

**PROFESSIONAL SERVICES AGREEMENT**  
**between**  
**GARVER, LLC**  
**And**  
**THE CITY OF MIDWEST CITY**

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**THIS PROFESSIONAL SERVICES AGREEMENT** (hereinafter referred to as “**Agreement**”) is entered into by and among The City of Midwest City, a municipal corporation (hereinafter referred to as “**City**”), and Garver, LLC, a limited liability company, (hereinafter referred to as “**Service Provider**”) (**City**, and **Service Provider** being collectively referred to herein as the “**Parties**”) and is effective upon the date of execution by the last party hereto.

**WITNESSETH:**

**WHEREAS**, **City** is in need of the following professional services as outlined in Attachment A; and

**WHEREAS**, **Service Provider** is in the business of providing professional services that is needed by the **City**; and

**WHEREAS**, the **City** and the **Service Provider** have reached an agreement for the **Service Provider** to provide the **City** the requested professional services; and

**WHEREAS**, **City** hereby retains **Service Provider** to provide professional services as an independent contractor; and

**WHEREAS**, **SERVICES PROVIDER** agrees to provide the **City** all Attachment A services, in accordance with the standards exercised by professionals in the field, necessary to provide the **City** services, products, solutions and deliverables that meet all the purposes and functionality requested or described in this Agreement.

**NOW, THEREFORE**, for and in consideration of the above premises and mutual covenants as set forth herein, the **City**, and **Service Provider** hereby agree as follows:

**1. SERVICES, PRODUCTS, SOLUTIONS AND DELIVERABLES TO BE PROVIDED**

Subject to the terms and conditions of this Agreement, the **City** retains the **Service Provider** as an independent contractor, to provide the **City** all Services, in accordance with the ordinary Standard of Care, with project information delivered (“**Deliverables**”) as agreed within Attachment A to this Agreement. Upon issuance of the Agreement, the **Service Provider** shall be

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responsible for timely providing the services authorized by the Agreement (“Project”). **Service Provider** shall invoice **City** on a monthly basis for completed Services. Such invoice will include supporting documentation reasonably necessary for City to know with reasonable certainty the proportion of Services accomplished. The **City** may meet with Service Provider to identify additional service needs as mutually agreed and to be provided within an fully executed amendment.

The City will pay Service Provider all undisputed amounts within thirty (30) days after receipt of the Service Provider's invoice. Upon completion of Services and provision to the **City** of all Deliverables and payment of the final invoice to the Service Provider, the City shall own all rights and license for the Deliverables; provided however, any and all underlying intellectual property, if any (unless provided by City), shall remain the property of Service Provider such that Service Provider may continue to perform its business in the normal course. Service Provider shall designate, on any Deliverables submitted to the City, what information in said Deliverables is deemed intellectual property. Service Provider hereby acknowledges that any intellectual property in the possession of the City is subject to the Oklahoma Open Records Act (Title 51 of the Oklahoma Statutes, Section 24A.1 et seq.). If the City receives an Open Records Request for any intellectual property of the Service Provider, the City shall notify the Service Provider of the receipt of the Open Records Request. Service Provider shall, within thirty (30) days of the receipt of the Open Records Request, provide to the City a response concerning whether the intellectual property can or cannot be released. If the Service Provider determines that the intellectual property cannot be released, then the Service Provider shall incur the obligation, including all financial obligations, to defend the determination in any future proceedings concerning the Open Records Request.

Upon payment in full, Service Provider shall grant City an irrevocable, non-exclusive, royalty-free license to use the same for the purposes contemplated under this Agreement. To the extent allowed under applicable law, City shall release, defend, indemnify and hold harmless Service Provider and its subconsultants against all claims, losses, damages, injuries, and expenses,

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including reasonable attorneys' fees arising out of change to, or re-use of Deliverables for any other project.

a. This Agreement governs the Scope of Services including, but not limited to, all Deliverables to be provided by **Service Provider** to the **City**. The Attachments are incorporated into this Agreement by reference and, should there be a conflict in language, terms, conditions, or provisions, shall have the priority and precedential value as set forth in this Agreement.

b. The text of this Agreement together with the Attachments constitutes the entire Agreement and the only understanding and agreement between the **City** and the **Service Provider** with respect to the Services, products, solutions and Deliverables to be provided by the **Service Provider** hereunder. This Agreement may only be amended, modified or changed in writing when signed by all Parties, or their respective specifically authorized representatives, as set forth in this Agreement. Notwithstanding anything in this Agreement, Service Provider shall be entitled to an equitable adjustment in the cost and/or schedule for circumstances outside the reasonable control of Service Provider, including modifications in the Scope of Services, applicable law, codes, or standards after the effective date of this Agreement.

c. If there is a conflict in language, terms, conditions, or provisions, in this Agreement between the text of this document, and any language, term, condition, or provision in any Attachment, then the text of this document, shall govern and control over any conflicting language, term, condition, or provision in any Attachment. As among the Attachments any conflict in the language, terms, conditions, or provisions shall be governed in the following order of priority and precedence:

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- Attachment “A” (“Services” or “Scope of Services”)
- Attachment “B” (“Schedule of Fees / Rate Card”),
- Attachment “C” (“**Service Provider’s** Team”),

**2. RETENTION OF SERVICES PROVIDER AND SCOPE OF SERVICES**

A. **Service Provider** is solely responsible for the actions, non-action, omissions, and performance of **Service Provider’s** employees, agents, contractors, and subcontractors (herein collectively included in the term “Service Provider’s Project Team”) and to ensure the timely provision of the Project, timely performance of the Scope of Services, and the timely performance of the Project and the provision of all Deliverables as each are defined in **Attachment “A”** (“**Scope of Services**”) or the Project.

B. **Service Provider** will be solely responsible to ensure the **Service Provider’s Project Team (Attachment "C")** fully understands the Project, the Scope of Services, the Deliverables, the schedule for performance, and **City’s** goals and purposes. **Service Provider** will be solely responsible to ensure the **Service Provider’s Team (Attachment "C")**, specifically assigned to work on the Project for the **City**, is adequately trained, instructed, and managed so that **Service Provider** timely provides each Project task and satisfies the **Service Provider’s** obligations under this Agreement. The **Service Provider** may not change the **Service Provider’s Team (Attachment "C")**, for the Services to be provided as set forth on Attachment “C” without the prior written consent of the **City**, not to be unreasonably withheld.

C. **Service Provider** shall comply with all applicable federal, state and local laws, standards, codes, ordinances, administrative regulations pertaining in any manner to the performance of Services provided under this Agreement. **Service Provider** shall obtain all patents, licenses and any other permission required to provide all Deliverables and for use of all Deliverables by the City (except to the extent from information provided or specified by **City**).

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**3. CONSIDERATION**

A. The **City** shall pay the **Service Provider** the compensation after completion of Services as specified in Section one (1) of this **Agreement**, and in **Attachment “B” (“Schedule of Fees”)**.

B. The **City** and the **Service Provider** acknowledge that the compensation to be paid the **Service Provider** pursuant to this **Agreement** has been established at an amount reasonable for the availability and Services of the **Service Provider** and the **Service Provider’s Team (Attachment "C")**.

**4. INDEPENDENT CONTRACTOR STATUS**

The Parties hereby acknowledge and covenant that:

A. **Service Provider** is an independent contractor and will act exclusively as an independent contractor. **Service Provider** is not an agent or employee of the **City** in performing the duties in this Agreement.

1. The Parties do not intend, and will not hold out that there exists, any corporation, joint venture, undertaking for a profit or other form of business venture or any employment relationship among the Parties other than that of an independent contractor relationship.

2. All payments to **Service Provider** pursuant to this **Agreement** shall be due and payable in the State of Oklahoma, even if Services of **Service Provider** are performed outside the State of Oklahoma.

B. The **CITY** shall not withhold any social security tax, workmen’s compensation, Medicare tax, federal unemployment tax, federal income tax, or state income tax from any compensation paid to **Service Provider** as **Service Provider** is an independent contractor and the members of its **Service Provider’s Team**, assigned to work on the Project for the **City** are not employees of the **CITY**. Any such taxes, if due, are the responsibilities of **Service Provider** and will not be charged to the **CITY**.

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C. **Service Provider** acknowledges that as an independent contractor it and **Service Provider's Project Team**, assigned to work on the Project for the **City** are not eligible to participate in any health, welfare or retirement benefit programs provided by the **City** or its employees.

**5. TERM, TERMINATION AND STOP WORK**

A. This **Agreement** shall commence upon execution by the last party hereto and shall continue in effect for one-year from the date of execution, unless terminated by either party as provided for herein. This **Agreement** may be extended by mutual agreement of the **Parties** in one-year increments, until the Project is completed and accepted as provided herein.

B. The **City** may issue notices of termination or suspension to the **Service Provider**. This **Agreement** may be terminated, with or without cause, upon written notice, at the option of **City**.

1. Upon receipt of a notice of termination for the *convenience* from the **City**, the **Service Provider** shall immediately discontinue all Services and activities (unless the notice directs otherwise), and

2. Upon payment for Services fully performed and accepted, **Service Provider** shall deliver to the **City** all licenses, work, products, deliverables, solutions, communication recommendations, plans, messaging strategies, style guides, design elements, internal and external messaging campaigns, documents, data analysis, reports, and other information and materials accumulated or created in performing this **Agreement** which are included as Deliverables within the Scope of Services required from **Service Provider**, whether the same are complete or incomplete, unless the notice directs otherwise. Upon termination for the *convenience* by the **City**, the **City** shall pay **Service Provider** for completed Projects and Deliverables up to the time of the notice of termination for *convenience*, in accordance with the terms, limits and conditions of the **Agreement** and as further limited by the "not to exceed" amounts set out in this **Agreement**.

