

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING THE AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE TOWN OF ADDISON AND GARVER, LLC FOR CONSTRUCTION PROJECT MANAGEMENT SERVICES RELATED TO THE ADDISON ATHLETIC CLUB RENOVATIONS PROJECT IN AN AMOUNT NOT TO EXCEED \$69,950; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City Council desires to authorize an agreement with Garver, LLC to provide professional engineering and construction management services in connection with the Addison Athletic Club renovations project.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:**

**SECTION 1.** The Agreement for Construction Project Management Services between the Town of Addison and Garver, LLC, for professional engineering services related to the Addison Athletic Club Renovation Project in an amount not to exceed \$69,950.00, a copy of which is attached to this Resolution as **Exhibit A**, is hereby approved. The City Manager is hereby authorized to execute the agreement.

**SECTION 2.** This Resolution shall take effect from and after its date of adoption.

**DULY RESOLVED AND ADOPTED** by the City Council of the Town of Addison, Texas, on this the 26<sup>th</sup> day of OCTOBER 2021.

**TOWN OF ADDISON, TEXAS**

\_\_\_\_\_  
Joe Chow, Mayor

**ATTEST:**

\_\_\_\_\_  
Irma Parker, City Secretary

**PROFESSIONAL SERVICES AGREEMENT**  
**AAC Renovations Construction Management**

This Professional Services Agreement (“Agreement”) is made by and between the Town of Addison, Texas (“City”), and Garver, LLC (“Professional”) (each a “Party” and collectively the “Parties”), acting by and through their respective authorized representatives.

**RECITALS**

**WHEREAS**, City desires Professional to perform certain work and services set forth in Section 1, Scope of Services and

**WHEREAS**, Professional has expressed a willingness to perform said work and services, hereinafter referred to only as "services", specified in said Scope of Services, and enumerated under Section 1, of this Agreement;

**NOW, THEREFORE**, for and in consideration of the covenants and promises made one to the other herein, City and Professional agree as follows:

**Section 1.     Scope of Services**

Upon issuance of a written notice to proceed by City, Professional agrees to provide to City the professional services for the Addison Athletic Club (AAC) Renovations Construction Management Project (“Project”), as set forth in the Scope of Services attached hereto as Exhibit “A” and incorporated herein by reference (the “Scope of Services”).

**Section 2.     Term of Agreement**

The term of this Agreement shall begin on the last date of execution hereof (the “Effective Date”) and shall continue until Professional completes the services required herein to the satisfaction of City, unless sooner terminated as provided in Section 8, below.

**Section 3.     Professional Obligations**

A. Professional shall devote such time as reasonably necessary for the satisfactory performance of the work under this Agreement. Should City require additional services not included under this Agreement, Professional shall make reasonable effort to provide such additional services in accordance with the fee schedule set forth in Exhibit “B”, attached hereto and incorporated herein by reference, and within the time schedule prescribed by City; and without decreasing the effectiveness of the performance of services required under this Agreement.

B. To the extent reasonably necessary for Professional to perform the services under this Agreement, Professional shall be authorized to engage the services of any agents, assistants, persons, or corporations that Professional may deem proper to aid or assist in the performance of the services under this Agreement with the prior written approval of City. The cost of such

personnel and assistance shall be a reimbursable expense to Professional only if authorized in writing in advance by City.

C. Professional shall furnish and pay for all labor, tools, materials, equipment, supplies, transportation and management necessary to perform all services set forth in the Scope of Services.

D. Industry standard of care: Professional shall perform services with the professional skill and care ordinarily provided by competent engineers practicing in the same or similar circumstances and professional license. Professional shall perform its services as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer.

#### **Section 4. Payment**

A. City agrees to pay Professional for all services authorized in writing and properly performed by Professional in accordance with the fee schedule set forth in Exhibit "B," attached hereto and incorporated herein by reference, subject to additions or deletions for changes or extras agreed upon in writing. All payments to Professional by City shall be based on detailed monthly invoices submitted by Professional for work performed and accepted by City, less any previous payments. Payment will be due within 30 days of the City's receipt of an approved invoice.

