbook.
- 4.5 Schedule: Please include with the proposal a detailed schedule that shall expand upon the existing schedule to give a complete job description from start to finish. The proposed schedule shall be a minimum of 25 tasks and shall at a minimum provide specific sequencing and dates for equipment move-in.
- 4.6 Project Staffing: Provide an organization chart indicating personnel responsibilities and structure for the proposed team. Kinetic Systems, Inc will interview the key personnel during the presentations on **February 11, 2010**. Your contractual agreement with Kinetic Systems, Inc will require all supervisory and detailing personnel to be dedicated to this project alone. Staffing costs are provided to Bidders in Exhibit 9.
- 4.7 Safety: Provide a summary of the safety program and a description of rewarding and/or disciplinary ways to enforce. Include sample Job Hazard Analysis's (JHA) of the **three** topics you believe to be the most important on this project. Sample JHA forms are in Exhibit 11.
- 4.8 Trade Conflicts and Space Consideration: Provide a list of subcontractors and other trades to coordinate work with. Describe how your schedule and scope of work needs to be coordinated and how you plan on achieving the scheduled completion date. Subcontractor proposals are provided to Bidders in Exhibit 5.

SECTION 5: AWARD OF SUBCONTRACT

- 5.1 The successful bidder will be notified only after a thorough review and evaluation of all bids has been made by Kinetic Systems, Inc., the Owner, and the Architect.

- 5.2 The successful bidder will be notified in writing by Kinetic Systems, Inc.
- 5.3 The successful Subcontractor will be issued a Subcontract Agreement on the forms listed in Exhibit 8 hereof.
- 5.4 The Bidders proposal will not become an attachment to the contract.

SECTION 6: BOND REQUIREMENTS

- 6.1 If requested, within ten (10) days of receiving a subcontract or before starting work, the Subcontractor shall furnish Kinetic Systems, Inc. with a complete Labor, Material Payment Bond and a Performance Bond. Said bonds shall be issued by a commercial surety and in a form acceptable to Kinetic Systems, Inc.

SECTION 7: INSURANCE REQUIREMENTS

- 7.1 Subcontractor acknowledges that the project's on-site activities may be covered under a Contractor Controlled Insurance Program (CCIP) solely, or in conjunction with an Owner Controlled Insurance Program (OCIP).
- 7.2 Subcontractor shall, at its own expense, maintain in effect at all times during the performance of the work under the contract not less than the following coverage and limits of insurance which shall be maintained under forms of policies and from companies satisfactory to the Contractor and Owner. The insurance company must have a financial rating of at least A-VII as defined by A.M. Best Company. Copies of policies shall be provided when requested.
- 7.3 Workers' Compensation and Employer's Liability Insurance. Workers' Compensation insurance shall be provided as required by any applicable law or regulation. A waiver of subrogation endorsement is required. Employer's Liability Insurance shall be provided in amounts not less than:
 - 7.4 \$1,000,000 each accident for bodily injury by accident
 - 7.5 \$1,000,000 policy limit for bodily injury by disease
 - 7.6 \$1,000,000 each employee for bodily injury by disease
- 7.7 If there is an exposure of injury to Subcontractor's employees under the U. S. Longshoremen's and Harbor Workers' Compensation Act, the Jones Act or under laws, regulations or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.
- 7.8 General Liability Insurance. Subcontractor shall carry Comprehensive General Liability or Commercial General Liability insurance covering operations by or on behalf of Subcontractor, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:
 - premises and operations
 - products and completed operations
 - broad form contractual liability
 - broad form property damage (including completed operations
 - explosion, collapse and underground hazards; and
 - personal injury liability./advertising injury
- 7.9 One of the following coverage forms is required:
 - Comprehensive General Liability
 - Commercial General Liability (Occurrence)
- 7.10 A "claims made" policy form is not acceptable without prior approval.

