

# **SUBCONTRACTOR AGREEMENT**

DIRECTIONS:

1. DOWNLOAD THIS FORM
2. FILL OUT APPROPRIATE FIELDS
3. FILE > SAVE AS
4. SEND TO [INFO@SERVICESBYEVCO.COM](mailto:INFO@SERVICESBYEVCO.COM)



HOME & COMMERCIAL SERVICES

(512) 256-1221

www.ServicesByEVCO.com

---

## SUBCONTRACTOR AGREEMENT

THIS AGREEMENT made this 15th day of May, 2019, by and between **EVCO Home & Commercial Services LLC**, a Texas corporation whose principle address is 6001 W. Parmer Ln 370-147 Austin, TX 78727, hereinafter called "Contractor" and **Kenmar Construction LLC** a company whose principle address is 17713 Turning Stream Ln. Pflugerville, TX 78660, hereinafter called "Subcontractor."

PROJECT:

The Contractor and Subcontractor agree as follows:

### 1. CONTRACT DOCUMENTS

- (a) The contract documents for this subcontract consist of this Agreement and any exhibits named herein, the General Contract (including all general and special conditions, plans, drawings, and specifications issued prior to the execution of this Agreement), along with all modifications to this Agreement to which both parties agree in writing.
- (b) Subcontractor acknowledges that he has read the contract documents and is familiar with each and every part thereof affecting his Subcontract Work. Subcontractor by examination has satisfied himself as to the nature and location of the Work; the character, quantity, and kinds of materials necessary; the adequacy of any surface or subsurface conditions necessary to assure proper installation of Subcontractor's Work; the kinds and quantity of equipment needed; and other local conditions or matters affecting compliance with the contract documents. Further, Subcontractor is familiar with the respective rights, powers, benefits and liabilities of the Contractor and the Owner under the contract documents and hereby agrees to comply with and perform all provisions thereof which are applicable to the Subcontract Work.
- (c) The Subcontractor agrees to be bound to the Contractor under this Agreement according to the same terms and conditions as the Contractor is bound to the Owner under the contract documents. The Subcontractor shall assume and perform all of the obligations and responsibilities of the Contractor under the contract documents, which pertain or relate to the scope of work in this Subcontract as described in Paragraph 2.

## 2. THE WORK

(a) The Subcontractor shall furnish for the consideration herein mentioned all labor, material (if bid to do so), supervision, equipment, hoisting, temporary storage, insurance, taxes, fees and permits necessary to complete the following work in accordance with the terms and conditions of this contract and in a good and workmanlike manner.

**Provide supervision, labor, for all Description Work as per the plans, specifications and Addenda as prepared by Architect.**

### **-Clarifications & Descriptions**

Install 3 ea. concrete pillars to base light poles on. Install concrete pad/footings for pet agility course stations. Includes labor and equipment only. All materials will be provided by contractor.

(b) The Subcontractor agrees that he is an independent contractor under this Agreement. The Subcontractor is solely responsible for, and has control over, all construction means, methods, techniques, sequences, procedures, and coordination of all portions of the Subcontract Work, unless the Contractor shall give specific written instructions concerning these matters. Further, the Subcontractor is fully responsible for, and has control over, all construction means, methods, techniques, sequences, procedures and coordination of the Subcontract Work related to the safety of the Subcontractor's employees and any other persons working in the area of the Subcontract Work.

(c) In the event of a conflict between the contract documents as they apply to the subcontract work, the more onerous or more expensive interpretation shall govern. Subcontractor agrees to perform its work in compliance with all applicable rules, regulations, ordinances pertaining to same.

## 3. TIME OF PERFORMANCE

(a) Time is of the essence of this Subcontract.

(b) Subcontractor will proceed with the work in a prompt and diligent manner in accordance with Contractor's construction schedules as amended from time to time. Subcontractor shall be liable for any damages for delay sustained by Contractor caused directly or indirectly by Subcontractor, including, but not limited to, damages, liquidated or otherwise, for which Contractor is liable to the Owner.

(c) In agreeing to perform the work in accordance herewith, Subcontractor has taken into account and has made allowances for delays which should be reasonably anticipated or foreseeable.

(d) IN THE EVENT THAT THE SUBCONTRACTOR'S PERFORMANCE OF THE WORK IS DELAYED OR INTERFERED WITH FOR ANY REASON OR FOR ANY PERIOD OF TIME BY ACTS OR OMISSIONS OF THE OWNER, CONTRACTOR, OR OTHER SUBCONTRACTOR, SUBCONTRACTOR MAY REQUEST AN EXTENSION OF TIME FOR THE PERFORMANCE OF THE WORK, BUT SHALL NOT BE ENTITLED TO ANY

INCREASE IN THE CONTRACT PRICE OR TO DAMAGES AS A CONSEQUENCE OF SUCH DELAYS OR INTERFERENCE EXCEPT TO THE EXTENT THAT THE CONTRACT DOCUMENTS ENTITLE CONTRACTOR TO COMPENSATION FOR SUCH DELAYS AND THEN ONLY TO THE EXTENT THAT THE CONTRACTOR MAY ON BEHALF OF SUBCONTRACTOR ACTUALLY RECEIVE FROM THE OWNER MONIES FOR SUCH DELAYS. THE RECEIPT OF SAID SUMS BY THE CONTRACTOR SHALL BE A CONDITION PRECEDENT TO ANY OBLIGATION TO SUBCONTRACTOR.