B. City reserves the right to delay, without penalty, any disputed payment to Professional when Professional has not made satisfactory progress on the Project as described in the Scope of Services.

C. The total compensation to Professional shall be as specified in payment schedule set forth in Exhibits "A" and "B", which shall not exceed Sixty-Nine Thousand, Nine Hundred and Fifty Dollars and No/100 (\$69,950.00). In the event of any material breach by Professional of any provision or obligation of this Agreement, or in the event of the assertion by other parties of any claim or lien against City, or City's premises, arising out of Professional's performance of this Agreement, City shall have the right to retain out of any disputed payments due or to become due to Professional an amount sufficient to completely protect City from any and all loss, damage or expense therefrom, until the breach, claim or lien has been satisfactorily remedied or adjusted by Professional.

#### **Section 5. Responsibilities**

A. Professional shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, plans and other services furnished by Professional under this Agreement. Professional shall, as part of existing, authorized fees, correct or revise any errors or omissions in the design, drawings, specifications, plans and other services.

B. Neither City's review, approval/acceptance of, nor payment for any of the services required under this Agreement, shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and Professional shall be and remain liable to City in accordance with applicable law for all damages to City caused by Professional's negligent performance of any of the services furnished under this

Agreement.

C. The rights and remedies of City under this Agreement are as provided by law.

**Section 6. Time for Performance**

A. Professional shall perform all services as provided for under this Agreement in a proper, efficient, timely, and professional manner in accordance with City's requirements. Time is of material consideration for services performed under this Agreement.

B. In the event Professional's performance of this Agreement is delayed or interfered with by acts of the City or others, Professional may request an extension of time for the performance of same as hereinafter provided.

C. No allowance of any extension of time, for any cause whatever, shall be claimed or made to Professional, unless Professional shall have made written request upon City for such extension within five (5) business days after the cause for such extension occurred, and unless City and Professional have agreed in writing upon the allowance of additional time to be made.

**Section 7. Documents**

A. All surveys, studies, proposals, applications, drawings, plans, specifications and other documents, including those in electronic form, prepared by Professional and its consultants, subcontractors, agents, representatives, and/or employees in connection with this Agreement ("Project Documents") are intended for the use and benefit of City. Professional and its consultants, subcontractors, agents, representatives, and/or employees shall be deemed the authors of their respective part of the Project Documents. Notwithstanding, upon payment by City as required by this Agreement, City shall own, have, keep and retain all rights, title and interest in and to all Project Documents, including all ownership, common law, statutory, and other reserved rights, including copyrights (except copyrights held by the Professional) in and to all Project Documents, whether in draft form or final form, which are produced at City's request and in furtherance of this Agreement; provided however, any and all underlying intellectual property, if any (unless provided by City), shall remain the property of Professional such that Professional may continue to perform its business in the normal course. Upon payment in full, Professional hereby grants City an irrevocable, non-exclusive, royalty-free license to use the same for the purposes contemplated under this Agreement. City releases Professional and its subconsultants against all claims, losses, damages, injuries, and expenses, including reasonable attorneys' fees arising out of change to, or re-use of deliverables provided under this Agreement for any other project where Professional is not involved in said other project, or modification(s). City shall have full authority to authorize contractor(s), subcontractors, sub-subcontractors, City consultants, and material or equipment suppliers to reproduce applicable portions of the Project Documents to and for use in their execution of the work or for any other purpose. All materials and reports prepared by Professional in connection with this Agreement are "works for hire" and shall be the property of City upon payment of Professional as provided in this Agreement. City shall have the right to publish, disclose, distribute and otherwise use Project Documents in accordance with the Engineering Practice Act of the State of Texas (Texas Occupation Code, Chapter 1001, as amended) and/or Texas Occupations Code, Chapter 1051, as amended. Professional shall, upon

completion of the services and full payment for Professional's services by the City, or earlier termination and appropriate compensation as provided by this Agreement, provide City with reproductions of all materials, reports, and exhibits prepared by Professional pursuant to this Agreement in such electronic format(s) as may be requested by the City.

B. All instruments of service (including plans, specifications, drawings, reports, designs, computations, computer programs, computer code, software, estimates, surveys, other data or work items, etc.) prepared under this Agreement shall be submitted for approval of City. All instruments of service shall be professionally sealed as may be required by law or by City.

