

SERVICES AGREEMENT  
BETWEEN  
TEXAS A&M UNIVERSITY  
AND  
CHAPARRAL INSULATION COMPANY

This Services Agreement ("Agreement") between Texas A&M University, a member of The Texas A&M University System, an agency of the State of Texas, through its Department of Utilities & Energy Services ("Texas A&M") and Chaparral Insulation Company ("Provider") is made and entered into by and between Texas A&M and Provider.

Texas A&M and Provider hereby agree as follows:

**1. SCOPE OF WORK**

Provider shall provide pipe and water device insulation installation as required by Utilities & Energy Services on the campus in College Station, TX.

- B. The scope of the work ("Work") is as set forth in Appendix "A" attached hereto and made a part hereof for all purposes.
- C. Upon execution of this Agreement, all services previously performed by Provider on behalf of Texas A&M and included in the description of the Work, shall become part of the Work and shall be subject to the terms and conditions hereof.

**2. TIME FOR COMMENCEMENT AND COMPLETION**

It is understood that time is of the essence in this Agreement and that Provider shall complete all authorized Work in accordance with the time for performance described for the Work, and in a minimum of time consistent with the highest customs, standards, and practices of Provider's business or profession. Work is to commence based on dates coordinated with Texas A&M during the period of July 1, 2019 through June 30, 2020. This Agreement may be extended only by mutual consent of both parties.

**3. PAYMENT TERMS**

- A. For the satisfactory performance of the Work, Texas A&M shall pay Provider an amount not to exceed Eighty Seven Thousand, Nine Hundred and Ten Dollars (\$87,910.00). Breakdown of payment is described in Provider's Bid Response. Provider will obtain the written approval of Texas A&M prior to incurring any additional costs as may be stipulated in Appendix A.
- B. Payments of the amount due to Provider will be provided by Texas A&M upon receipt of an invoice which details the date of service, description of work performed, billing rate as set forth in Appendix A, and provides supporting documentation for reimbursable expenses relating to Work requested by Texas A&M, if any. The invoice must be signed by the Provider and submitted to Texas A&M at the address specified in Section 10.G below. Payment for travel related expenses shall be in accordance with State of Texas Travel Guidelines.

**4. DEFAULT AND TERMINATION**

- A. In the event of substantial failure by a party hereunder to perform in accordance with the terms hereof, the other party may terminate this Agreement upon thirty (30) days written notice of termination setting forth the nature of the failure (the termination shall not be effective if the failure is fully cured prior to the end of the thirty-day period), provided that said failure is through no fault of the terminating party.

- B. Texas A&M may, without cause, terminate this Agreement at any time upon giving thirty (30) days advance notice to Provider. Upon termination pursuant to this paragraph, Provider shall be entitled to payment of such amount as shall compensate Provider for the services satisfactorily performed from the time of the last payment date to the termination date in accordance with this Agreement, provided Provider shall have delivered to Texas A&M a final report describing the work completed to the date of termination. Texas A&M shall not be required to reimburse Provider for any services performed or expenses incurred after the date of termination notice.

## 5. UNIVERSITY FACILITIES

Texas A&M will provide Provider with office space, as needed, to carry out Provider's duties under this Agreement. Any non-consumable items provided by Texas A&M will remain Texas A&M property at the termination of this Agreement unless otherwise agreed in writing. Provider and its employees will be permitted access to and use of the allocated office space, but Texas A&M reserves the right to enter the premises to conduct Texas A&M business, as may be reasonably necessary or for health and safety purposes.

## 6. INSURANCE

Provider shall obtain and maintain, for the duration of this Agreement or longer, the minimum insurance coverage set forth below. With the exception of Professional Liability (E&O), all coverage shall be written on an occurrence basis. All coverage shall be underwritten by companies authorized to do business in the State of Texas or eligible surplus lines insurers operating in accordance with the Texas Insurance Code and have a financial strength rating of A- or better and a financial strength rating of VII or better as measured by A.M. Best Company or otherwise acceptable to Texas A&M. By requiring such minimum insurance, Texas A&M shall not be deemed or construed to have assessed the risk that may be applicable to Provider under this Agreement. Provider shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. Provider is not relieved of any liability or other obligations assumed pursuant to this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. No policy will be canceled without unconditional written notice to Texas A&M at least ten (10) days before the effective date of the cancellation.

### Insurance:

<u>Coverage</u>	<u>Limit</u>
A. <u>Worker's Compensation</u>	
Statutory Benefits (Coverage A)	Statutory
Employers Liability (Coverage B)	\$1,000,000 Each Accident
	\$1,000,000 Disease/Employee
	\$1,000,000 Disease/Policy Limit

Workers' Compensation policy must include under Item 3.A. on the information page of the workers' compensation policy the state in which Work is to be performed for Texas A&M. Workers' compensation insurance is required, and no "alternative" forms of insurance will be permitted.