- 7.11 A "modified occurrence" policy is not acceptable.
- 7.12 Minimum Limits of Liability.
- Comprehensive General Liability Form
 - \$2,000,000 each occurrence Bodily Injury and Property Damage
 - \$2,000,000 aggregate
 - Commercial General Liability Form
 - \$2,000,000 each occurrence Bodily Injury and Property Damage
 - \$2,000,000 personal Injury
 - \$2,000,000 aggregate for Products - Completed operations
 - \$2,000,000 general aggregate
- 7.13 Per Project Aggregate. The policy must have an endorsement providing that the general aggregate limit applies separately to this project. If a per project aggregate is not provided the aggregate limit shall be \$5,000,000.
- 7.14 Automobile Liability Insurance. Subcontractor shall carry automobile liability insurance, including coverage for all owned, hired and non-owned automobiles. The limits of liability shall be not less than \$2,000,000 combined single limit each accident for bodily injury and property damage.
- 7.15 Certificates of Insurance. Certificates of Insurance, as evidence of the insurance required by this Agreement, shall be furnished by Subcontractor to Contractor before any work hereunder is commenced by Subcontractor. The Certificates of Insurance shall provide that there will be no cancellation or reduction of coverage without thirty (30) days prior written notice to Contractor. Certificates including additional insured endorsement, shall be furnished for two (2) years following completion of the project.
- 7.16 Additional Insured Endorsement and Primary Insurance Clause. The Bodily Injury and Property Damage Liability policies shall include a provision or endorsement, at least as broad as the (Form B) CG20 10 11 85 as published by Insurance Services Offices (ISO), naming as additional insured any person or organization for whom Subcontractor is required by written contract, agreement or permit to name. The endorsement shall also provide that such insurance is primary insurance with respect to the interest of the Contractor and Owner and that any other insurance maintained by the Contractor and Owner is excess and not contributing insurance with the insurance requirement hereunder.
- 7.17 Insurance Requirements for Sub-subcontractors. The Subcontractor shall ensure that all tiers of their Subcontractors shall procure and maintain insurance in like form and amounts including the Additional Insured requirements, all as set forth above. Copies of the certificate must be provided prior to the sub-subcontractors entering the site.
- 7.18 Aircraft Insurance. If the Subcontractor or their Subcontractors use any owned, leased, chartered or hired aircraft of any type (including helicopters) in the performance of this contract, they shall maintain aircraft liability insurance in an amount of not less than \$10,000,000 per occurrence including Passenger Liability. Evidence of coverage in the form of a Certificate of Insurance shall be provided prior to the start of work.
- 7.19 Professional Liability Exposures. A \$1,000,000 Professional Liability insurance policy shall be carried if Subcontractor or their subcontractor is to provide any professional services, including but not limited to, design or design/build services to the project. Evidence of coverage in the form of a Certificate of Insurance shall be provided prior to the start of work.
- 7.20 Builders Risk Insurance. Contractor and Subcontractor waive all rights against each other and against all other subcontractors and Owner for loss or damage to the extent reimbursed by Builder's Risk or any other property or equipment insurance applicable to the work, except such rights as they may have to the proceeds of such insurance. If the policies of insurance referred to in this Section require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed or obtain such consent.
- 7.21 Upon written request of Subcontractor, Contractor shall provide Subcontractor with a copy of the Builder's Risk policy of insurance or any other property or equipment insurance in force for the project and

- procured by Contractor. Subcontractor shall satisfy itself as to the existence and extent of such insurance prior to commencement of Subcontractor's work.
- 7.22 If Builder's Risk insurance purchased by Owner or Contractor provides coverage for Subcontractor for loss or damage to Subcontractor's work, Subcontractor shall be responsible for the insurance policy deductible amount applicable to damage to Subcontractor's work and/or damage to other work caused by Subcontractor.
- 7.23 If not covered under the Builder's Risk policy of insurance or any other property or equipment insurance required by the Contract Documents, Subcontractor shall procure and maintain at its own expense property and equipment insurance for portions of Subcontractor's work stored off the site or in transit.
- 7.24 If Owner or Contractor has not purchased Builder's Risk or equivalent insurance including the full insurable value of Subcontractor's work, then Subcontractor may procure such insurance at its own expense as will protect the interests of Subcontractor and its subcontractors in the work. Such insurance shall also apply to any of Owner's or Contractor's property in the care, custody or control of Subcontractor.
- 7.25 Riggers Liability. Should Subcontractor's work involve the rigging of property, Subcontractor shall carry "Riggers Liability Insurance" to insure against physical loss or damage to the property being lifted. Evidence of coverage shall be provided in the form of a Certificate of Insurance.
- 7.26 Acceptance by Contractor. The required insurance shall be subject to the approval of Contractor, but any acceptance of insurance certificates by Contractor shall in no way limit or relieve Subcontractor of the duties and responsibilities by said Subcontractor in this Agreement. If higher limits or other forms of insurance are required in the Contract Documents, Subcontractor will comply with such requirements.
- 7.27 Additional Requirements – Hazardous Materials/Pollution Liability. If Subcontractors or their Subcontractors are required to perform remedial hazardous material operations such as asbestos containing materials, contaminated soil etc. they must, in addition to the above requirements, carry a "Contractor's Pollution Liability" policy with limits not less than \$2,000,000 per occurrence and not less than \$2,000,000 aggregate for Bodily Injury, Personal Injury and Property Damage, naming Contractor as additional Insured.
- 7.28 Automobile Pollution Liability. If Subcontractor or their subcontractors haul hazardous waste they must carry Automobile Liability Insurance with a \$2,000,000 combined single limit per occurrence for Bodily Injury and Property Damage applicable to all hazardous waste hauling vehicles and include MCS 90 coverage.