C. Acceptance and approval of the Project Documents by City shall not constitute nor be deemed a release of the responsibility and liability of Professional, its employees, associates, agents and consultants for the accuracy or competency of their designs, working drawings and specifications, or other documents and work; nor shall such approval be deemed to be an assumption of such responsibility by City for any defect in the designs, working drawings and specifications, or other documents prepared by Professional, its employees, contractor, agents and consultants.

#### **Section 8. Termination**

A. City may suspend or terminate this Agreement for cause or without cause at any time by giving written notice to Professional. In the event suspension or termination is without cause, payment to Professional, in accordance with the terms of this Agreement, will be made on the basis of services satisfactorily performed according to the industry standard of care to the date of suspension or termination. Such payment will be due upon delivery of all instruments of service to City.

B. Should City require a modification of this Agreement with Professional, and in the event City and Professional fail to agree upon a modification to this Agreement, City shall have the option of terminating this Agreement and Professional's services hereunder at no additional cost other than the payment to Professional, in accordance with the terms of this Agreement, for the services performed according to the industry standard of care by Professional prior to such termination date.

C. Termination for Force Majeure. To the extent either Party of this agreement shall be wholly or partially prevented from the performance of the term specified, or of any obligation or duty placed on such Party by reason of or through work strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, court judgment, act of God, or other specific cause reasonably beyond the parties control and not attributable to its malfeasance, neglect or nonfeasance. In such event, the time for performance of such obligation or duty shall be suspended until such disability to perform is removed. In the event of any such disability, the time for performance of such obligations (other than a payment obligation) shall be extended for a period equal to the time lost by reason of the disability. A Party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of any such event, (a) provide written notice to the other Party of the nature and extent of any such Force Majeure condition; and (b) use commercially reasonable efforts to remove any such causes and resume performance under this Agreement as soon as reasonably practicable.

**Section 9. Insurance**

A. Professional shall during the term hereof maintain in full force and effect the following insurance (unless otherwise agreed in writing by the Parties):

- (i) A commercial general liability policy of insurance for bodily injury, death and property damage insuring against all claims, or actions relating to the Professional's performance of services pursuant to this Agreement with a minimum combined single limit of \$1,000,000.00 per occurrence; \$2,000,000 per aggregate for injury to persons (including death), and for property damage;
- (ii) An automobile liability insurance policy covering any vehicles owned and/or operated by Professional, its officers, agents, and employees, and used in the performance of this Agreement with policy limits of \$1,000,000.00 combined single limit and aggregate for bodily injury and property damage;
- (iii) Statutory Worker's Compensation Insurance at the statutory limits and Employers' Liability covering all of Professional's employees involved in the provision of services under this Agreement with policy limit of \$1,000,000.00; and
- (iv) Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limit of \$1,000,000.00 per claim and \$1,000,000.00 in the aggregate.

B. All insurance and certificate(s) of insurance shall contain the following provisions:

- (i) Name the City, its officers, and employees as additional insureds as to all applicable coverage to the extent of the indemnities agreed between the parties in Section 12 of this Agreement. (not including the Workers Compensation Insurance and Professional Liability);
- (ii) Provide for at least thirty (30) days prior written notice to the City for cancellation or non-renewal of the insurance or reduction in coverage limits; and
- (iii) Provide for a waiver of subrogation against the City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance (not including the Professional Liability Insurance).

C. All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A-(minus)" by AM Best or other equivalent rating service.

D. A certificate of insurance evidencing the required insurance and all endorsements shall be delivered to City prior to commencement of services.