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3. Upon notice of termination for *cause* from the **City**, and following reasonable opportunity to cure, the **Service Provider** shall be entitled to receive payment for all Services properly performed prior to such termination in accordance with the terms, conditions and rates set forth in this Agreement. Provided, however, upon notice of termination for cause and payment for **Service Provider's** undisputed Services, the **Service Provider** shall deliver to the **City** all Deliverables required under the Scope of Services, whether complete or incomplete, unless the notice directs otherwise.

4. The rights and remedies of the **City** provided in this paragraph are in addition to any other rights and remedies provided by law or under the **Agreement**. Termination herein shall not terminate or suspend any warranty, indemnification, insurance, or confidentiality required to be provided by **Service Provider** under this **Agreement**.

C. Upon notice to **Service Provider**, the **City** may issue a stop work order suspending any Projects, services, performances, work, products, Deliverables, or solutions under this **Agreement**. Any stop work order shall not terminate or suspend any warranty, indemnification, insurance, or confidentiality required to be provided by **Service Provider** under this **Agreement**. In the event the **City** issues a stop work order to **Service Provider**, the **City** will provide a copy of such stop work order to the **Service Provider**. Upon receipt of a stop work order issued from the **City**, the **Service Provider** shall suspend all work, services and activities except such work, services, and activities expressly directed by the **City** in the stop work order. Upon notice to the **Service Provider**, this **Agreement**, and any or all work, services, and activities thereunder, may be suspended up to thirty (30) calendar days by the **City**, without cause and without cost to the **City**; provided however, the **Service Provider** shall be entitled to an extension of all subsequent deadlines for a period equal to the suspension periods for those suspended work, services, and activities only.

D. **Obligation upon Termination for Convenience.**

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1. In the event this **Agreement** is terminated for convenience hereunder, the **City** shall pay **Service Provider** (i) for such properly documented invoices, if any, in accordance with the provisions of this **Agreement** above, through the date of termination for convenience and the period set forth in the notice, and (ii) documented and reasonable costs (plus profit on such costs) incurred by **Service Provider** to implement such termination (including demobilization costs, and termination/cancellation costs under subcontracts and purchase orders), thereafter the **City** shall have no further liability under this **Agreement** to **Service Provider** and **Service Provider** shall have no further obligations to the **City**.

2. Upon termination for *convenience* of the Project and the providing to the **City** of all Deliverables for the Project and payment of the invoice for the Project to **Service Provider**, the **City** shall own all rights and license for the Deliverables and other work products related to that Project, as provided in Section 1 herein.

## **6. WARRANTIES**

A. **Service Provider** warrants that the Projects performed and Deliverables provided under this **Agreement** shall be performed consistent with generally prevailing professional standards and expertise according to the ordinarily accept standard and practices employed by the applicable United States professional services industries as of the effective date of this Agreement, practicing under similar conditions and locale. Such generally accepted practices and standards are not intended to be limited to the optimum practices, methods, techniques, or standards to the exclusion of all others, but rather to a spectrum of reasonable and prudent practices employed by the United States professional services industry ("Standard of Care"). **Service Provider** shall maintain during the course of this **Agreement** said Standard of Care, skill, diligence and professional competency for any and all such Services. **Service Provider** agrees to require all members of the **Service Provider's Team**, also including FTEs assigned to work on the Project, to provide any and all services, products, solutions and Deliverables at said same Standard of Care, skill, diligence and professional competence required of **Service Provider**.



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B. During the term of this **Agreement**, the **City's** initial remedy for any breach of the above warranty shall be to permit **Service Provider** one additional opportunity to perform the work, services, and activities or provide the Projects and Deliverables without additional cost to the **City**. If the **Services Provider** cannot perform the work, services, and activities or provide the products, solutions and deliverables according to the standards and requirements set forth in this **Agreement** within thirty (30) calendar days of the original performance date, the **City** shall be entitled to recover, should the **City** so determine to be in their best interest, any fees paid to the **Service Provider** for Services which do not meet the performance standard in Section 6.A above, and **Service Provider** shall make reimbursement or repayment within thirty (30) calendar days of a demand by the **City**. Should the **Service Provider** fail to reimburse the **City** within thirty (30) calendar days of demand, the **City** shall also be entitled to interest at 1.5% percent per month on all outstanding reimbursement and repayment obligations.

**7. INSURANCE**

A. **Service Provider** must provide and maintain at all times throughout the term of this **Agreement**, and any renewal hereof, such *commercial general insurance with a limit of \$1,000,000 per occurrence for bodily injury and tangible property damage and \$2,000,000 general aggregate* protecting the **City** from claims for bodily injury (*including death*) and or tangible property damage arising out of or resulting from the **Service Provider**, and its employees, use and occupancy of the premises and the activities conducted thereon in providing the agreed upon Scope of Services. The insurance coverage required in this paragraph must include the **City** as additional insureds as their interest may appear under this **Agreement** under the policy or policies to the extent of the indemnities agreed between the **Parties** in Section 8 of this **Agreement**.

B. In addition to the commercial general liability coverage required above, **Service Provider** shall maintain the following schedule of insurance until completion of the Services:



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A. **Service Provider** agrees to indemnify, and hold harmless the **City** from and against all liability for: (a) bodily injuries or death to persons caused by Service Provider's negligence or fault; (b) third party claims for costs, losses, and expenses caused by Service Provider's negligence or fault; (c) reasonable legal fees, legal expenses, and court costs related to the same; and (d) third party claims for damages, or loss to tangible property of third parties, which are caused by the negligence of **Service Provider**, its officers, representatives, agents, contractors, and employees which arise during performance of this Agreement, except to the extent such injuries, losses, damages and/or costs are caused by the negligence or willful misconduct of the indemnified party. The **Service Provider** must give the **City** prompt and timely notice of any claim or suit instituted which in any way, directly or indirectly, contingently or otherwise, affects or might affect the **City**, provided, however, such notice will not be a precondition to indemnification hereunder. The rights granted by this paragraph will not limit, restrict, or inhibit the rights of the **City** under any other paragraph, including but not limited to any insurance provision or requirement in this **Agreement**.

B. The provisions of this paragraph shall survive the expiration of this **Agreement**. It is understood that these indemnities and hold harmless provisions are not limited or defined by the insurance required under the insurance provisions of this **Agreement**.

**9. CONFIDENTIALITY**

**Service Provider** acknowledges that in the course of training and providing other services to the **City**, the **City** may provide **Service Provider** with access to valuable information of a confidential and proprietary nature including but not limited to information relating to the **City's** employees, customers, marketing strategies, business processes and strategies, security systems, data and technology. **Service Provider** agrees that during the time period this **Agreement** is in effect, and thereafter, neither **Service Provider** nor **Service Provider's Team**, without the prior written consent of the **City**, shall disclose to any person, other than to the **City**, any information obtained by **Service Provider** that is (i) marked as "Confidential Information" or "Proprietary Information" or identified as confidential pursuant to this Section 10 in writing

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promptly after being disclosed verbally; and (ii) all documents resulting from Service Provider's performance of Services to be "Confidential Information". Except as legally required, Confidential Information shall not be discussed with or transmitted to any third parties, except on a "need to know basis" with equal or greater confidentiality protection or written consent of the disclosing party. Confidential Information shall not include and nothing herein shall limit either Party's right to disclose any information provided hereunder which: (i) was or becomes generally available to the public, other than as a result of a disclosure by the receiving party or its personnel; (ii) was or becomes available to the receiving party or its representatives on a non-confidential basis, provided that the source of the information is not bound by a confidentiality agreement or otherwise prohibited from transmitting such information by a contractual, legal, or fiduciary duty; (iii) was independently developed by the receiving party without the use of any Confidential Information of the disclosing party; or (iv) is required to be disclosed by applicable law or a court order. All confidentiality obligations hereunder shall expire three (3) years after completion of the Services. Nothing herein shall be interpreted as prohibiting Service Provider from disclosing general information regarding the project for future marketing purposes. Service Provider shall require and maintain adequate confidentiality protections with its employees, agents, contractors, and subcontractors.

**10. NOTICES**

A. Notices and other communications to the **City** pursuant to the provisions hereof will be sufficient if sent by first class mail, postage prepaid, return receipt required, or by a nationally recognized courier service, addressed to:

The City of Midwest City, City Clerk  
100 N. Midwest Boulevard  
Midwest City, OK 73110

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respectively, and notices or other communications to the **Service Provider** pursuant to the provisions hereof will be sufficient if by first class mail, postage prepaid, return receipt required, or by a nationally recognized courier service, addressed to:

\_\_\_\_\_  
Cole Niblett

\_\_\_\_\_  
Garver

\_\_\_\_\_  
750 24<sup>th</sup> Ave NW, Ste. 200

\_\_\_\_\_  
Moore, OK 73160

B. Any party hereto may change the address or addressee for the giving of notice to it by thirty (30) days prior written notice to the other parties hereto as provided herein. Unless otherwise specified in this **Agreement**, notice will be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to this paragraph.

**11. ABIDES BY LAW**

The **Service Provider** must abide by the conditions of this **Agreement**, the ordinances of the **City**, and all laws and regulations of the State of Oklahoma and the United States of America (“Laws”), applicable to **Service Provider’s** activities. **Service Provider** will be responsible for securing any license, permits and/or zoning which may be required prior to commencement of the Project.

