

Agreement Between Contractor and Parish for Construction Projects under \$40,000

DATE: _____

Defined Terms

PARISH _____ Parish, a parish forming part of The Catholic Bishop of Chicago, an Illinois corporation sole.

Campus/Former Parish: _____

Address: _____ Parish ID: _____

City: _____ IL ZIP: _____

Phone: _____

Name of Pastor or Administrator: _____

CONTRACTOR Legal Name: _____

Address: _____

City: _____ State: _____ ZIP: _____

Phone: _____

Contact: _____

Contact Email: _____

PROJECT NAME

SCOPE OF WORK Provide labor, equipment, permits, materials and incidentals per the attached Exhibit “_____” – _____ proposal for scope of work only, dated _____, _____ page(s).

EXCLUSIONS Taxes _____

WORK SCHEDULE Work Commencement Date: _____

Substantial Completion Date: _____

CONTRACT PRICE Lump Sum Price of: \$ _____

INITIALS: _____

Pastor

Contractor

THIS AGREEMENT BETWEEN CONTRACTOR AND PARISH FOR CONSTRUCTION PROJECTS AND/OR REPAIR SERVICES (“Agreement”) is entered into as of the latter of the two dates set forth on the signature page below, by and between the Parish and Contractor named on the first page hereof.

Witnesseth:

WHEREAS, Parish desires to engage Contractor to perform certain construction work and/or repairs and Contractor desires to perform such work and/or repairs on behalf of the Parish, subject to the terms and conditions herein contained.

NOW THEREFORE, for and in consideration of their mutual covenants and agreements hereinafter set forth and the above recitals which are by this reference incorporated herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Contractor and Parish hereby agree as follows:

- 1. SCOPE OF WORK.** Contractor shall perform the Scope of Work more specifically described on the first page of this Agreement (collectively “**Work**”).
- 2. CONTRACT DOCUMENTS.** The contract documents consist of this Agreement between Parish and Contractor, any additions to the Scope of Work which are attached hereto and initialed by both Contractor and Pastor and any drawings or specifications required for the type of Work being performed which are attached hereto and initialed by both Contractor and Pastor (collectively “**Contract Documents**”). In the event of any conflict between the terms and conditions within the body of this Agreement and the terms and conditions attached as an exhibit hereto, the terms and conditions within the body of this Agreement shall govern and control.
- 3. PARISH INFORMATION.** The Parish agrees to provide the information and approvals reasonably necessary to permit Contractor to fulfill its obligations under the Contract Documents with respect to the Work. This Agreement shall not be effective unless signed by the pastor or administrator responsible for operations at the Parish, as identified on the first page hereof (“**Pastor**”). Contractor shall direct all inquiries and submittals to the Pastor. Notwithstanding anything to the contrary herein contained, whenever consent or approvals are needed under this Agreement on behalf of Parish, all such consents and approvals must be provided by the Pastor in writing to be effective hereunder.
- 4. WORK SCHEDULE.** Contractor shall begin the Work on the Work Commencement Date, with substantial completion of the work no later than the Substantial Completion Date, as identified on the first page hereof. The time limits stated herein are of the essence hereof.
- 5. CONTRACT PRICE.** As full compensation for the performance by the Contractor of the Work, Parish shall pay Contractor the Contract Price identified on the first page hereof, subject to terms and conditions of this Agreement, including but not limited to the payment application requirements set forth in **Section 6** below.
- 6. PAYMENT PROCESS AND WAIVERS OF LIEN.** Upon substantial completion of the Work, as approved by Pastor in advance, the Contractor shall submit a final application for payment of the Contract Price on a standard Archdiocese of Chicago Construction Payout Request Form which can be found at the following URL: planning.archchicago.org. The Contractor shall be paid within (30) days following submittal of an application for payment for the Work, so long as the Work has been completed and accepted by the Pastor. If Parish determines that Contractor is not entitled to all or part of the application for payment, Parish will notify Contractor in writing within 25 days after receipt of the application for payment. The notice shall indicate the specific amounts Parish intends to withhold, the reasons and contractual basis for the withholding, and the specific measures Contractor must take to rectify Parish's concerns. As a condition precedent to Contractor's right to receive payment of the Contract Price, Contractor must comply with all of the terms and conditions of this Agreement, including but not limited to this Section. The Contractor's final application for payment shall be accompanied

by a Contractor's sworn statement attesting to the final payment of each subcontractor and supplier, if applicable, in accordance with the requirements of 770 ILCS 60/5, a Contractor's final lien waiver, final lien waivers from all subcontractors, a final accounting of all allowable costs, an affidavit that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which will in any way affect Parish's interests and a general release executed by Contractor waiving, upon receipt of final payment by Contractor, all claims, except those claims previously made in writing to Parish and remaining unsettled at the time of final payment. After receipt of a final application for payment from Contractor, Parish shall make final payment to Contractor as required herein, subject to Contractor's satisfaction of all of Contractor's obligations under this Agreement.