**Section 12. Indemnification.**

CITY SHALL NOT BE LIABLE FOR ANY THIRD PARTY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER CAUSING ANY BODILY INJURY TO PERSONS OR DAMAGE TO THIRD PARTY TANGIBLE PROPERTY ARISING FROM THE NEGLIGENT SERVICES OF PROFESSIONAL PURSUANT TO THIS AGREEMENT. PROFESSIONAL HEREBY WAIVES ALL CLAIMS AGAINST CITY, ITS OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS "CITY INDEMNITEES") FOR DAMAGE TO ANY THIRD PARTY TANGIBLE PROPERTY OR BODILY INJURY TO, OR DEATH OF, ANY PERSON ARISING FROM PROFESSIONAL'S PERFORMANCE OF SERVICES AT ANY TIME THIS AGREEMENT IS IN EFFECT WHERE SAID HARM IS CAUSED BY PROFESSIONAL'S NEGLIGENCE. PROFESSIONAL SHALL NOT BE LIABLE FOR THE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CITY INDEMNITEES. PROFESSIONAL AGREES TO INDEMNIFY AND SAVE HARMLESS THE CITY INDEMNITEES FROM AND AGAINST ANY AND ALL THIRD PARTY TORT LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, REASONABLE ATTORNEYS' FEES AND COSTS OF INVESTIGATION) AND ACTIONS BY THIRD PARTIES BY REASON OF BODILY INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF TANGIBLE PROPERTY OF THIRD PARTIES TO THE EXTENT CAUSED BY THE NEGLIGENT PERFORMANCE OF SERVICES UNDER THIS AGREEMENT OR BY REASON OF ANY NEGLIGENT ACT OR OMISSION ON THE PART OF PROFESSIONAL, ITS OFFICERS, DIRECTORS, SERVANTS, EMPLOYEES, REPRESENTATIVES, CONSULTANTS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO NEGLIGENCE OF A CITY INDEMNITEE, IN WHOLE OR IN PART, IN WHICH CASE PROFESSIONAL SHALL INDEMNIFY THE CITY INDEMNITEE ONLY TO THE EXTENT OR PROPORTION OF NEGLIGENCE ATTRIBUTED TO PROFESSIONAL, ITS OFFICERS, AGENTS, OR EMPLOYEES AS DETERMINED BY A COURT OR OTHER FORUM OF COMPETENT JURISDICTION). THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

**Section 13. Assignment**

Professional shall not assign or sublet this Agreement, or any part thereof, without the prior written consent of City.

**Section 14. Applicable Laws**

Professional shall comply with all federal, state, county and municipal laws, ordinances, regulations, safety orders, resolutions and building codes relating or applicable to services as of

the effective date of this Agreement for services to be performed under this Agreement. The laws of the State of Texas shall govern this Agreement; and venue for any action concerning this Agreement shall be in the state district court of Dallas County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court. The prevailing Party shall be entitled to recover its attorneys' fees, costs, and expenses.

**Section 15. Default of Professional**

In the event, Professional fails to comply or becomes disabled and unable to comply with the provisions of this Agreement as to the quality or character of the service or time of performance, and the failure is not corrected within ten (10) days after written notice by City to Professional, City may, at its sole discretion without prejudice to any other right or remedy:

A. Terminate this Agreement and be relieved of the payment of any further consideration to Professional except for all work determined by City to be satisfactorily completed prior to termination. Payment for work satisfactorily completed shall be for actual costs, including reasonable salaries and travel expenses of Professional to and from meetings called by City at which Professional is required to attend, but shall not include any loss of profit of Professional. In the event of such termination, City may proceed to complete the services in any manner deemed proper by City, either by the use of its own forces or by re-subletting to others.

B. City may, without terminating this Agreement or taking over the services, furnish the necessary materials, equipment, supplies and/or help necessary to remedy the situation, at the expense of Professional.

**Section 16. Adjustments in Services**

No claims for extra services, additional services or changes in the services will be made by Professional without a written agreement with City prior to the performance of such services. Notwithstanding anything in this Agreement, Professional shall be entitled to an equitable adjustment in the Agreement price and project schedule for impacts to the Services resulting from events beyond Professional's control.

**Section 17. Execution becomes Effective**

This Agreement will be effective on the date when signed by authorized representatives of Professional and City ("the Effective Date").

**Section 18. Agreement Amendments**

This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof and there are no oral understandings, statements or stipulations bearing upon the meaning or effect of this Agreement which have not been incorporated herein. This Agreement may only be modified, amended, supplemented or waived by a written instrument executed by the Parties except as may be otherwise provided therein.