**12. ASSIGNMENT AND SUBLEASE**

**Service Provider** may not assign or sublease its interest under this **Agreement** without the prior written consent of the **City**, not to be unreasonably withheld. Any assignment or sublease shall become effective upon receipt of a request signed by authorized and empowered officers/agents of the **Service Provider** and sublessee and provision by the sublessee of a certificate of insurance evidencing the insurance required by this **Agreement** and upon approval of such sublease by **City**. The **City** may, but not required, to execute a letter approving either the assignment or sublease as provided herein on behalf of **City**. Upon approval of such assignment

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or sublease, **Service Provider** will not be relieved of future performance, liabilities, and obligations under this **Agreement**. **City** shall be provided with a copy of each written sublease agreement, and all amendments thereto, entered into by **Service Provider** within forty-five (45) days after the entering into of same.

**13. COMPLETE AGREEMENT AND AMENDMENT**

This is the complete agreement between the **Parties** and no additions, amendments, alterations, or changes in this **Agreement** shall be effective unless reduced to writing and signed by all **Parties** hereto. Additionally, no statements, discussions, or negotiations shall be deemed or interpreted to be included in this **Agreement**, unless specifically and expressly provided herein.

**14. TIME OF MATERIAL CONSIDERATION**

For the purposes of this **Agreement**, time shall be deemed to be of material consideration.

**15. MULTIPLE ORIGINALS**

This **Agreement** shall be executed in multiple counterparts, each of which shall be deemed an original.

**16. ANTI-COLLUSION**

**Service Provider** agrees that it has not been and shall not be a party to any collusion with any of their officials, trustees, or employees of the **City** as to the terms or conditions of this **Agreement**, and has not and will not exchange, give or donate money or other things of value for special consideration to any officials, trustees, or employees of the **City**, either directly or indirectly, in procuring and execution of this **Agreement**.

**17. BREACH AND DEFAULT**

A. A material breach of any provision of this **Agreement** shall act as a breach of the entire **Agreement** unless said breach is expressly waived in writing by all other parties hereto. Failure to enforce or timely pursue any material breach shall not be deemed a waiver of that breach

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or any subsequent breach. No waiver of any breach by any party hereto of any terms, covenants, or conditions herein contained shall be deemed a waiver of any subsequent breach of the same, similar, or different nature.

B. Further, except as otherwise specifically and expressly provided and any other paragraph hereto, should any party hereto fail to perform, keep or observe any of the terms, covenants, or conditions herein contained, this **Agreement** may be terminated by any party not in default thirty (30) days after receipt of written notice and opportunity to cure, less and except as such lesser time is provided in this **Lease**.

#### **18. THIRD PARTY BENEFICIARIES**

All **Parties** expressly agree that no third-party beneficiaries, expressly or implicitly, are intended to be or shall be created or acknowledged by this **Agreement**. This **Agreement** is solely for the benefit of the **Service Provider** and the **City**, and none of the provisions hereof are intended to benefit any third parties.

#### **19. VENUE AND CHOICE OF LAW**

All **Parties** hereto expressly agree that the venue of any litigation relating to or involving this **Agreement** and/or the rights, obligations, duties and covenants therein shall be in the appropriate court (state or federal) located in Oklahoma County, Oklahoma. All **Parties** agree that this **Agreement** shall be interpreted and enforced in accordance with Oklahoma law and all rights of the **Parties** shall be determined in accordance with Oklahoma law.

#### **20. VALIDITY**

The invalidity or unenforceability of any provision of this **Agreement** shall not affect the validity or enforceability of any other provisions of this **Agreement**, which shall remain in full force and effect.

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**21. NO WAIVER**

The failure or neglect of either of the **Parties** hereto to insist, in any one or more instances, upon the strict performance of any of the terms or conditions of this **Agreement**, or waiver by any party of strict performance of any of the terms or conditions of this **Agreement**, shall not be construed as a waiver or relinquishment in the future of such term or condition, but such term or condition shall continue in full force and effect.

**22. NO EXTRA WORK**

No claims for extra work, product, services, solution, or deliverables of any kind or nature or character shall be recognized or paid by or be binding upon the **City** unless such services, work, product, solution, or deliverable is first requested and approved in writing by the **City** through a purchase order.

**23. EFFECTIVE DATE**

The Effective Date of this **Lease** is the date approved by the **City** as the last party hereto.

**24. LIMITATION OF LIABILITY**

Notwithstanding anything in the Agreement to the contrary, to the extent allowed under applicable law, neither Party (including its subconsultants, agents, assignees, affiliates and vendors) shall be liable to the other for any special, consequential, indirect, punitive, exemplary or incidental damages of any kind regardless of the cause or action (including negligence of any kind or character including gross negligence). Notwithstanding any provision to the contrary herein, to the extent allowed under applicable law, the **Service Provider's** (including its subconsultants, agents, assignees, affiliates and vendors) total aggregate liability under the Agreement shall be limited to 100% of the fee received by **Service Provider** under the **Attachment "A" ("Scope of Services")**, or 100% of the fee received by **Service Provider** under an approved purchase order giving rise to the liability, (whichever may be applicable) regardless of the cause or action (including negligence of any kind or character).



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IN WITNESS WHEREOF, the parties have caused their properly authorized representatives to execute and seal this **Agreement** on the dates set forth below.

**Service Provider:**

\_\_\_\_\_  
Garver, LLC

By: \_\_\_\_\_



Name: Mary Elizabeth Mach, PE

Title: Vice President

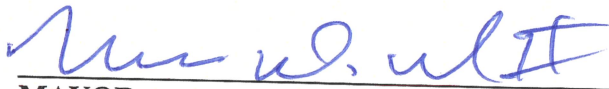
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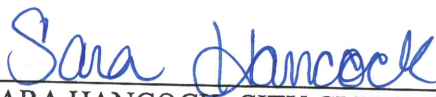
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**APPROVED** by the Council and **SIGNED** by the Mayor of The City of Midwest City this  
25 day of April, 2023.

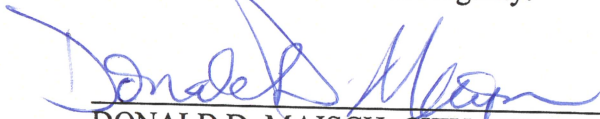
**THE CITY OF MIDWEST CITY**

  
\_\_\_\_\_  
**MAYOR**

  
\_\_\_\_\_  
SARA HANCOCK, CITY CLERK *Secretary*



**REVIEWED** for form and legality.

  
\_\_\_\_\_  
DONALD D. MAISCH, CITY ATTORNEY

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**ATTACHMENT “A”**  
**(SCOPE OF SERVICES)**

**BACKGROUND**

Midwest City (the City) continues to experience residential, commercial, and industrial growth. The 2012 Hydraulic Analysis and Engineering Report completed by Garver (Service Provider) identified low pressures in the southeastern portion of the Water Distribution System (WDS). Currently, a majority of the WDS operates on a single pressure plane (Main Pressure Zone), except for the small existing high pressure zone adjacent to the Water Treatment Plant (WTP). The high pressure zone will be expanded to improve the low pressures within the southeastern portion of the WDS. This project is being completed in cooperation with the United States Army Corp of Engineers (USACE). The following improvements are anticipated to expand the high pressure zone:

- New Eastside EST
  - A new elevated storage tank (EST) is to be built on the Eastside site that has been acquired by the City.
  - An access driveway approximately 900 feet long will be required to provide access to the EST site from Southeast 29<sup>th</sup> Street.
  - A new electrical service will be required to serve the EST site.
  - Detailed design for several of the components of the EST, including the foundation, will be completed by the selected contractor based on their proprietary designs, fabrication techniques, and erection methods.
- High Service Pump Station (HSPS) Improvements
  - New pumps are anticipated to pump water from the clearwell directly to the new higher pressure zone distribution piping.
  - Modifications to the existing electrical system at the WTP site will be required to power the new pumps.
- Transmission/Distribution Improvements
  - Approximately 1,500 linear feet (LF) of 12-inch water main will be required to connect the new EST to the distribution system at the existing 12-inch water main east of Timber Ridge Boulevard.
  - Additional transmission and distribution improvements may be needed to properly isolate the new higher-pressure zone. These improvements will be identified in the

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Predesign Engineering Report and included in subsequent Tasks.

### **ASSUMPTIONS**

In developing the scope of work and associated level of effort discussed in this proposal, Service Provider has made the assumptions outlined below:

1. The storage capacity of the proposed Eastside EST is anticipated to be in the range of 500,000 to 600,000 gallons.
2. The height of the high-water level in the proposed Eastside EST is anticipated to be in the range of 155 to 170 feet.
3. The new HSPS is anticipated to be located at the existing WTP site directly east of the existing 3-MG Clearwell and will utilize vertical turbine-type pumps to draw water directly off the 3-MG Clearwell.
4. The pumping capacity of the new HSPS is anticipated to be 3,000 gallons per minute at a total dynamic head in the range of 140 to 155 feet.
5. Two improvements to the distribution system are required for zone isolation:
  - a. Reversal of the inlet and outlet pipes of the Titan Tower elevated storage tank
  - b. A jump connection with isolation valves is required to connect two dead end mains at the corner of SE 15th Street and S Westminster Road.
6. Geotechnical investigations and recommendations are anticipated for the completion of the project and have already been completed by the City and will be provided to Service Provider. Geotechnical Services are therefore not included in this scope of services. If additional Geotechnical Services are required for the project, this work can be added by amendment. Any information provided by City to Service Provider is assumed as correct.
7. Property acquisition documents, including legal descriptions and services are not anticipated for this project, and are therefore not included in this scope of services, but can be added by amendment.