7. CONTRACTOR'S RESPONSIBILITIES AND SUBMITTALS.

- A.** Contractor must perform the Work in accordance with all applicable laws, statutes, ordinances, codes, decrees rules and regulations of any federal, state, county, municipal or other governmental or quasi-governmental authority having jurisdiction thereof, including but not limited to the US Dept. of Labor's Occupational Safety and Health Administration, or as promulgated by any official of the preceding governmental entities (collectively "**Applicable Law(s)**"). Contractor must be licensed for the type of Work being performed in accordance with all Applicable Laws. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. The Contractor shall be solely responsible for construction means, methods, techniques, sequences and procedures and coordinate all portions of the Work under the Contract Documents. Contractor shall protect the safety of persons and property at the Work site, including any third parties for whom Contractor is responsible, which obligations shall include without limitation the requirement that Contractor secure access to the Work site and provide Parish with a copy of Contractor's Work-specific safety plan.
- B.** If customarily required for the type of Work being performed, Contractor shall submit to the Pastor for review and approval all shop drawings, samples, product data and similar submittals required by the Contract Documents which shall be attached to this Agreement, initialed by Contractor and Pastor and are incorporated herein by reference. Contractor shall be responsible to Parish for the accuracy and conformity of its submittals In the event supplementation is necessary. Contractor shall prepare and deliver its submittals to the Pastor for Pastor's approval in such time and sequence so as not to delay the performance of the Work beyond the Substantial Completion Date identified herein. The Pastor shall be responsible for review and approval of all submittals with reasonable promptness and provide Contractor with prompt notice if it observes any failure on the part of Contractor to fulfill its contractual obligations, including any errors, omissions or defects in the performance of the Work. The Pastor's approval does not relive Contractor from responsibility for defective work resulting from errors or omissions of any kind.

8. PERMITS AND FEES. Contractor shall secure and the Parish shall pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work which are customarily secured after execution of the Agreement and which are legally required when bids are received or negotiations concluded, unless the cost for such permits and fees are included as part of the Contract Price set forth herein. Contractor shall provide Parish with an estimate of the costs for such permits and fees and obtain Pastor's prior approval of all estimated costs for such permits and fees.

9. CONTRACTOR INDEMNITY. The Contractor agrees to indemnify, defend and hold harmless the Parish, The Catholic Bishop of Chicago, an Illinois corporation sole, and all of their affiliates, officers, directors, members, partners, employees, agents and interests in real property, from and against any and all claims, demands, liabilities, liens, encumbrances, suits, settlements, judgments, costs and expenses arising, or allegedly arising, from its performance of this Agreement to the extent caused by any negligent act or omission of Contractor, any subcontractor, any supplier, or any individual or entity directly or indirectly

employed by any of them to perform any of the Work or anyone for whose acts or omissions any of them may be liable. This indemnification provision is in addition and cumulative to any other right of indemnification or contribution which any of the indemnitees may have in law, at equity or otherwise and shall survive completion of the work. The Contractor shall require each of its subcontractors to indemnify the Parish by subcontract to the same extent that the Contractor is indemnifying the Parish under this provision. Notwithstanding anything to the contrary herein contained, the Contractor hereby waives any right to limit its liability under *Kotecki v. Cyclops Welding Corp.*, 146 Ill. 2d 155, 585 N.E. 2d 1023 (1991).