(e) Subcontractor shall provide written notification to Contractor of any event for which compensation is sought under paragraph 3(d) within three days from the time said event begins.

#### **4. THE CONTRACT SUM**

In consideration of the faithful performance of the covenants and agreements herein to the full satisfaction and acceptance of the Owner and Contractor, Contractor agrees to pay, or cause to be paid Subcontractor the weekly sum of:

---

#### **5. PAYMENTS**

- (a) The Contractor may require as a condition for partial payment that the Subcontractor submit lien waivers through the date and for the amount covered by the invoice and will require as a condition of final payment complete lien and claim waivers from the Subcontractor, his materialmen, laborers and sub subcontractors.
- (b) All covenants and obligations of Contractor herein are performable in Travis County, Texas and specifically all sums of money payable to Subcontractor are payable in Travis County, Texas.
- (c) Progress payments or final payment may be withheld by Contractor on account of defective work not remedied, claims filed, reasonable evidence indicating the probability of the filing of claims or reasonable doubt that the Subcontract can be completed for the balance of the Subcontract amounts then unpaid. Contractor may offset against any sums due Subcontractor hereunder the amount of any liquidated or unliquidated obligations of Subcontractor to Contractor, whether or not arising out of this Subcontract.

#### **6. INDEMNIFICATION**

TO THE FULLEST EXTENT PERMITTED BY LAW, SUBCONTRACTOR SHALL FULLY PROTECT, INDEMNIFY, AND SAVE AND HOLD HARMLESS THE OWNER AND CONTRACTOR FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, DAMAGES, LIENS, LIABILITIES, ATTORNEYS' FEES, LOSSES AND EXPENSES,

AND/OR CAUSES OF ACTION OF ANY AND EVERY NATURE WHATSOEVER ARISING IN ANY MANNER, DIRECTLY OR INDIRECTLY, OUT OF OR IN CONNECTION WITH, OR IN THE COURSE OF OR INCIDENTAL TO ANY OF SUBCONTRACTOR'S WORK OR OPERATIONS HEREUNDER. SUBCONTRACTOR'S OBLIGATIONS TO INDEMNIFY AND HOLD HARMLESS OWNER AND CONTRACTOR AS STATED ABOVE SHALL APPLY IF AND TO THE EXTENT SUCH CLAIM, CAUSE OF ACTION, DEMAND, DAMAGE, LIEN, LIABILITY, FEE, LOSS OR EXPENSE IS CAUSED, IN WHOLE OR IN PART, BY ANY NEGLIGENT ACT OR OMISSION OR BREACH OF CONTRACT BY SUBCONTRACTOR OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY SUBCONTRACTOR OR ANYONE FOR WHOSE ACTS SUBCONTRACTOR IS OR MAY BE LIABLE OR IS CAUSED BY OR ARISES OUT OF THE USE OF ANY PRODUCTS, MATERIAL OR EQUIPMENT FURNISHED BY SUBCONTRACTOR.

## **7. INSURANCE**

Prior to starting Work the Subcontractor shall procure and maintain in force insurance in complete accordance with the Supplementary Conditions if applicable.

## **8. BONDS**

If required by the Contractor, a Performance Bond and a Payment Bond in a form satisfactory to the Contractor shall be furnished in the full amount of this Agreement. These bonds will be furnished by an insurance company on the list of Acceptable Sureties by the Department of the Treasury within the limits stated thereon.

## **9. CHANGE ORDERS**

(a) No alterations, additions or deletions shall be made in the materials to be furnished or the work to be performed under this Subcontract or the contract documents except pursuant to a written change order signed by Contractor. The value of the materials or alterations, additions or deletions by written change order shall be determined by both the Contractor and the Subcontractor and shall be added to or deducted from the contract sum, as the case may be. No extra charge will be processed unless accompanied by a signed change order.

(b) If Subcontractor receives a signed change order from the Contractor but disputes the validity or amount of the change order, or if Contractor disputes Subcontractor's contention that certain work warrants a change order, the Subcontractor shall promptly follow the directions of the Contractor pending resolution of the dispute. The Subcontractor shall not be entitled to make a claim for extra work unless the Subcontractor has given the Contractor written notice of the claim for extra compensation prior to the time that the claimed extra work begins. All claims for extra work done without the above-referenced written notice are waived.

## **10. DAMAGE TO OTHER WORK**

In carrying out his work, Subcontractor shall take necessary precautions to protect the finished work of other trades from damage caused by his operations and Subcontractor shall repair and/or replace to Contractor's satisfaction and on Contractor's demand all damage caused by his operation at no expense to the Contractor.

## **11. CLEANUP**

Subcontractor shall at all times and on a daily basis keep the premises free from accumulations of waste material, debris, or rubbish caused by his employees or work, and at the direction of the Contractor, he shall remove all the waste material, debris and rubbish from and about the project and all his tools, equipment, waste and surplus materials and shall leave his work clean. In case of dispute, the Contractor may remove the rubbish and charge the cost to the Subcontractor.