### **SCOPE OF WORK**

Generally, the scope of services includes surveying, design, preparation of construction documents, and bidding services for the construction of a new EST, HSPS improvements, and associated operational changes necessary to expand the high pressure zone to include the southeast area of City. These services do not include design or construction phase services associated with addressing WDS deficiencies created by isolating the new expanded high pressure zone. Additional design and construction phase services are anticipated to be added by a

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subsequent amendment to this agreement.

**Task I – Project Administration**

1. Service Provider will attend one in-person, kickoff meeting with up to four (4) Service Provider team members present to discuss project objectives, internal and external team member roles and responsibilities, communication protocols, document management protocols, and schedule.
2. Service Provider will develop a Project Management Plan (PMP) and Quality Assurance/Quality Control (QA/QC) Plan.
3. Service Provider will prepare and provide monthly progress/status reports, sufficient to support monthly billings. Monthly status reports shall be submitted with monthly invoices and project updates.

**Task II – Hydraulic Modeling**

1. Service Provider will update the City’s hydraulic model based on information provided by the City to include improvements to the system since 2011, to update demand information, and to evaluate providing water service to an area generally located east of the existing water service area. To obtain an accurate assessment of the existing water system, Service Provider will review and evaluate existing data provided by the City, including:
  - a. GIS files – water lines, water meters, hydrants, service area boundaries, LIDAR, street centerlines, parcels, address points, land use, and aerial imagery.
  - b. Daily water production for 2012-Present.
  - c. AMI/AMR water meter billing data for 2020-Present.
  - d. Water system SCADA data for 2020-Present.
  - e. Extent and potential land use of the area east of the proposed EST to potentially be served by the new expanded high pressure zone.
2. Service Provider will assess pressure logger and flow test data collected in the field by Service Provider and City and summarized in the 2021 Water Distribution System Pressure Monitoring Technical Memorandum to determine the ability of the existing model to accurately represent “static” and “residual” pressures at the test hydrants. Service Provider will model each of the hydrant flow tests as a separate scenario that accounts for the

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pertinent boundary conditions (e.g., pump run status and/or flow and discharge pressure, tank levels, control valve settings). These scenarios/simulations will be completed using steady-state simulations.

3. Service Provider will identify potential discrepancies between model simulation results and data collected in the field. Service Provider will update the Hazen-Williams conveyance coefficient (C) values based on known pipe properties (e.g., pipe age, pipe material) and collected field data to reduce the discrepancy between field and model results. Additionally, Service Provider will identify and correct potential issues with other major infrastructure (e.g., pump curves, control valves) as data allows.
4. Service Provider will identify improvements and/or operational adjustments necessary to isolate the system pressure zones.
5. Service Provider will evaluate the following with the updated and calibrated hydraulic model:
  - a. System pressures during average day, maximum day, and peak hour demands with proposed improvements to isolate the system pressure zones.
  - b. Fire flow availability during maximum day demands in the higher-pressure zone and adjacent portions of the main pressure zone with proposed improvements to isolate the system pressure zones.
  - c. Average water age in the high pressure zone and adjacent portions of the main pressure zone with proposed improvements for average day conditions.
  - d. Tracing water sources (surface water vs. groundwater) in the high pressure zone and adjacent portions of the main pressure zone with proposed improvements for average day conditions.
  - e. Impacts of expanding the existing water service area east of the proposed EST based on aerial extents provided by the City. No specified lines or configurations of pipes to the east will be evaluated and the lines to the east will not be modeled in detail but rather evaluated as point demand(s) along pipes existing in the model.
6. Service Provider will provide QA/QC for this task according to the PMP.

### **Task III – Environmental**

1. The Cultural Resources Survey:

To be in compliance with USACE requirements, Service Provider will perform a Cultural Professional Services Agreement with Garver, LLC (Garver Project: 18078070)

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Resources Survey of the anticipated Area of Potential Effect (APE) for the project. The APE is anticipated to include all areas required to construct the Eastside EST, HSPS improvements, and transmission/distribution improvements. The limits for the surveys shall be as shown in Exhibits A-1 through A-5 and defined below.

- The entire 2.3-acre parcel for the EST site and the portion of Southeast 29th Street along the parcel frontage (pedestrian survey and shovel testing).
- A 40,000 square-foot area at the Water Treatment Plant site for the HSPS. Exact extents are to be determined by Service Provider based on the HSPS location determined in the PER (pedestrian survey and shovel testing as necessary).
- A 35,000 square-foot area at the Titan Tower site (pedestrian survey only).
- A 10,000 square-foot area at the southwest corner of SE 15<sup>th</sup> Street and S. Westminster Road (pedestrian survey only).
- A 21,000 square-foot area at the Felix Place GST site (pedestrian survey only).

The Cultural Resources Survey will include:

- a. File reviews at the Oklahoma Archaeological Survey and State Historic Preservation Office and review of soils, geology, and historic maps and aerial imagery
- b. Cultural resources survey following the *Guidelines for Cultural Resources Investigations in Oklahoma Being Reviewed by the USACE-Tulsa District Regulatory Office* (September 2019). No mechanical trenching is anticipated.
- c. Draft and Final Cultural Resources report describing all identified resources and their potential eligibility for inclusion in the National Register of Historic Places. If potentially eligible resources are identified, potential mitigation measures will be proposed.

All coordination required under Section 106 of the National Historic Preservation Act, including SHPO and tribal coordination, will be completed by USACE.

2. Hazardous, Toxic, and Radioactive Waste (HTRW) Study

Service Provider will complete a HTRW evaluation for the proposed project, following USACE rules and guidance contained within ER 1165-2-132: HTRW Guidance for Civil Works Projects, and ASTM E1527-13: Standard Practice for Environmental Site Assessment: Phase 1 Environmental Site Assessment Process.

the HTRW Study tasks to be performed include:

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- a. Records review  
A database report from a third party provider (ERIS) will be purchased that will list all sites within ASTM specified distances from the proposed project.
- b. Site reconnaissance  
Service Provider staff will visit the site to verify the presence of any known environmental conditions within the vicinity and identify any visibly apparent undocumented environmental conditions.
- c. Interviews  
Service Provider will conduct interviews with City staff to identify any environmental conditions that could not be obtained in the records search and to determine the past uses of the subject property.
- d. Draft and Final HTRW reports

#### **Task IV – Predesign Engineering Report**

Service Provider will prepare a Predesign Engineering Report (PER) that includes a summary of the results of the hydraulic analysis, an alternatives analysis for the proposed improvements, and a conceptual design for the selected alternative. Based on the results of the hydraulic modeling, Service Provider will evaluate the alternatives for the proposed improvements listed below; non-monetary factors will be discussed, weighted, and scored in conjunction with the City’s staff.

1. Service Provider will seek to optimize HSPS Design Flow and EST Storage Volume based on the following considerations:
  - a. Capital and life-cycle costs over a 50-year horizon
  - b. Non-monetary factors, such as:
    - Reliability
    - Operability
    - Water quality
2. Service Provider will evaluate the following EST alternatives:
  - a. EST type (Spheroid, or Composite) – Service Provider will evaluate the following for each EST type:
    - Net Present Value (NPV) analysis with recurring O&M costs over a 50-year horizon
    - Non-monetary factors

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- b. Connection(s) to Existing System – Service Provider will evaluate up to two (2) water main configurations to connect the EST to the existing system.
  - c. Overflow Discharge/Site Drainage – Service Provider will document recommended site drainage improvements.
  - d. Sustainability – The PER does not include sustainability improvements alternatives (e.g., wind and solar), but these can be added in for an additional fee agreed to by City and Service Provider.
3. Service Provider will assess the following Water Quality alternatives:
  - a. Flow Configuration and Cycling – Service Provider will evaluate up to three (3) alternatives.
  - b. Tank Mixing (Passive or Active) – Service Provider will evaluate up to three (3) alternatives.
  - c. Aeration – Service Provider will evaluate one (1) alternative.
  - d. Chlorine Boosting – Service Provider will evaluate one (1) alternative.
4. Service Provider assumes the HSPS will be a vertical turbine type situated east of the existing 3-MG Clearwell on the WTP site and will draw directly off the 3-MG clearwell.
5. Service Provider will document recommended improvements for isolating the new high pressure zone, including:
  - a. Reversal of inlet/outlet pipes at the Titan Tower
  - b. Jumper connection and isolation valves at the corner of SE 15th Street and S Westminster Road.
6. Service Provider will develop a conceptual cost estimate for the project, which will include material procurement, construction, professional services, contractor overhead and profit, and contingency. The conceptual cost estimate will be a Class 4 estimate as defined by the Associate for the Advancement of Cost Engineering (AACE), which is consistent with cost estimates developed for studies and feasibility. The expected accuracy range for the estimates is -30% to +50% of the estimated values.
7. Service Provider will summarize the results of the hydraulic modeling and alternatives analysis in the draft PER. A recommended alternative will be presented that includes recommended pipe improvements to alleviate WDS deficiencies associated with creating normally closed zone boundaries to isolate the expanded high pressure zone.