10. INSURANCE. The Contractor shall maintain (a) commercial general liability insurance with limits of \$1,000,000 each occurrence and \$2,000,000 in the aggregate with products liability, completed operations and explosion, collapse and underground coverage, (b) comprehensive automobile liability insurance with limits of \$1,000,000 each occurrence and \$2,000,000 in the aggregate, (c) excess or liability insurance coverage with limits of \$1,000,000 excess to underlying coverage, (d) worker's compensation insurance with statutory limits, and (e) employer's liability insurance with limits of \$500,000. The Contractor shall provide an additional insured endorsement on an ISO form CG 20 10 11 85 or equal, naming the Parish and "The Catholic Bishop of Chicago, an Illinois corporation sole and its successors" as additional insureds to Contractor's General Liability Policies on a primary non-contributory basis. The Contractor shall provide the Parish with a certificate of insurance evidencing such coverage as an attachment to the copy of this Agreement executed by it at the time of delivery of the executed copy of the Agreement to the Parish. The certificate of insurance shall provide that the Parish shall receive thirty (30) days prior written notice of any cancellation or material change in any of insurance covered by the certificate. If borrowed employees are utilized by Contractor, Contractor shall carry worker's compensation and employer's liability insurance for all workers of the Contractor on the project site whether they are an employee of the Contractor or a borrowed employee.

11. CONTRACTOR WARRANTY.

- A.** The Contractor hereby warrants and represents to the Parish that: (i) the materials and equipment furnished under the Contract Documents will be of good quality and new unless otherwise required or permitted hereunder; (ii) the Work will be free from defects not inherent in the quality required or permitted; and (iii) the Work will conform with the requirements of the Contract Documents. Work not conforming to such requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage.
- B.** Contractor agrees to correct any Work at Contractor's expense that is found to not be in conformance with the Contract Documents for a period of one year from the date of substantial completion of the Work or any portion of the Work, or within such longer period to the extent required by any specific warranty included in the Contract Documents. Contractor shall, within seven (7) days of receipt of written notice from Parish that the Work is not in conformance with the Contract Documents, take meaningful steps to commence correction of such nonconforming Work, including the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. If Contractor fails to commence the necessary steps within such seven (7) day period, Parish, in addition to any other remedies provided under the Contract Documents, may provide Contractor with written notice that Parish will commence correction of such nonconforming Work with its own forces. If Parish does perform such corrective Work, Contractor shall be responsible for all reasonable costs incurred by Parish in performing such correction and Parish may withhold the cost to correct any nonconforming Work from any final payment due to Contractor, if applicable, subject to the requirements herein. If the nonconforming Work creates an emergency requiring an immediate response, the seven (7) day period identified herein shall be deemed inapplicable.

- C. Notwithstanding anything to the contrary herein contained, the one-year period referenced above applies only to Contractor's obligation to correct nonconforming Work and is not intended to constitute a period of limitations for any other rights or remedies Parish may have regarding Contractor's obligations under the Contract Documents.

12. SUSPENSION OF WORK, TERMINATION AND DEFAULT.

- A. At any time and without cause, Parish may suspend the Work or any portion thereof for a period of not more than thirty (30) consecutive days by notice in writing to Contractor which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed.
- B. The occurrence of any one or more of the following events will justify Parish's termination for cause: (i) Contractor's persistent failure to perform the Work in accordance with the Contract Documents; (ii) Contractor's disregard of Applicable Laws pertaining to the Work; or (iii) Contractor's violation in any substantial way of any provisions of the Contract Documents.
- C. Upon seven days written notice to Contractor, Parish may, without cause and without prejudice to any other right or remedy of Parish, terminate the Agreement. In such case, Contractor shall be paid for: (i) completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination; and (ii) reasonable expenses directly attributable to termination. However, Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.
- D. If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven (7) day period after receipt of written notice from the Parish to commence and continue correction of such default or neglect with diligence and promptness, at Contractor's cost, the Parish may, without prejudice to other remedies the Parish may have, correct such deficiencies.

13. DELAYS AND EXTENSION OF TIME. If Contractor is delayed at any time in the commencement or progress of the Work including but not limited to an act or neglect of Parish, changes ordered in the Work, labor disputes, fire, unavoidable casualties or other causes beyond the Contractor's control, Contractor's sole remedy for delay shall be a reasonable extension of time.

14. CLAIMS. As a condition precedent of any claim by the Contractor for additional compensation or an extension of time, the Contractor shall give written notice of the claim and the amount of additional compensation or time that is sought and stating the general nature of each claim promptly within seven (7) days after the start of the event giving rise thereto. The Parish may review the notice for thirty (30) days and if the Parish rejects the claim the Contractor may seek resolution through the dispute resolution procedures herein. The failure of the Parish to give a response within thirty (30) days will be deemed a rejection.

15. CHANGES. A change order shall be a document recommended by Parish which is signed by Contractor and Pastor and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Substantial Completion Date, issued on or after the full execution of the Agreement ("**Change Order**"). Pastor on behalf of Parish may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Change Order. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents. Any Change Order must be signed by both Contractor and Pastor.