### B. Automobile Liability

Business Auto Liability Insurance covering all owned, non-owned or hired automobiles, with limits of not less than \$1,000,000 Single Limit of liability per accident for Bodily Injury and Property Damage;

### C. Commercial General Liability

Each Occurrence Limit	\$1,000,000
General Aggregate Limit	\$2,000,000

- D. This Agreement constitutes the sole agreement of the parties and supersedes any other oral or written understanding or agreement. This Agreement may not be amended or otherwise altered except upon the written agreement of both parties.
- E. The validity of this Agreement and all matters pertaining to this Agreement, including but not limited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the Constitution and the laws of the State of Texas. Pursuant to Section 85.18, *Texas Education Code*, venue for any suit filed against Texas A&M shall be in the county in which the primary office of the chief executive officer of Texas A&M is located.
- F. If Provider is a taxable entity subject to the Texas Franchise Tax (Chapter 171, *Texas Tax Code*), then Provider certifies that it is not currently delinquent in the payment of any franchise (margin) taxes or that Provider is exempt from the payment of franchise (margin) taxes.
- G. Any notice required or permitted under this Agreement must be in writing, and shall be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address set out below. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, email, or other commercially reasonable means and will be effective when actually received. Texas A&M and Provider can change their respective notice address by sending to the other party a notice of the new address. Notices should be addressed as follows:

Texas A&M:

Texas A&M University  
Department of Procurement Services  
1477 TAMU  
College Station, TX 77843-1477  
ATTN: Clyde Oberg  
Telephone: (979) 845-1042  
Fax: (979) 845-5129  
Email: [co@tamu.edu](mailto:co@tamu.edu)

Provider:

Chaparral Insulation Company  
P.O. Box 20365  
Waco, TX 76702  
ATTN: Jeremy Prnka  
Telephone: 254-756-5034  
Email: [jeremy@chaparralinsulation.com](mailto:jeremy@chaparralinsulation.com)

- H. Texas A&M may request a provider to perform a criminal background check on any employee and/or representative of Provider who conducts business pursuant to this Agreement on the campus of Texas A&M.
- I. Under Section 231.006, *Texas Family Code*, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.
- J. Pursuant to Section 2252.903, *Texas Government Code*, Provider agrees that any payments owing to Provider under this Agreement may be applied directly toward certain debts or delinquencies that Provider owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.

The insurance coverage required by this Agreement will be kept in force until all services have been fully performed and accepted by Texas A&M in writing.

## 7. PUBLIC INFORMATION

- A. Provider acknowledges that Texas A&M is obligated to strictly comply with the Public Information Act, Chapter 552, *Texas Government Code*, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law.
- B. Upon Texas A&M's written request, Provider will provide specified public information exchanged or created under this Agreement that is not otherwise excepted from disclosure under Chapter 552, *Texas Government Code*, to Texas A&M in a non-proprietary format acceptable to Texas A&M. As used in this provision, "public information" has the meaning assigned Section 552.002, *Texas Government Code*, but only includes information to which Texas A&M has a right of access.
- C. Provider acknowledges that Texas A&M may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), *Texas Government Code*.

## 8. DISPUTE RESOLUTION

The dispute resolution process provided in Chapter 2260, *Texas Government Code*, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by Texas A&M and Provider to attempt to resolve any claim for breach of contract made by Provider that cannot be resolved in the ordinary course of business. Provider shall submit written notice of a claim of breach of contract under this Chapter to the University Contracts Officer of Texas A&M, who shall examine Provider's claim and any counterclaim and negotiate with Provider in an effort to resolve the claim.

## 9. CONFLICT OF INTEREST

By executing and/or accepting this Agreement, Provider and each person signing on behalf of Provider certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief, no member of The Texas A&M University System ("TAMUS") or TAMUS Board of Regents, nor any employee, or person, whose salary is payable in whole or in part by Texas A&M or TAMUS, has direct or indirect financial interest in the award of this Agreement, or in the services to which this Agreement relates, or in any of the profits, real or potential, thereof.

## 10. MISCELLANEOUS

- A. Provider agrees to indemnify and hold harmless Texas A&M from any claim, damage, liability, expense or loss arising out of Provider's negligent or intentional acts or omissions in performance under this Agreement.
- B. Provider shall neither assign its rights nor delegate its duties under this Agreement without the prior written consent of Texas A&M.
- C. Provider shall be an independent contractor, and neither Provider nor any employee of Provider shall be deemed to be an agent or employee of Texas A&M. As an independent contractor, Provider will be solely responsible for determining the means and methods for performing the services described. Provider shall observe and abide by all applicable laws and regulations, policies and procedures, including but not limited to, those of Texas A&M relative to conduct on its premises.