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8. Following submission of the draft PER, Service Provider will conduct an Alternatives Analysis workshop with the City. Service Provider will generate minutes from the meeting and collect City's comments. City's selected alternative and comments will be incorporated in the final PER.
9. Service Provider will submit one (1) application for the proposed site to the Federal Aviation Administration (FAA) for approval of the EST location and height in accordance with 14 CFR 77.9 of the FAA regulations upon confirmation of the required EST height using the updated hydraulic model. FAA requirements will be included in the Final PER.
10. Service Provider will include the conceptual design in the final PER and will include both conceptual layouts for selected alternatives for the proposed improvements, excluding sustainability improvements, and an updated cost estimate for the selected alternatives. This conceptual submittal will be for the purpose of coordinating the proposed improvements with the City and the utility companies and developing the conceptual cost estimate for the project. The conceptual design will include the following:
  - a. Applicable design criteria and recommendations.
  - b. 10% Design Plans. 11"x17" size drawings will present a layout of the proposed HSPS site, a layout of the proposed EST site, and alignment drawings (plan view only) of the water main connecting the EST to the distribution system. The 10% Design does not include sustainability improvements, but these can be added in for an additional fee agreed to by City and Service Provider.
  - c. Potential utility and easement conflicts will be identified based on county records searches and utility locates, given the available information at the Conceptual Design Phase.
  - d. Cost estimate as described in Item 6 above.
11. Following submission of the Conceptual Design with the Final PER, Service Provider will conduct a conceptual design review meeting with the City. Service Provider will generate minutes from the meeting that will include review comments from the City. Service Provider will incorporate comments from the City in the Preliminary Design. Service Provider will proceed with Preliminary Design after the Conceptual Design is approved by the City in writing.
12. Service Provider to provide QA/QC according to PMP

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**Task V – Surveys**

Service Provider will subcontract with a land surveying consultant to provide field survey data for designing the project, and this survey will be tied to the City’s control network. The limits for the surveys shall be as shown in Exhibits A-1 through A-5 and defined below.

- a. A 40,000 square-foot area will be surveyed at the Water Treatment Plant site for the HSPS. Exact extents are to be determined by Service Provider based on the HSPS location determined in the PER.
- b. The entire parcel for the EST site and the portion of Southeast 29th Street along the parcel frontage will be surveyed.
- c. The Titan Tower site at SE 29<sup>th</sup> Street and S Post Road will be surveyed.
- d. The southwest corner of SE 15<sup>th</sup> Street and S Westminster Road will be surveyed.

The survey will include the following:

1. For topographic surveys, Service Provider’s Subconsultant will provide field survey data for designing the project. Service Provider’s Subconsultant will conduct field surveys, utilizing radial topography methods, at intervals and for distances as appropriate for modeling the existing ground, including locations of pertinent features or improvements. Service Provider’s Subconsultant will locate buildings and other structures, streets, drainage features, trees over eight inches in diameter, boundaries of tree lines and shrubbery areas, visible utilities as well as those underground utilities marked by their City and/or representatives, and other pertinent topographic features that may be present within the survey limits. Service Provider’s Subconsultant will obtain top of pipe elevation for marked and potholed utilities. Service Provider’s Subconsultant will establish up to three vertical and horizontal control points at each site for the EST and HSPS sites. Service Provider’s Subconsultant will provide the City with electronic survey drawings prior to site planning.
2. For property surveys, Service Provider’s Subconsultant will locate existing monumentation representing property lines, rights of way, and/or easements based on record data that will be collected by Service Provider’s subconsultant, through public record research. Property surveys will be conducted at the EST Site.
3. Utilities will be located based on above-ground evidence, structures, and record drawings furnished by each utility owner. The Oklahoma one-call system (OKIE 811) will be contacted to help in the location of underground utilities. Service Provider is not responsible for damage to underground utilities, unmarked or improperly marked, caused

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by potholing, construction, or other subconsultants. No other excavations will be made during the process of the survey to locate buried utilities or structures. Therefore, the locations of underground utilities or structures may vary from the location shown on the drawings and additional buried utilities or structures may be encountered.

4. Potholing may be added at an additional fee at the rates shown in the Schedule of Fees (Attachment "B") with written authorization of City.

### **Task VI - Preliminary Design**

Upon receipt of written approval from City on Conceptual Design, Service Provider will begin Preliminary Design. The preliminary design phase will represent approximately 60% of final construction plans. The Preliminary Design will include the following:

1. Service Provider will provide 60% Preliminary Design drawings including cover sheet, pay quantities, general construction notes, City's Standard Details for the water main, and a survey control plan, EST site plan, HSPS plan sheets, water main plan and profile sheets, yard piping plans, electrical sheets, construction sequencing, and miscellaneous details for the HSPS and EST to be developed. The site plans for the HSPS and EST will show dimensions of any parking areas, driveway(s), pump house, underground piping, utilities, location of electrical panels, disconnects, instrumentation, site grading, as well as displaying any additional property/easement which is anticipated for project completion. The Preliminary Design drawings will include EST overflow drainage design. This scope of services includes design of a discharge basin and approximately 300 LF of drain pipe with a headwall at the outfall.
2. Service Provider will furnish plans to known utility Citys potentially affected by the project as identified by City. Service Provider will conduct up to one (1) coordination meetings among known affected utility Citys to enable them to coordinate efforts for any necessary utility relocations. Service Provider will include the surveyed locations of the observable and marked utilities in the construction plans. Service Provider will also include proposed and/or relocated utility information in the construction plans as provided by the utility companies.
3. Service Provider will include an outline of the anticipated technical specification sections with drafts of the sections for major equipment, e.g., pumps, EST, and mixing system; "front end" or bidding, contract documents, or conditions of the contract will not be included in the Preliminary Design Submittal.
4. Service Provider will revise the opinion of probable construction cost (OPCC) based on the information contained in the Preliminary Design Phase.

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- a. The OPCC will include material procurement, construction, contractor overhead and profit, and contingency for the Timber Ridge Elevated Storage Tank and new HSPS.
- b. Additionally, a second OPCC will be provided at this stage for construction of a new ground storage tank (GST) at the City’s Felix Place storage and pumping site. This second OPCC will include cost for the new tank and associated site and electrical work, including demolition of the old unused pump station and transfer of well controls to the new pump station at the Felix Place site.

The Preliminary Design OPCCs will be Class 3 estimates as defined by the Associate for the Advancement of Cost Engineering (AACE), which is consistent with cost estimates developed for budget authorization. The expected accuracy range for the estimates is -20% to +30% of the estimated values. The City intends to use the second OPCC provided for the GST at the Felix Place site as a basis for deciding to pursue design of the GST project. Design of the GST project is not included in these base services but can be added as described in Task XII with written consent by the City.

5. Upon submission of the preliminary design, Service Provider will conduct a preliminary design review meeting with the City. Service Provider will generate minutes from the meeting that will include review comments from the City. Service Provider will incorporate comments from the City on the Preliminary Design in the Final Design. Service Provider will proceed with Final Design after the Preliminary Design is approved by the City in writing.

### **Task VII – Final Design**

Once written approval from City on Preliminary Design is received, Service Provider will begin Final Design.

1. During the final design phase of the project, Service Provider will conduct final designs to prepare construction plans and specifications, for one (1) construction contract, including final construction details and quantities, special provisions, and OPCC. Final drawings, specifications, and contract documents indicating the scope, extent, and character of the Work to be performed and furnished by Contractor. The final design will represent approximately 95% of final construction plans, specifications, and contract documents. USACE “front end” and technical specifications will be utilized in the contract documents, as updated by City and Service Provider technical specifications specific to this project.
2. Service Provider will revise the OPCC based on the information contained in the Final Design Phase. The OPCC will include material procurement, construction, contractor overhead and profit, and contingency. The Preliminary Design OPCC will be a Class 2 estimate as defined by the Associate for the Advancement of Cost Engineering (AACE),

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which is consistent with cost estimates developed for bidding. The expected accuracy range for the estimates is -15% to +20% of the estimated values.

3. Service Provider will also make a final field review with the City, make needed plan changes as a result of the final field review and/or special easement acquisition considerations, and prepare the construction documents as required to advertise for bids.
4. Upon submission of the final design, Service Provider will conduct a final design review meeting with the City. Service Provider will generate minutes from the meeting that will include review comments from the City and notes from the field visit.
5. Service Provider will furnish one (1) electronic submittal package to the Oklahoma Department of Environmental Quality (ODEQ) for permitting, which will include the following:
  - a. ODEQ Engineering Report Form, PER, and Application for Permit to Construct.
  - b. Final Construction Documents.

Permit fees will be paid directly by the City. Variance requests and their associated efforts such as calculations, correspondence, presentations, and ODEQ meetings are not anticipated for this project and have therefore not been included in this scope of services but can be added by amendment to this agreement.

The construction contractor shall made be responsible for obtaining a building permit from the City for construction of the new HSPS and a building permit from Oklahoma County for construction of the new EST.

6. Upon receipt of comments from ODEQ after the coordination included in Task V, Service Provider will provide one (1) revised submittal package based on one (1) round of ODEQ revision comments.

### **Task VIII – Bidding Services**

Service Provider will assist with advertisement and bidding for the project as follows:

1. City and USACE will prepare advertisement for bids and will pay for advertisement costs. Submittal of the advertisement for legal publication will be the responsibility of the City. Service Provider will coordinate with City and USACE as needed to assist with bidding dates and locations.
2. Service Provider will provide USACE construction contract documents for USACE

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dispense to prospective bidders.

3. Service Provider will coordinate, facilitate (including agenda), and attend one (1) pre-bid conference.
4. Service Provider will coordinate with USACE on issuance of addenda as appropriate to clarify, correct, or change the bidding documents.
5. Service Provider will prepare Bid tabulation sheets.
6. Service Provider will assist City and USACE in evaluating Bids and will make a recommendation for award.
7. Service Provider will consult with City and USACE as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors for those portions of the Work as to which such acceptability is required by the bidding documents. Service Provider will evaluate and determine the acceptability of substitute materials and equipment proposed by bidders.
8. Service Provider will prepare conformed contract documents.
9. Service Provider will prepare one (1) construction contract.