## **12. SAFETY**

Subcontractor shall take all reasonable safety precautions with respect to his work, shall comply with all safety measures initiated by the Contractor and with all applicable laws, ordinances, rules, regulations and orders of any government agency or political subdivision for the safety of any persons or property. Subcontractor shall submit to Contractor, within 3 days copies of all accident reports arising out of any injuries to his employees or those of any firm or individual to whom he may have sublet work or any property damage arising or alleged to have arisen on account of any work done by Subcontractor under this Subcontract.

Subcontractor agrees that, prior to performing any work activities pursuant to this Agreement, it will evaluate the safety of the work in place and the working conditions in the area in which its employees and subcontractors will work and will notify Contractor in writing of any unsafe conditions or defective work in place and will further prevent its personnel and subcontractors from entering into any such area or performing any work in or around any such defective work. Failure of Subcontractor to notify Contractor of any unsafe condition or defective work prior to beginning work shall conclusively establish Subcontractor's acceptance of the work in place and safety of the working conditions related to its work.

## **13. ASSIGNMENT**

Subcontractor shall not assign this Subcontract or any amounts due or to become due thereunder to any third party without prior written consent of the Contractor and shall not subcontract the whole or any portion of this Subcontract without prior written consent of the Contractor.



## **14. WARRANTY**

Subcontractor warrants that all materials and equipment furnished and incorporated by it in the job shall be new, not used and in original unopened packaging and that all work under this Subcontract will be performed in accordance and materials furnished by Subcontractor must be satisfactory to the Contractor and Owner and the warranties contained in this section shall be for one year in addition to and not a limitation of any other warranty or remedies provided by law or contract documents.

## **15. BACKCHARGE**

Should the Subcontractor fail at any time to supply a sufficient number of properly skilled workmen and/or sufficient materials and equipment of the proper quality, or fail in any respect to prosecute the Subcontract work with promptness and diligence, or fail to promptly correct defective work, or fail in the performance of any of the agreements contained herein, the Contractor may, in its sole discretion and without notice, provide such labor, materials and equipment and deduct the cost thereof, together with all loss or damage occasioned thereby, from any money then due or thereafter to become due to the Subcontractor under this Agreement. If no money or insufficient money is due to Subcontractor at the time of the operation of this paragraph, Subcontractor shall be directly liable to Contractor for the loss and damages hereinabove described.

## **16. TERMINATION**

(a) If the Subcontractor at any time shall refuse or neglect to supply sufficient properly skilled workmen, or materials or equipment of the proper quality and quantity, or fail in any respect to prosecute Subcontractor's Work with promptness and diligence, or cause by any action or omission the stoppage or interference with the work of the Contractor or other subcontractors, or fail in performance of any of the covenants herein contained, or fail to pay suppliers, the Contractor may, at its option and discretion, terminate the Subcontractor's contract by delivering written notice of termination to the Subcontractor. Thereafter, the Contractor may take possession of the Project and Work, materials, tools, appliances and equipment of the Subcontractor at the building site, and through himself or others provide labor, equipment and materials to prosecute Subcontractor's Work on such terms and conditions as shall be deemed necessary. The Contractor shall deduct the cost thereof, including without restriction thereto all charges, expenses, losses, costs, damages, and attorney's fees, incurred as a result of the Subcontractor's failure to perform, from any money then due or thereafter to become due to the Subcontractor under this Agreement.

(b) The Contractor may, at any time and without default of Subcontractor, reserves the right to terminate the whole or any part of this Agreement. Subcontractor agrees that upon any such termination, the Subcontractor's sole remedy shall be payment of full value for all work properly performed, plus reasonable profit thereon, less all payments Subcontractor has previously received on account of such work performed. Subcontractor agrees to waive all claims for damages, including lost or anticipated profits, arising from or related to any such termination,

**17. GOVERNING LAW**

This Subcontract shall be governed by the Laws of the State of Texas.

**18. ATTORNEYS FEES**

In the event Subcontractor defaults in the performance of any of the terms, covenants, agreements or conditions of this Subcontract, and Contractor seeks to enforce all or any part of this Subcontract, Subcontractor agrees to pay Contractor's reasonable attorney's fees, whether suit is actually filed or not.

**19. INTERPRETATION**

Although the parties have utilized Contractor's form, they agree and recognize that the language in said agreement is not to be construed against or for either party hereto.

**20. TREE PROTECTION**

Subcontractor will abide by the Austin City Tree Protection Ordinance set forth by The City of Austin, Subcontractor shall take ALL necessary precautions to comply with Ordinance and takes full responsibility in respect to any damages caused by negligence and or/accident by their party,



The parties hereto have caused these present to be signed as of the day and year first written above.

**CONTRACTOR**

EVCO Home & Commercial Services LLC  
6001 W. Parmer Ln 370-147  
Austin, TX 78727

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_  
Phone: \_\_\_\_\_

**SUBCONTRACTOR**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_  
Phone: \_\_\_\_\_



