

**AGREEMENT FOR MINOR FACILITIES PROJECT**

**THIS AGREEMENT** made as of \_\_\_\_\_, 20\_\_\_\_, between \_\_\_\_\_ Independent School District (“Owner”) and:

**Contractor:** \_\_\_\_\_

**For the following Project:** \_\_\_\_\_

**Cooperative Contract No. (if applicable):** \_\_\_\_\_

The Owner and Contractor agree as follows:

**ARTICLE 1 THE CONTRACT DOCUMENTS**

**1.1** The Contract Documents consist only of this Agreement; Contractor’s Proposal (if applicable) attached as Exhibit C; any specifications or drawings furnished to the Contractor; any Request for Bids, Proposals or Quotes issued by the Owner; any specifications issued by any manufacturer of materials or equipment used for the Project; and any other documents listed in this Agreement, including any modifications issued after execution of this Agreement. This Agreement represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral.

**ARTICLE 2 THE WORK**

**2.1** The Contractor shall provide all services, materials, installation services and warranties (“Work”) as described in the Proposal attached as Exhibit C, incorporated herein by reference, and as depicted in any specifications, manufacturer/supplier’s drawings, specifications or submittals. Contractor will provide all materials and labor according to the standards of his profession. Contractor agrees to perform all Work in a good and workmanlike manner.

**2.2** All materials and labor is warranted in accordance for a period of one year, or longer as provided by law or the manufacturer/supplier of materials, during which time the Contractor will repair or replace any defective materials or labor at its sole expense. Nothing in the Contract Documents shall be interpreted as limiting any express or implied warranties. Any conditions or limitations of warranty/liability contained in Contractor’s Proposal are not included, and are hereby expressly excluded from this Agreement unless such terms, conditions or limitations are restated in the main body of this Agreement. The appearance of such matters in any the Proposal is ineffective, as the inclusion of Contractor’s Proposal is intended to only provide information relating to the scope, deliverables, deadlines and prices relating to Contractor’s services.

**ARTICLE 3 SUBSTANTIAL COMPLETION**

**3.1** The Contractor shall achieve Substantial Completion of the Work by \_\_\_\_\_. As a mutually agreed upon liquidated damage, and not a penalty, the Owner may, at its option, assess liquidated damages as a rate of \$\_\_\_\_\_ per day for each day beyond the Substantial Completion deadline above until the Contractor achieves Substantial Completion.

**ARTICLE 4 CONTRACT SUM**

**4.1** The Contract Sum for the Work shall be \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_). The Contract Sum may subject to additions and deductions as agreed to in writing by the Contractor and Owner.

**ARTICLE 5 PAYMENTS**

- 5.1 The Owner’s payment of the Contract Sum to the Contractor shall be made no later than 30 days after final completion of the work, upon presentation of a written detailed invoice by Contractor in an amount not to exceed the amount of the Proposal, unless subsequently amended upon written agreement of Contractor and Owner. Final payment shall be conditioned upon Contractor’s completion of all punchlist work, Contractor’s submission of all required close-out documents, and Owner’s receipt of final lien releases from Contractor, its subcontractors and suppliers, conditioned only upon receipt of final payment in the form required by Texas Property Code Chapter 53.
- 5.2 At the Owner’s sole election, the Owner may make monthly progress payments to Contractor, within 30 days of Owner’s receipt of a detailed written application for payment/invoice from Contractor. Payment applications shall be accompanied by a schedule of values showing progress of the work. Owner shall be entitled to withhold retainage in the amount of 5% (five percent) from each monthly progress payment. Final payment to the Contractor, including release of retainage, shall be made no later than 30 days after final completion of the work, upon presentation of a written detailed invoice by Contractor. If progress payments are made, Final Payment is subject to the terms of Section 5.1 above.

**ARTICLE 6 TERMINATION**

- 6.1 The Contract may be terminated by the Owner, with or without cause, upon written notice to the Contractor. On the effective date of termination, as stated by the Owner, Contractor shall immediately cease Work after taking all actions necessary, or as directed by the Owner, for protection and preservation of Work already performed. Contractor shall be entitled to payment for all Work performed up to the effective date of the termination.

**ARTICLE 7 MISCELLANEOUS PROVISIONS**

- 7.1 The Owner’s designated representative is: \_\_\_\_\_
- 7.2 The Contractor’s designated representative is: \_\_\_\_\_
- 7.3 If applicable, the Contractor, at its own expense, shall furnish the District any required public works payment or performance bonds as required by Chapter 2253 of the Texas Government Code.
- 7.4 As required by law, Contractor shall pay the minimum prevailing wage as adopted by Owner and set forth in Exhibit B.
- 7.5 Contractor shall deliver acceptable proof of insurance coverage for commercial liability and workers’ compensation coverage to the Owner prior to commencing with the Project, in accordance with the requirements set forth in Exhibit A.
- 7.6 If applicable, Contractor shall comply with the criminal history provisions of Section 22.08341 of the Texas Education Code and Section 153.1117 of the Texas Administrative Code. The form of certification by Contractor shall be supplied by Owner upon request, and must be supplemented by Contractor as required by law, or as requested by Owner.
- 7.7 It is understood and agreed that Contractor is an independent contractor and neither Contractor nor any employees, volunteers, or agents contracted by Contractor shall be deemed for any purposes to be employees, volunteers or agents of Owner. Contractor shall assume full responsibility for the action of such employees, volunteers, or agents while performing any services incident to this Agreement, and shall remain solely responsible for their supervision, daily direction and control, payment of salary (including withholding of income taxes and social security), statutorily required workers’ compensation, disability benefits and like requirements and obligations.