**Summary of Project Deliverables**

The following will be submitted to the City, or others as indicated, by Service Provider:

<b>Deliverable</b>	<b>Task Numbers</b>	<b>Recipient</b>	<b>File Type</b>	<b>Number of Copies</b>
<b>Draft Predesign Engineering Report</b>	II, III	City/USACE	Electronic	-
<b>Final Predesign Engineering Report</b>	II, III	City/USACE	Electronic	-
<b>Updated WaterGEMS distribution hydraulic model</b>	II	City/USACE	Electronic	-
<b>Preliminary Design Plans, Specification Outline, and OPCC</b>	VI	City/USACE	Electronic	-
<b>Preliminary Design Plans</b>	VI	Known Affected Utilities	Electronic	-
<b>Final Design Plans</b>	VII	Known Affected Utilities	Electronic	-
<b>Permit to Construct</b>	VII	ODEQ	Electronic	-



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<b>Application Package ODEQ</b>				
<b>Final Design Plans, Specifications, and OPCC</b>	VII	City/USACE	Electronic	-
<b>Bid Plans, Specifications, and OPCC</b>	VII	City/USACE and Potential Bidders	Electronic	-
<b>Conformed Plans and Specifications</b>	VIII	City/USACE, Contractor	Hardcopy	3
<b>Construction Contract</b>	VIII	City/USACE, Contractor	Hardcopy	1

**Summary of Project Meetings and Workshops**

The following is a summary of the coordination meetings and workshops with the City as indicated above:

<b>Meeting</b>	<b>Frequency</b>	<b>Setting</b>
<b>Kickoff Meeting</b>	1	In Person
<b>Alternative Analysis Workshop with City</b>	1	In Person
<b>Conceptual Design Review Meeting with City</b>	1	In Person
<b>Final Field Review with City</b>	1	In Person
<b>Final Design Review Meeting with City</b>	1	In Person
<b>Pre-Bid Meeting</b>	1	In Person

**Additional Services**

Additional Services are anticipated for this project and are not included under this agreement but are anticipated as Additional Services:

- A. Construction materials testing (by Others)
- B. Application Engineering (by Others)
- C. Operator Training (by Others)
- D. Construction Observation (by Others)

The following items are not included in the base amount of this agreement but may be added by the City in writing at the fee described in the Schedule of Fees (Attachment “B”):

**E. Task IX – Construction Phase Services Timber Ridge Elevated Storage Tank**

Service Provider will provide the following construction phase services for the Timber Professional Services Agreement with Garver, LLC (Garver Project: 18078070)

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Ridge Elevated Storage Tank project (excluding construction phase services related to the Felix Place Ground Storage Tank, Task XIV):

- a. Construction Administration
  - i. It is assumed that USACE or the City will prepare a Notice to Proceed letter.
  - ii. Attend pre-construction meeting with Contractor, City, USACE, and City's construction observation or inspection representative. It is assumed that USACE will schedule the meeting, prepare an agenda, and prepare minutes.
  - iii. Attend progress/coordination meetings with the City/Contractor up to one time per month during construction. It is assumed that the construction performance time will be eighteen (18) months.
  - iv. Evaluate and respond to construction material submittals and shop drawings. Corrections or comments made by Service Provider on the shop drawings during this review will not relieve the Contractor from compliance with requirements of the drawings and specifications. The check will only be for review of general conformance with the design concept of the project and general compliance with the information given in the contract documents. The Contractor will be responsible for confirming and correlating all quantities and dimensions, selecting fabrication processes and techniques of construction, coordinating his work with that of all other trades, and performing his work in a safe and satisfactory manner. Consultant's review shall not constitute approval of safety precautions or constitute approval of construction means, methods, techniques, sequences, procedures, or assembly of various components. When certification of performance characteristics of materials, systems or equipment is required by the Contract Documents, either directly or implied for a complete and workable system, Consultant shall be entitled to rely upon such submittal or implied certification to establish that the materials, systems, or equipment will meet the performance criteria required by the Contract Documents. Consultant will review up to 120 submittals.
  - v. Issue instructions to the Contractor on behalf of the City and issue necessary clarifications (respond to Request for Information (RFIs)) regarding the construction contract documents. Consultant will respond to up to 30 RFIs.
  - vi. When authorized by the City, prepare up to ten (10) change orders for approved changes in the work from that originally provided for in the construction contract documents. If redesign or substantial engineering or surveying is required in the preparation of these change order documents, the City will pay Consultant an additional fee to be agreed upon by the City and Consultant.
  - vii. Prepare and furnish record drawings.

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- viii. Participate in final project inspection, prepare punch list, review final project closing documents.
- b. Coatings Inspections
  - i. Service Provider will perform hold point coatings inspections for up to four hours on site per visit, and up to thirty (30) visits.
- c. Construction Observation is recommended for this project. Aside from coatings inspections, project construction observation is not included with this scope of services, as it is Service Provider's understanding that the City will provide this service with City's existing staff or a third party.

**F. Task X – Potholing**

- a. If potholing is authorized by City, potholes will be hydro-excavated and backfilled by Service Provider's subconsultant at a rate of at least (6) pothole locations per trip to verify the size and location of utilities with the following conditions:
- b. Potholes will be performed at depths up to 6 feet deep.
- c. No less than six (6) potholes will be performed per trip.
- d. Additional fee will be required for potholes in paved areas, however, no paved potholes are anticipated.

**G. Task XI – Contractor Pay Application Review**

- a. Service Provider will review the Contractor's progress payment requests based on the actual quantities of contract items completed and will make a recommendation to the City regarding making a monthly partial payment. This scope of services includes a recommendation for payment, checking the quality or exact quantities of the Work; reviewing billings from Subcontractors and material suppliers to substantiate the Contractor's right to payment; or ascertaining how the Contractor has used money previously paid to the Contractor. This item will be paid for per pay application that the City wishes Service Provider to review and provide recommendation on.

**H. Task XII – Final Design of Felix Place Ground Storage Tank**

- a. If, after the OPCC developed for the Felix Place Ground Storage Tank project is presented to the City as part of Task VI, the City decides to include the design of the Felix Place Ground Storage Tank, then this design can be added under Task XII. This will include final design sheets and specifications to be included as an Add Alternate bid under the Timber Ridge Elevated Storage Tank and BPS project. Service Provider assumes this additional design includes design for all structural, site civil, process mechanical, mechanical, and electrical improvements necessary to construct a second Ground Storage Tank at the Felix Place site, along with

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demolition of the old unused booster pump station on that site and a transfer of well controls and telemetry to the new booster pump station on that site.

**I. Task XIII – Bidding Phase Services of Felix Place Ground Storage Tank**

- a. Service Provider will assist with the additional bidding phase services required to include the Felix Place Ground Storage Tank as an add alternate bid item to the Timber Ridge Elevated Storage Tank project, including providing information to USACE relevant to bidders' questions regarding the Felix Place Ground Storage Tank components of the project and reviewing proposals for bids on those components.

**J. Task XIV – Construction Phase Services of Felix Place Ground Storage Tank**

Service Provider will provide the following construction phase services for the Felix Place Ground Storage Tank components of the Timber Ridge Elevated Storage Tank project:

- a. Construction Administration
  - i. It is assumed that USACE or the City will prepare a Notice to Proceed letter.
  - ii. Attend pre-construction meeting with Contractor, City, USACE, and City's construction observation or inspection representative. It is assumed that USACE will schedule the meeting, prepare an agenda, and prepare minutes.
  - iii. Attend progress/coordination meetings with the City/Contractor up to one time per month during construction. It is assumed that adding the Felix Place Ground Storage Tank add alternate will add four (4) months to the construction performance time.
  - iv. Evaluate and respond to construction material submittals and shop drawings. Corrections or comments made by Service Provider on the shop drawings during this review will not relieve the Contractor from compliance with requirements of the drawings and specifications. The check will only be for review of general conformance with the design concept of the project and general compliance with the information given in the contract documents. The Contractor will be responsible for confirming and correlating all quantities and dimensions, selecting fabrication processes and techniques of construction, coordinating his work with that of all other trades, and performing his work in a safe and satisfactory manner. Consultant's review shall not constitute approval of safety precautions or constitute approval of construction means, methods, techniques, sequences, procedures, or assembly of various components. When certification of performance characteristics of materials, systems or equipment is required by the Contract Documents, either directly or implied for a complete and workable system, Consultant

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shall be entitled to rely upon such submittal or implied certification to establish that the materials, systems, or equipment will meet the performance criteria required by the Contract Documents. Consultant will review up to 50 submittals.

- v. Issue instructions to the Contractor on behalf of the City and issue necessary clarifications (respond to Request for Information (RFIs)) regarding the construction contract documents. Consultant will respond to up to 15 RFIs.
  - vi. When authorized by the City, prepare up to five (5) change orders for approved changes in the work from that originally provided for in the construction contract documents. If redesign or substantial engineering or surveying is required in the preparation of these change order documents, the City will pay Consultant an additional fee to be agreed upon by the City and Consultant.
  - vii. Prepare and furnish record drawings.
  - viii. Participate in final project inspection, prepare punch list, review final project closing documents.
- b. Coatings Inspections
- i. Service Provider will perform hold point coatings inspections for up to four hours on site per visit, and up to fifteen (15) visits.

### **Extra Work**

Extra Work will be as directed by the City in writing for an additional fee as agreed upon by the City and Service Provider. The following items are not anticipated for this project and are included under this agreement but will be considered as extra work:

- A. Redesign for the City's convenience or due to changed conditions after previous alternate direction and/or approval.
- B. Submittals or deliverables in addition to those listed herein.
- C. Study and/or design of Sustainability Improvements (e.g., wind energy, solar energy, other)
- D. Pavement design outside of HSPS and EST sites.
- E. Design of any utility relocations.
- F. Retaining walls or other significant structural design beyond that required for the HSPS and EST.
- G. Street lighting or other electrical design beyond that required for the HSPS and EST.
- H. Preparation of a Storm Water Pollution Prevention Plan (SWPPP). The construction contract documents will require the Contractor to prepare, maintain, and submit a SWPPP to ODEQ.
- I. Environmental Handling and Documentation, including wetlands identification or mitigation plans or other work related to environmentally or historically (culturally)

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significant items.