**Section 19. Severability.**

In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

**Section 20. Independent Contractor.**

It is understood and agreed by and between the Parties that Professional in satisfying the conditions of this Agreement, is acting independently, and that City assumes no responsibility or liabilities to any third party in connection with Professional's actions. All services to be performed by Professional pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of City. Professional shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement. There is no intended third party beneficiary to this Agreement.

**Section 21. Right-Of-Access.**

City will obtain and/or furnish right-of-access on any project site for Professional to perform any required studies, surveys, tests or other necessary investigations in relation to the Scope of Services.

**Section 22. Notice.**

Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight courier or by confirmed telefax or facsimile to the address specified below, or to such other party or address as either Party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein:

If to City: Wesley S. Pierson, City Manager  
City of Town of Addison  
5300 Belt Line Road  
Town of Addison, Texas 75254

With copy to: Whitt Wyatt, City Attorney  
3710 Rawlins St., Ste 1000  
Dallas, Texas 75219

If to Professional: Mitchell McAnally, PE, PMP  
Garver, LLC  
3010 Gaylord Parkway, Suite 190  
Frisco, Texas 75034

**Section 23. Exhibits.**

The exhibits attached hereto are incorporated herein and made a part hereof for all purposes.

**Section 24. Survival of Obligations.**

Any of the representations and obligations of the Parties, as well as any rights and benefits of the Parties pertaining to a period of time following the termination of this Agreement shall survive termination.

**Section 25. Counterparts.**

This Agreement may be executed by the Parties in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the Parties.

**Section 26. Authorization.**

Each Party represents that it has full capacity and authority to grant all rights and assume all obligations granted and assumed under this Agreement.

**Section 27. Successors and Assigns.**

Subject to the provisions regarding assignment, this Agreement shall be binding on and inure to the benefit of the Parties to it and their respective heirs, executors, administrators, legal representatives, successors and assigns.

**Section 28. Recitals.**

The recitals to this Agreement are incorporated herein.

**Section 29. Audits and Records.**

Professional agrees that upon reasonable prior notice, during the term hereof, the City and its representatives may, during normal business hours and as often as deemed necessary, inspect, audit, examine and reproduce any and all of Professional's records relating to the services provided pursuant to this Agreement for a period of one year following the date of completion of services as determined by the City or date of termination if sooner. Except as required under applicable law, in no event shall City be entitled to audit the proprietary makeup of lump sum or other fixed prices (e.g., agreed upon unit or hour rates).

**Section 30. Conflicts of Interests.**

Professional represents that no official or employee of the City has any direct or indirect pecuniary interest in this Agreement.

**Section 31. [Intentionally Deleted]**

**Section 32. No Boycott Israel.**

Pursuant to Texas Government Code Chapter 2270, Professional's execution of this Agreement shall serve as verification that Professional's organization does not presently boycott Israel and will not boycott Israel during the term of this Agreement. Pursuant to Texas Government Code Chapter 2251, Professional's execution of this Agreement shall further serve as verification that Professional does not current discriminate against firearm and ammunition industries and will not for the term of this Agreement. Discriminating means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with the firearm or ammunition industry or with a person or entity doing business in the firearm or ammunition industry, but does not include an action made for ordinary business purposes.

**Section 33. Limitations of Liability.**

33.1 Mutual Waiver of Consequential Damages. NOTWITHSTANDING ANYTHING IN THE AGREEMENT TO THE CONTRARY, 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 THE FOREGOING, THIS CONSEQUENTIAL DAMAGES WAIVER SHALL NOT APPLY TO THE INDEMNITIES AGREED BETWEEN THE PARTIES IN SECTION 13 OF THIS AGREEMENT.

33.2 Limitation to Liability. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY HEREIN, PROFESSIONAL'S (INCLUDING ITS SUBCONSULTANTS, AGENTS, ASSIGNEES, AFFILIATES AND VENDORS) TOTAL AGGREGATE LIABILITY UNDER THE AGREEMENT SHALL BE LIMITED TO 100% OF THE COLLECTIBLE PROCEEDS OF THE INSURANCE LIMITS PROVIDED IN SECTION 9 OF THIS AGREEMENT, REGARDLESS OF THE CAUSE OR ACTION (INCLUDING NEGLIGENCE OF ANY KIND OR CHARACTER). NOTWITHSTANDING THE FOREGOING, THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO GROSS NEGLIGENCE OR INTENTIONAL ACTS, OR THE INDEMNITIES AGREED BETWEEN THE PARTIES IN SECTION 13 OF THIS AGREEMENT.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK -  
SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement as of the date of last execution hereof.