16. DISPUTE RESOLUTION.

- A. The parties are fully committed to working with each other throughout the project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Contractor and Parish each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.

- B. With the exception of Contractor's obligation to indemnify and insure Parish pursuant to the terms herein, Contractor and Parish shall first attempt to resolve disputes or disagreements at the local level through discussions between Contractor's representative and the Pastor.
- C. With the exception of Contractor's obligation to indemnify and insure Parish pursuant to the terms herein, any claims, disputes or controversies between the parties arising out of or relating to the Agreement, or the breach thereof, which have not been resolved in accordance with the procedures set forth in this **Section** above shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the AAA then in effect or litigation at the Parish's sole discretion. In the event arbitration is selected by Parish, the award of the arbitrator(s) shall be final and binding upon the parties without the right of appeal to the courts. Judgment may be entered upon it in accordance with applicable law by any court having jurisdiction thereof.

17. LIMITATION OF LIABILITY. Contractor agrees to look solely to the building or real property at the location of the Work for the enforcement or payment of any judgment, award, order or other remedy under or in connection with the Contract Documents or any related agreement, instrument or document or in respect of any matter whatsoever relating hereto. No other assets of Parish, or any assets of any affiliates, members, partners, beneficiaries, shareholders, managers, officers, directors, employees or agents of Parish, shall be subject to levy, execution or other procedures for the satisfaction of any remedy by Contractor. No personal liability is assumed by, nor shall at any time be asserted or enforceable against Parish, Parish's respective successors or assigns or Parish's officers, directors, employees or agents on account of the Contract Documents or any covenant, undertaking or agreement of Parish hereunder.

18. MISCELLANEOUS. Contractor and Parish acknowledge and agree as follows: (a) this Agreement may not be assigned without the prior written consent of the Parish; (b) the recitals hereto are accurate and are hereby incorporated throughout; (c) this Agreement constitutes the entire agreement of the parties hereto concerning the subject matter hereof and no covenants, agreements, representations or warranties of any kind whatsoever have been made by any party hereto except as specifically set forth herein and all prior discussions and negotiations with respect to the subject matter hereof are superseded by and integrated into this Agreement; (d) both parties hereunder assisted in the drafting of this Agreement and any ambiguity or uncertainty contained in this Agreement shall not be interpreted against any party by reason of the rule of contract interpretation that ambiguities or uncertainties are construed against the party responsible for the ambiguity or uncertainty; (e) this Agreement may not be changed, modified, discharged or terminated orally or in any other manner other than by an agreement in writing signed by the Contractor and Pastor or their respective successors and assigns; (f) Parish's rights and remedies provided in this Agreement are cumulative and are in addition to any other rights or remedies available to the Parish at law, equity or otherwise; (g) this Agreement may be executed by each of the parties hereto in separate counterparts and such counterparts shall have the same force and effect as if the parties had executed it as a single document; (h) an electronic copy of the signature of the parties hereto via facsimile or electronic message may be treated as if the signature was an original one and shall be fully enforceable; (i) this Agreement shall be construed under the laws of the State of Illinois; (j) time is of the essence with respect to all terms and conditions herein contained; (k) each individual and/or entity executing this Agreement hereby represents and warrants that they have full authority and capacity to bind the party on whose behalf they are executing this Agreement; (l) Contractor's contact information set forth above is true and correct and enforceable for all purposes under this Agreement and (m) any notice required hereunder to be served on the Parish, must be provided in writing and served upon the Parish at the address set forth below via personal service, certified mail, return receipt requested or a nationally recognized overnight courier providing proof of delivery.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Parish and Contractor have duly executed this Agreement as of the latter of the two dates set forth below.

PARISH

Parish ID:

_____ Parish,

a parish forming part of The Catholic Bishop of Chicago, an Illinois corporation sole

Campus Name:

Address:

City: IL ZIP:

Signature (above this line)

Print Name:

Title:

Date:

CONTRACTOR

Name:

Address:

City: St: ZIP:

Signature (above this line)

Print Name:

Title:

Date:

Reminder: Both Contractor and Pastor must initial the first page of this Agreement and sign this signature page. Any additions to the Scope of Work described on the first page hereof and/or drawings or other materials attached hereto, must be initialed by both Pastor and Contractor.

CPI Code (if applicable):