- J. Coordination with FEMA and preparation/submittal of a CLOMR and/or LOMR.
- K. Services after construction, such as warranty follow-up, operations support, etc.
- L. Coordination activities with the FAA in addition to those noted herein.
- M. Computational fluid dynamics (CFD) modeling.
- N. Hydraulic transient/surge modeling.
- O. Water quality sampling and laboratory work.
- P. Litigation Assistance.
- Q. Property acquisition documents.

**Schedule**

The following schedule milestones are anticipated for this project. Refer to the attached schedule for additional detail. Note that the schedule provides anticipated time periods for providing information, reviewing submittals, and scheduling meetings and workshops. Additional time required for these elements of the project will likely result in changes to milestone dates, which will be captured in the detailed project schedule maintained throughout the duration of the project.

<b>Milestone</b>	<b>Milestone Date</b>
<b>Description</b>	
<b>Kickoff Meeting</b>	14 days from start date
<b>Hydraulic Modeling</b>	60 days from Kickoff Meeting or City-provided data, whichever is later
<b>Draft Predesign Engineering Report (PER)</b>	45 days from completion of Hydraulic Modeling
<b>Surveys – Design and Property</b>	45 days from approval of Selected Alternative
<b>Conceptual Design and Final PER</b>	45 days from completion of Surveys
<b>Preliminary Design</b>	90 days from approval of Conceptual Design
<b>Final Design</b>	90 days from approval of Preliminary Design
<b>ODEQ Submittal</b>	14 days from Final Design Review
<b>Bidding Services</b>	Schedule to be determined

In addition to those obligations set forth in the Agreement, City shall:

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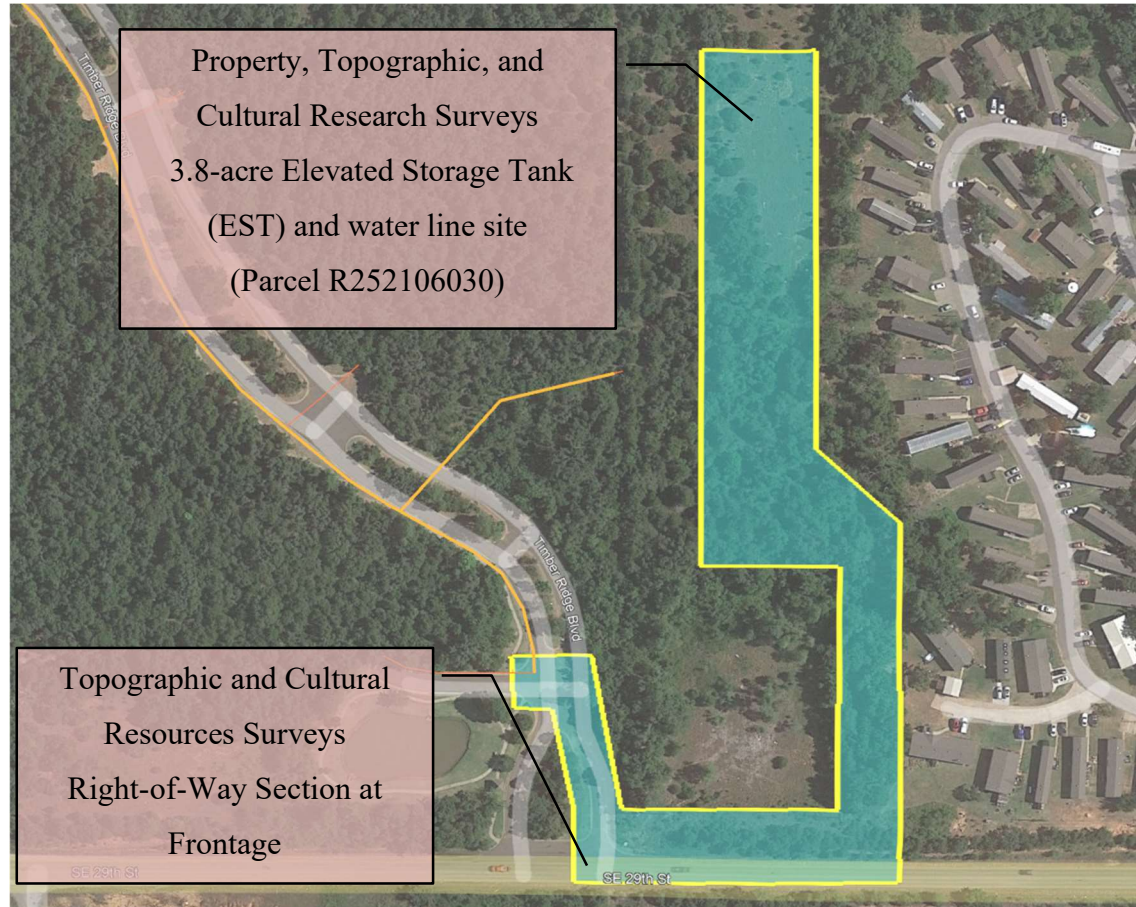
1. Give thorough consideration to all documents and other information presented by Service Provider and informing Service Provider of all decisions within a reasonable time so as not to delay the Services.
2. Make provision for the Personnel of Service Provider to enter public and private lands as required for Service Provider to perform necessary preliminary surveys and other investigations required under the applicable Work Order.
3. Obtain the necessary lands, easements and right-of-way for the construction of the work.
4. All costs associated with securing the necessary land interests, including property acquisition and/or easement document preparation, surveys, appraisals, and abstract work, shall be borne by the City outside of this Agreement, except as otherwise described in these Services.
5. Furnish Service Provider such plans and records of construction and operation of existing facilities, available aerial photography, reports, surveys, or copies of the same, related to or bearing on the proposed work as may be in the possession of City. Such documents or data will be returned upon completion of the Services or at the request of City.
6. Furnish Service Provider a current boundary survey with easements of record plotted for the Project property.
7. Pay all plan review and advertising costs in connection with the Project.
8. Provide legal, accounting, and insurance counseling services necessary for the Project and such auditing services as City may require.
9. Furnish permits, permit fees, and approvals from all governmental authorities having jurisdiction over the Project and others as may be necessary for completion of the Project.
10. Furnishing Service Provider a current geotechnical report for the proposed site of construction. Service Provider will coordinate with the geotechnical consultant, City has contracted with, on City's behalf for the Project specific requested information.