**FOR CITY:**

**Town of Addison, Texas**

By: \_\_\_\_\_  
Wesley S. Pierson, City Manager

Date: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
Irma Parker, City Secretary

**FOR PROFESSIONAL**

**Garver, LLC**

By:  \_\_\_\_\_  
Digitally signed by  
Josh Crawford  
Date: 2021.10.20  
16:25:38-05'00'

Name: \_\_\_\_\_  
Josh Crawford

Title: \_\_\_\_\_  
Texas Aviation Director

Date: \_\_\_\_\_  
10/20/2021

**EXHIBIT "A"**  
**SCOPE OF SERVICES**

(attached)

Exhibit A – SCOPE OF SERVICES



3010 Gaylord Parkway
Suite 190
Frisco, TX 75034
TEL 972.377.7480
FAX 972.377.8380
www.GarverUSA.com

October 6, 2021

Janna Tidwell, PLA, LEED AP
Director of Parks and Recreation,
Town of Addison
16801 Westgrove Drive
Addison, TX 75001

Re: Town of Addison
Addison Athletic Club Renovations Project Management
Professional Services Proposal

Dear Ms. Tidwell,

Garver is pleased to submit this proposal to provide professional services relating to the improvements listed in "Exhibit A - Scope of Services" for the referenced project.

COMPENSATION

For the Town of Addison Athletic Club Renovations Project Management professional services, the not-to-exceed fee of \$69,950.00 is based upon the scope of services provided in Exhibit A for the 195-calendar day construction schedule. A detailed breakdown of the proposed fee is included in Exhibit B.

Table with 3 columns: Title II Services, FEE AMOUNT, FEE TYPE. Row 1: Project Management - Construction Phase Services, \$69,950.00, HOURLY. Row 2: Total (Title II Services), \$69,950.00, NOT-TO-EXCEED.

Garver is pleased to have this opportunity to submit this proposal and look forward to working with you on this project. If you have any questions or would like any additional information, please feel free to call me anytime at 214-619-9023.

Sincerely,

GARVER

Mitchell McAnally (handwritten signature)

Mitchell McAnally, PE, PMP
Senior Project Manager

Attachments: Exhibit A – Scope of Services
Exhibit B – Fee Spreadsheet

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## SCOPE OF SERVICES

### 1. General

Generally, the scope of services includes construction project management for the renovations to the ***Town of Addison Athletic Club.***

### 2. Surveys

**Survey is not anticipated for the completion of the project and is not included in this scope of services. Any information provided by Owner to Garver is assumed as correct.**

### 3. Geotechnical Services

**Geotechnical is not anticipated for the completion of the project and is not included in this scope of services. Any information provided by Owner to Garver is assumed as correct.**

### 4. Coordination

Garver will attend coordination meetings with the Owner and other stakeholders as required. Garver will prepare exhibits for these meetings when appropriate. Utility Coordination is not anticipated for the completion of the project and is not included in the scope of services.

### 5. Quality Control

Garver will develop a project specific quality control plan. The quality control plan will include the project background and scope, stakeholder contact information, project team and roles, project schedule, and quality control procedures.

Quality control reviews will be completed by a project manager for each component included in the project.

### 6. Environmental Services

**Environmental Services are not anticipated for the completion of the project and is not included in this scope of services. Any information provided by Owner to Garver is assumed as correct.**

### 7. Project Management - Construction Phase Services

During the construction phase of work, Garver will accomplish the following:

- A. Issue a Notice to Proceed letter to the Contractor and attend preconstruction meeting. Garver will provide meeting minutes for submission to all parties at the conclusion of the meeting.
- B. Evaluate the final schedule for the project with contractor and Owner.
- C. Obtain from contractor all bonds, permits and other documentation needed.
- D. Attend progress/coordination meetings with the Owner/Contractor.
- E. Garver will evaluate and quality control review construction material submittals and shop drawings responses provided by the Owner's Architect. Corrections or comments made by Garver on the shop drawings during this review will not relieve 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. Garver'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, Garver 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.