Products / Completed Operations	\$1,000,000
Personal / Advertising Injury	\$1,000,000
Damage to rented Premises	\$300,000
Medical Payments	\$5,000

The required commercial general liability policy will be issued on a form that insures Provider's or its subcontractors' liability for bodily injury (including death), property damage, personal and advertising injury assumed under the terms of this Agreement.

#### Additional Endorsements

The Auto and Commercial General Liability Policies shall name The Texas A&M University System Board of Regents for and on behalf of The Texas A&M University System, and Texas A&M University as additional insured's.

D. Provider will deliver to Texas A&M:

Evidence of insurance on a Texas Department of Insurance approved certificate form verifying the existence and actual limits of all insurance after the execution and delivery of this Agreement and prior to the performance of any services by Provider under this Agreement. Additional evidence of insurance will be provided on a Texas Department of Insurance approved certificate form verifying the continued existence of all required insurance no later than thirty (30) days after each annual insurance policy renewal.

All insurance policies, with the exception of worker's compensation and employer's liability, will be endorsed and name The Board of Regents for and on behalf of The Texas A&M University System, The Texas A&M University System, and Texas A&M University as Additional Insureds up to the actual liability limits of the policies maintained by Provider. Commercial General Liability and Business Auto Liability will be endorsed to provide primary and non-contributory coverage. The Commercial General Liability Additional Insured endorsement will include on-going and completed operations and will be submitted with the Certificates of Insurance.

All insurance policies will be endorsed to provide a waiver of subrogation in favor of The Board of Regents of The Texas A&M University System, The Texas A&M University System, and Texas A&M University. No policy will be canceled without unconditional written notice to Texas A&M at least ten days before the effective date of the cancellation. All insurance policies will be endorsed to require the insurance carrier providing coverage to send notice to Texas A&M ten (10) days prior to the effective date of cancellation, material change, or non-renewal relating to any required insurance policy.

Any deductible or self-insured retention must be declared to and approved by Texas A&M prior to the performance of any services by Provider under this Agreement. Provider is responsible to pay any deductible or self-insured retention for any loss. All deductibles and self-insured retentions will be shown on the Certificates of Insurance.

Certificates of Insurance and Additional Insured Endorsements as required by this Agreement will be mailed, faxed, or emailed to the following Texas A&M contact:

Department of Contract Administration  
Texas A&M University  
1182 TAMU  
College Station, Texas 77843-1182  
Facsimile: (979) 862-7130  
Email: [contracts@tamu.edu](mailto:contracts@tamu.edu)

- K. Provider expressly acknowledges that Texas A&M is an agency of the State of Texas and nothing in this Agreement will be construed as a waiver or relinquishment by Texas A&M of its right to claim such exemptions, privileges, and immunities as may be provided by law.
- L. Performance by Texas A&M under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature"). If the Legislature fails to appropriate or allot the necessary funds, Texas A&M will issue written notice to Provider and Texas A&M may terminate this Agreement without further duty or obligation hereunder. Provider acknowledges that appropriation of funds is beyond the control of Texas A&M.
- M. Under Section 2155.004, *Texas Government Code*, the vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.
- N. Provider understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Section 51.9335(c), *Texas Education Code*. Provider agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. Provider will include this provision in all contracts with permitted subcontractors.
- O. Each provision of this Agreement is severable. If any provision is rendered invalid or unenforceable by statute or regulations or declared null and void by any court of competent jurisdiction, the remaining provisions will remain in full force and effect if the essential terms of this Agreement remain valid, legal, and enforceable.

IN WITNESS WHEREOF, the parties have signed this Agreement on the date indicated below their signatures.

TEXAS A&M UNIVERSITY

PROVIDER NAME *Chaparral Insulation Co.*

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Name **ROBERT C. BOUNDS**  
**DIRECTOR, PROCUREMENT SERVICES**

\_\_\_\_\_  
 Title

\_\_\_\_\_  
 Date *28 MAY 2019*

\_\_\_\_\_  
 Signature *Steve Mayberry*

\_\_\_\_\_  
 Name *Vice President*

\_\_\_\_\_  
 Title

\_\_\_\_\_  
 Date *5/21/19*

**APPENDIX A**  
**Scope of Work**

# **Pipe And Water Device Insulation Installation**

1. Description of work
  - A. Insulate Pipes
  - B. Insulate Devices installed in piping systems
2. Location of work
  - A. Above ground on TAMUS property and leased TAMUS property
  - B. Below ground (in ground and tunnels)
  - C. In TAMUS buildings (power plants, sub-station plants etc.)