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**EXHIBIT A-1**



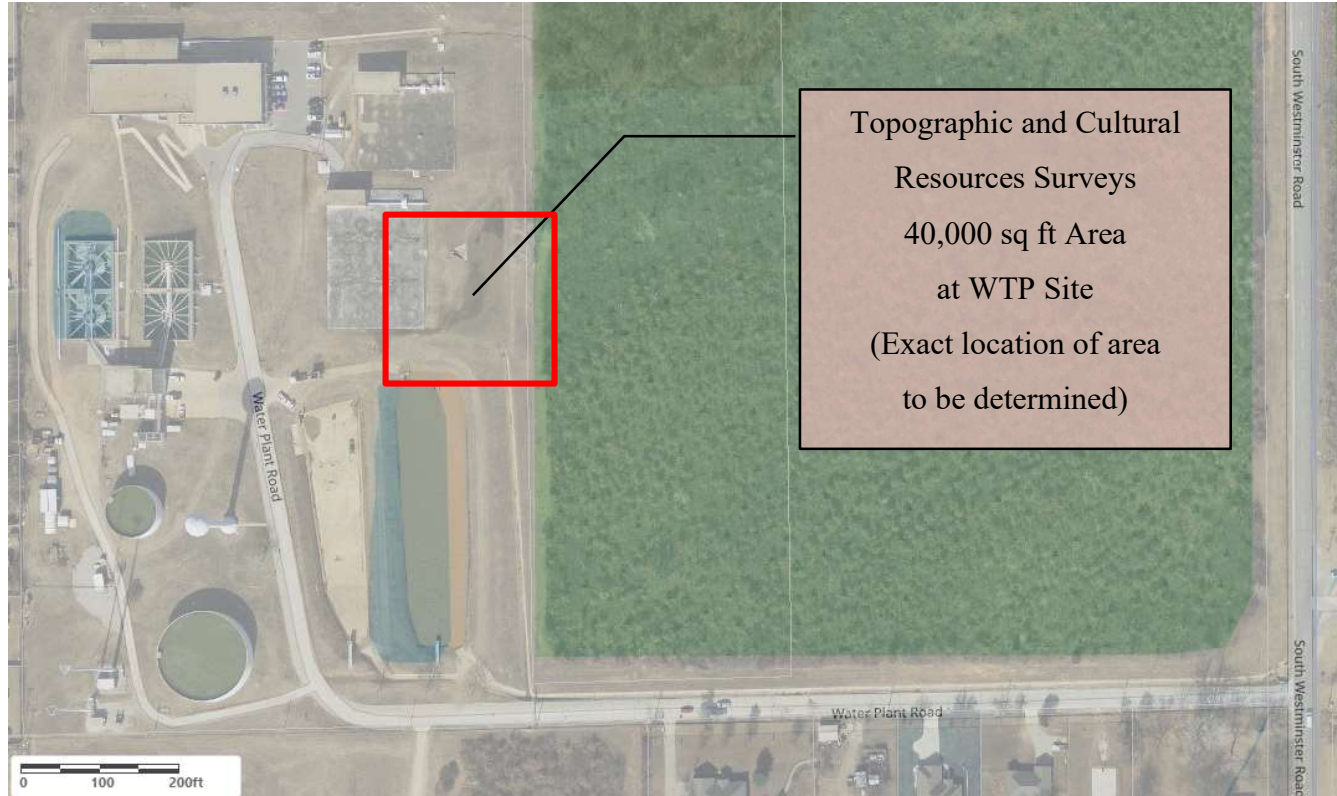


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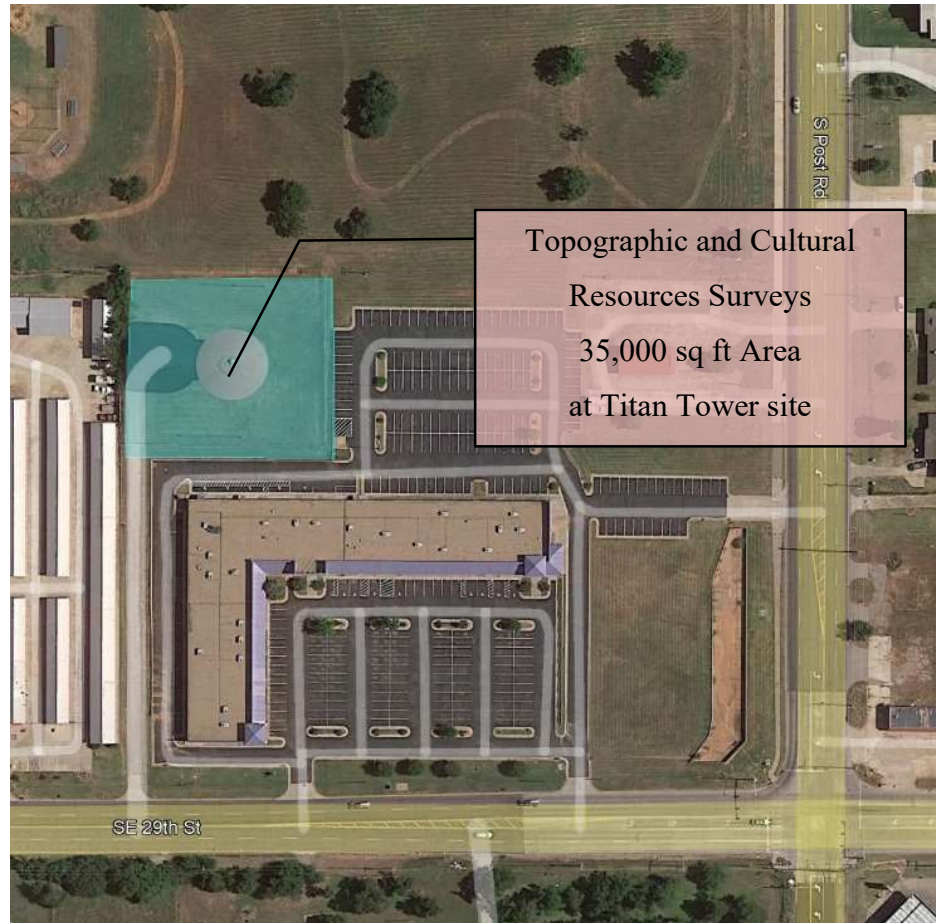
**EXHIBIT A-2**



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**EXHIBIT A-3**

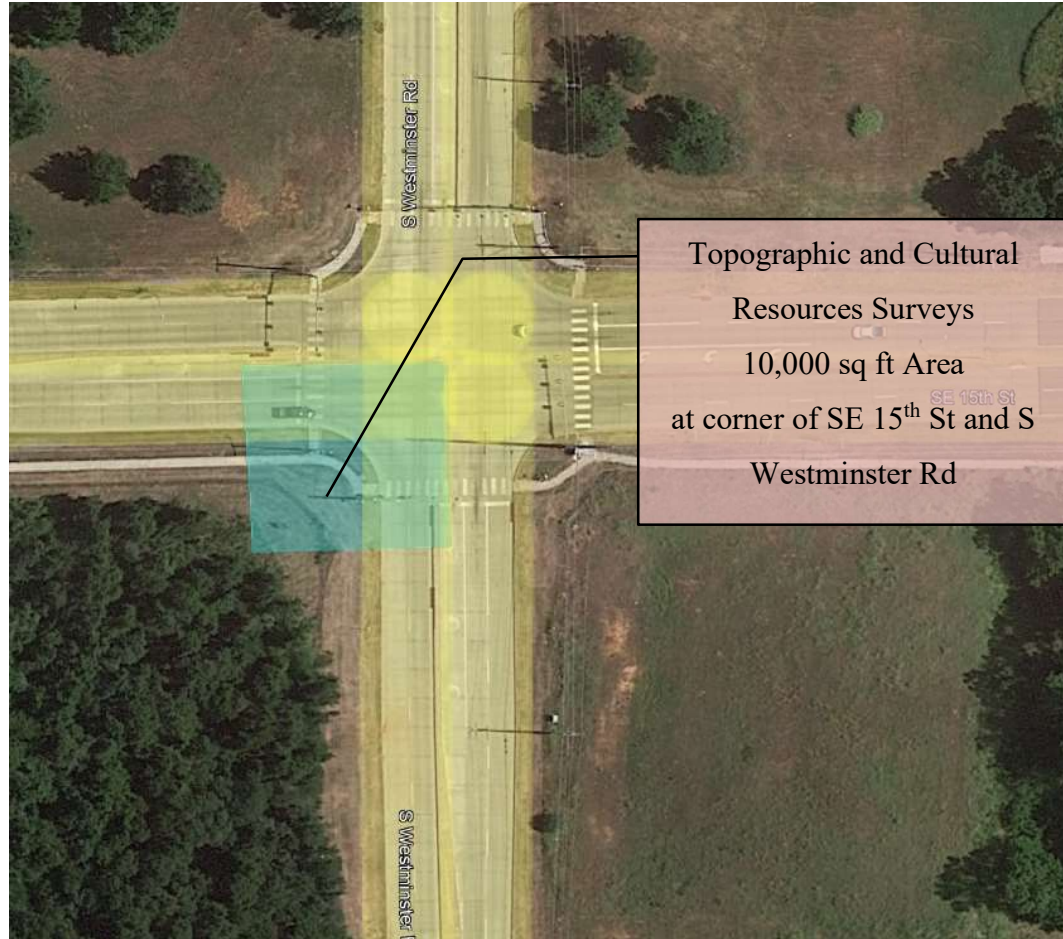


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**EXHIBIT A-4**



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**EXHIBIT A-5**



**END OF ATTACHMENT A**

**PROFESSIONAL SERVICES AGREEMENT**  
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**ATTACHMENT “B”**  
**(SCHEDULE OF FEES)**

The table below presents a summary of the fee amounts and fee types for this Agreement.

<b>Basic Services Section</b>	<b>FEE AMOUNT</b>	<b>FEE TYPE</b>
TASK I - Project Administration	\$ 19,900.00	LUMP SUM
TASK II - Hydraulic Modeling	\$ 59,300.00	LUMP SUM
TASK III - Environmental	\$ 31,100.00	LUMP SUM
TASK IV - Predesign Engineering Report and Conceptual Design	\$ 121,700.00	LUMP SUM
TASK V - Design Surveys	\$ 31,200.00	LUMP SUM
TASK VI - Preliminary Design	\$ 181,200.00	LUMP SUM
TASK VII - Final Design	\$ 188,400.00	LUMP SUM
TASK VIII - Bidding Services	\$ 42,100.00	LUMP SUM
<b>Subtotal for Basic Services Section</b>	<b>\$ 674,900.00</b>	
<b>Additional Services Section</b>		
	<b>FEE AMOUNT</b>	<b>FEE TYPE</b>
TASK IX - Construction Phase Services Timber Ridge EST & BPS	\$ 203,300.00	LUMP SUM
TASK X - Potholing	\$300 per hole, 6 hole min. per trip	UNIT COST
TASK XI – Contractor Pay Application Review	\$1000 per Pay App.	UNIT COST
TASK XII – Final Design Felix Place GST	\$ 120,000.00	LUMP SUM
TASK XIII – Bidding Phase Services Felix Place GST	\$ 14,900.00	LUMP SUM
TASK XIV – Construction Phase Services Felix Place GST	\$ 84,200.00	LUMP SUM

The lump sum amount to be paid for basic services under this Agreement is \$674,900.00. Any unused portion of the fee, due to delays beyond Service Provider’s control, will be increased six percent (6%) annually with the first increase effective on or about July 1, 2025.

Additional Services and Extra Work

For services described and included in Attachment “A” and the Schedule above as Additional Services, the City will pay Service Provider as expressly defined in the schedule of fees. For Extra Work not described or included in Attachment “A” as Additional Services but requested by the City in writing or otherwise permitted, the City will pay Service Provider as expressly set

Professional Services Agreement with Garver, LLC (Garver Project: 18078070)

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forth in the applicable Amendment, or in the event the Amendment is silent, for the additional time spent on the Project, at the rates for each classification of Service Provider's personnel (may include contract staff classified at Service Provider's discretion) plus reimbursable expenses including but not limited to printing, courier service, reproduction, and travel. Rates will be increased annually with the first increase effective on or about July 1, 2025.

**END OF ATTACHMENT B**

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**ATTACHMENT “C”**  
**(SERVICE PROVIDER’S TEAM)**