- F. Issue instructions to the Contractor and Architect on behalf of the Owner and issue necessary clarifications (respond to RFIs) regarding the construction contract documents.
- G. Maintain a material submittal and RFI log for the Owner.
- H. Schedule and conduct bi-weekly meetings to discuss progress and monitor the Contractor's schedule. Garver will analyze and report to the Owner any perceived delays to the Contractor's schedule to minimize risk of the project exceeding the construction contract time.
- I. The proposed fee is based on two (2) 4-hour site visits per month, during the one-hundred and ninety-five (195) construction contract performance time. If the construction time extends beyond the time established in this agreement or if the Owner wishes to increase the time or frequency of the site visits, the Owner will pay Garver an additional fee agreed to by the Owner and Garver.
- J. Review the Contractor's progress payment requests based on the actual quantities of contract items completed and accepted, and will make a recommendation to the Owner regarding payment. Garver's recommendation for payment shall not be a representation that Garver has made exhaustive or continuous inspections to (1) check the quality or exact quantities of the Work; (2) to review billings from Subcontractors and material suppliers to substantiate the Contractor's right to payment; or (3) to ascertain how the Contractor has used money previously paid to the Contractor.
- K. Garver will collect and distribute final record drawings provided by the Architect after project completion.
- L. When authorized by the Owner, Garver will prepare change orders or supplemental agreements for changes in the work from that originally provided for in the construction contract documents.
- M. Garver will participate in a pre-final walkthrough with the Owner. Garver will also participate in a final project inspection with the Owner and Contractor, review the punch list provided by the Architect, review final project closeout documents, and submit the final pay request.
- N. Assist in the close out process and verify all warranties, as-builts and other close out documents are secured.

The proposed fee for Construction Phase Services is based on a 6-month construction contract performance time. If the construction time extends beyond the time established in this agreement, and the Owner wants Garver to continue the applicable Project Management - Construction Phase Services, the Owner will pay Garver an additional fee agreed to by the Owner and Garver.

Garver will endeavor to protect the Owner against defects and deficiencies in the work of the Contractor(s); but Garver cannot guarantee the performance of the Contractor(s), nor be responsible for the actual supervision of construction operations or for the safety measures that the Contractor(s) takes or should take. However, if at any time during construction Garver observes that the Contractor's work does not comply with the construction contract documents, Garver will notify the Contractor of such non-compliance and instruct him to correct the deficiency and/or stop work, as appropriate for the situation. Garver will also record the observance, the discussion, and the actions taken. If the Contractor continues without satisfactory corrective action, Garver will notify the Owner immediately, so that appropriate action under the Owner's contract with the Contractor can be taken.

## **8. Project Deliverables**

The following will be submitted to the Owner, or others as indicated, by Garver:

- A. Electronic files as requested.



**9. Extra Work**

The following items are not included under this agreement but will be considered as extra work:

- A. Surveying services.
- B. Geotechnical services.
- C. Utility Coordination
- D. Environmental services.
- E. Environmental Handling and Documentation, including wetlands identification or mitigation plans or other work related to environmentally or historically (culturally) significant items.
- F. Coordination with FEMA and preparation/submittal of a CLOMR and/or LOMR.
- G. Full building energy modeling.
- H. Commission of buildings/facilities.
- I. Pavement design.
- J. Electrical or Mechanical design of facilities not located on the roof or HVAC systems.
- K. Redesign for the Owner's convenience or due to changed conditions after previous alternate direction and/or approval.
- L. Submittals or deliverables in addition to those listed herein.
- M. Design of any utility relocation.
- N. Engineering, architectural, or other professional services beyond those listed herein.
- O. Retaining walls or other significant structural design beyond that required for HVAC systems or roofing.
- P. Street lighting or other electrical design beyond that required for HVAC systems or filtration systems.
- Q. 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 DEQ.
- R. On-Site Construction Observation and Construction Materials Testing.
- S. Services after construction, such as warranty follow-up, operations support, etc.
- T. LEED Implementation.
- U. Permitting services in addition to those listed herein.
- V. Permitting fees.
- W. Drainage study.
- X. Preparation or submittal of property acquisition documents.