**7.8 Indemnity—Contractor agrees to indemnify and hold harmless Owner, its trustees and employees against any and all losses, costs, expenses and liabilities, including but not limited to reasonable attorneys’ fees and court costs, to the extent they arise out of Contractor’s negligent acts or omissions.**

**7.9** Contractor shall maintain any and all applicable license(s) and certification(s) necessary to perform any services contemplated by this Agreement. Contractor shall observe and comply with all Federal, State, County and City laws, rules, ordinances and regulations that in any manner affect the provision of services and performance of all obligations undertaken pursuant to this Agreement.

**7.10** Texas law shall apply to this Agreement, and venue shall be in the county where the work is performed. The prevailing party in any dispute shall be entitled to recovery of its reasonable and necessary attorneys fees.

**7.11** Contractor hereby certifies that it is not a company identified on the Texas Comptroller’s list of companies known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State under federal law. Contractor further certifies and verifies, to the extent applicable to Contractor and the Contract Sum, that neither Contractor, nor any affiliate, subsidiary, or parent company of Contractor, if any (the “Contractor Companies”), boycotts Israel, energy companies, or firearm manufacturers/companies, as those terms are defined in Texas Government Code Chapters 2270 and 2274. Contractor further agrees that Contractor and Contractor Companies will not boycott Israel, energy companies, firearm manufacturers/companies during the term of this Agreement.

This Agreement is entered into as of the day and year first written above and is executed in at least two original copies, of which one is to be delivered to the Contractor, and the other to the Owner.

\_\_\_\_\_  
**OWNER** *(Signature)*

\_\_\_\_\_  
**CONTRACTOR** *(Signature)*

\_\_\_\_\_  
*(Printed Name and Title)*

\_\_\_\_\_  
*(Printed Name and Title)*

**EXHIBIT A: Owner’s Insurance Requirements**

**EXHIBIT B: Owner’s Prevailing Wages**

**EXHIBIT C: Contractor’s Proposal and Scope of Work**

**EXHIBIT A  
OWNER'S INSURANCE REQUIREMENTS**

*It is suggested that this Exhibit be provided to the Contractor's Insurance Provider*

Contractor shall not commence work until all required insurance coverage has been obtained and such insurance has been reviewed and accepted by the District. Certificates of Insurances on the current ACORD form shall be issued to the District showing all required insurance coverage.

<b><u>Insurance Required</u></b>	<b><u>Limit Required</u></b>
<b>Automobile Liability</b> insurance covering Any Auto	\$1,000,000 Combined Single Limit
<b>Comprehensive (Commercial) General Liability</b> insurance including Products, Completed Operations, Independent Contractors, Broad Form Property Damage, Pollution and Blanket Contractual Liability coverage. Any XCU exclusions to be removed when underground work is performed.	\$1,000,000 Occurrence \$2,000,000 Aggregate \$1,000,000 Personal Injury \$ 500,000 Fire Damage \$ 5,000 Medical Payments  Per Project Aggregate (CG 70 49)  Evidence of coverage must be shown on certificates of insurance.
<b>Workers Compensation</b> insurance with limits to comply with the requirements of the Texas Workers' Compensation Act.	Statutory Limits
Employers Liability insurance	\$1,000,000

**Insurance Conditions**

All insurance coverage shall be issued on an Occurrence basis by companies acceptable to District and licensed to do business in the State of Texas by the Texas Department of Insurance. Such companies shall have a Best's Key rating of at least "A- X".

**All certificates must include:**

1. The location or description and the bid number, CSP number or Purchase Order number;
2. A 30-day notice of cancellation of any non-renewal, cancellation or material change to any of the policies;
3. "Additional Insured" on the General Liability and Automobile Liability policies naming the District;
4. A "Waiver of Subrogation" clause in favor of the District will be attached to the Workers Compensation, General Liability and Automobile Liability insurance policies.

In addition to certificates of insurance, copies of policy endorsements must be provided (a) listing the District as Additional Insured and (b) showing waivers of subrogation in favor of the District.

All insurance must be maintained for three (3) years following substantial completion with Certificates of Insurance provided. Contractor shall be responsible for payment of all deductibles; the District shall approve the deductibles selected. If any policy has aggregate limits, a statement of claims against the aggregate limits is required.

The District reserves the right to review the insurance requirements during the effective period of any contract to make reasonable adjustments to insurance coverage and limits when deemed reasonably prudent by District based upon changes in statutory laws, court decisions or potential increase in exposure to loss.

Property/Builder's Risk coverage, if applicable, will be provided by Owner.

**EXHIBIT B**

**OWNER'S PREVAILING WAGE SCALE**

**[For Projects Involving Construction Services]**

SAMPLE

**EXHIBIT C**

**CONTRACTOR'S PROPOSAL AND SCOPE OF WORK**

SAMPLE