SECTION 8: CONTROLLED INSURANCE PROGRAM OVERVIEW

- 8.1 PROGRAM SUMMARY Kinetic Systems, Inc. (KSI) has adopted a Contractor Controlled Insurance Program (CCIP) for the on-site activities at this project. KSI will procure, pay premiums, and administer the CCIP during the duration of the project. The program will provide the following coverages:

Workers Compensation/Employers Liability

Commercial General Liability

Excess Liability

Coverage applies only to work performed at the project site (as well as limited and pre-approved off-site activities such as temporary lay-down or assembly areas adjacent to actual project site). Subcontractors must provide their own insurance for other off-site activities, including but not limited to fabrication or manufacturing of building products, materials or supplies. Coverage does not apply to accidents arising from transportation to and from the project site.

Enrollment in the CCIP is not automatic. KSI reserves the right to determine who participates in its controlled insurance program, if implemented. Each subcontractor, upon notice of award, must submit Enrollment Forms. Once enrollment is completed, the subcontractor will receive an advise of insurance evidencing coverages provided by the CCIP.

No participating subcontractor will be allowed to commence work without this CCIP certificate and a certificate of insurance evidencing coverage for off-site activities as outlined in Section V. Non participating subcontractors must provide a certificate of insurance evidencing required coverage as

outlined in Section VII. Total required limits can be met with primary or a combination of primary and umbrella coverages.

Each contracting party is required to incorporate this manual in its entirety into their (sub) subcontract agreements.

This Insurance Manual has been prepared by KSI and its Consultant, Johnson's Insurance Services of Arizona. This Manual is intended to provide general information as to the insurance afforded and procedures to be followed in administering the program. It is not intended to be a substitute for policies issued, nor is it to be interpreted as altering or changing any of the General or Special Conditions of the contract as it pertains to insurance or other duties or responsibilities of any subcontractor or (sub) subcontractor of any tier. In the event of any claim or question with regard to coverage provided by the CCIP, the original policies will prevail as the sole binding agreement. Copies of CCIP policies are available upon request.

We strongly encourage all subcontractors and (sub) subcontractors to utilize electronic reporting of information. For your ease of reference, email addresses have been included within this manual. If you would like electronic copies of any of the information contained within this manual, please contact Kinetics Risk Management at jay.layton@kinetics.net.

- 8.2 EXPERIENCE MODIFIER Worker's Compensation experience modifiers are governed by the National Council on Compensation Insurance (NCCI). Your worker's compensation modifier is calculated using ALL losses and payroll information from ALL projects including projects covered by a wrap-up insurance program. THEREFORE, ALL LOSSES INCURRED BY YOUR COMPANY UNDER THIS CCIP WILL DIRECTLY EFFECT YOUR EXPERIENCE MODIFIER RATE.

8.3 EXCLUDED CONTRACTS

Participation in the CCIP is required for all subcontractors of any tier with the following exceptions:

- 1 All contracts involving asbestos abatement, lead abatement, or any other environmental remediation.
- 2 The CCIP is not intended to cover the off-site labor or product liability of suppliers or any organizations that fabricate or manufacture products, materials, or supplies away from the project site.
- 3 The CCIP is not intended to cover architects, engineers, consultants, suppliers, vendors, material dealers, drivers while loading or unloading, or day labor employees.
- 4 All contracts with a contract value less than \$20,000.
- 5 Any subcontractor may be excluded at the discretion of KSI.
- 6 Any activity, work, labor or transportation which is carried outside the boundaries of the project site as defined by the Owner Contract Agreement.

These excluded subcontractors shall be required to carry their own insurance at their own expense. Subcontractors excluded from the CCIP will not be allowed to commence work without a certificate of insurance as outlined in Section VII. Total required limits can be met with primary or a combination of primary and umbrella coverages.

- 8.4 CCIP ADMINISTRATION Each subcontractor is obligated to follow the CCIP General Provisions outlined herein including enrollment procedures, payroll reporting, accident reporting, and safety program participation.