Extra Work will be as directed by the Owner in writing for an addition fee as agreed upon by the Owner and Garver.

**10. Schedule**

Garver shall begin work under this Agreement within ten (10) days of a Notice to Proceed and shall complete the work in accordance with the schedule below:

Phase Description	Calendar Days
Project Management – Construction Phase Services	195 Calendar Days from Notice to Proceed given to Contractor

Scope of Services

AAC Project Management

3 of 3

21A11115

**EXHIBIT "B"**  
**FEE SCHEDULE**

(attached)

# Exhibit B

## Town of Addison Addison Athletic Club Renovation

### FEE SUMMARY

<u>Title II Service</u>	<u>Estimated Fees</u>
Construction Phase Services	\$ 69,950.00
<b>Subtotal for Title II Service</b>	<b>\$ 69,950.00</b>

**Exhibit B**

**Town of Addison  
Addison Athletic Club Renovation**

**CONSTRUCTION PHASE SERVICES**

WORK TASK DESCRIPTION	E-5	X-3
	hr	hr
<b>1. Project Management</b>		
Administration	10	
Initial Project Coordination	8	32
Quality Control Plan Development	4	
Preconstruction Meeting	4	4
Town Permitting Coordination		16
Weekly Virtual Progress Meetings with Contractor/Town (Estimated 30 weeks)	15	30
Monthly Project Schedule Review		10
Monthly Pay Requests Review and Processing		10
Shop Drawings/Material Submittal/RFI QC		32
Stakeholder Coordination		60
On-Site Meetings (Bi-weekly)		60
Prepare Change Orders		24
Final Project Inspection		5
Project Closeout Documentation		24
<b>Subtotal - Project Management</b>	<b>41</b>	<b>307</b>

**Hours** **41** **307**

**Salary Costs** \$12,628.00 \$55,567.00

**SUBTOTAL - SALARIES:** **\$68,195.00**

**DIRECT NON-LABOR EXPENSES**

Document Printing/Reproduction/Assembly	\$235.00
Postage/Freight/Courier	\$45.00
Office Supplies/Equipment	\$75.00
Computer Modeling/Software Use	\$200.00
Travel Costs	\$1,200.00

**SUBTOTAL - DIRECT NON-LABOR EXPENSES:** **\$1,755.00**

**SUBTOTAL:** **\$69,950.00**

**SUBCONSULTANTS FEE:** **\$0.00**

**TOTAL FEE:** **\$69,950.00**

Exhibit B



Exhibit B  
 Town of Addison  
 Addison Athletic Club Renovation  
 Garver Hourly Rate Schedule: July 2022 - June 2023

Classification	Rates
<b>Engineers / Architects</b>	
E-1.....	\$ 153.00
E-2.....	\$ 181.00
E-3.....	\$ 213.00
E-4.....	\$ 251.00
E-5.....	\$ 308.00
E-6.....	\$ 381.00
E-7.....	\$ 426.00
<b>Planners / Environmental Specialist</b>	
P-1.....	\$ 186.00
P-2.....	\$ 220.00
P-3.....	\$ 250.00
P-4.....	\$ - P-
5.....	\$ - P-
6.....	\$ - P-
7.....	\$ -
<b>Designers</b>	
D-1.....	\$ 139.00
D-2.....	\$ 156.00
D-3.....	\$ 186.00
D-4.....	\$ 217.00
<b>Technicians</b>	
T-1.....	\$ 119.00
T-2.....	\$ 161.00
T-3.....	\$ 174.00
<b>Surveyors</b>	
S-1.....	\$ 74.00
S-2.....	\$ 89.00
S-3.....	\$ 122.00
S-4.....	\$ 167.00
S-5.....	\$ 220.00
S-6.....	\$ 256.00
2-Man Crew (Survey).....	\$ 208.00
3-Man Crew (Survey).....	\$ 259.00
2-Man Crew (GPS Survey).....	\$ 228.00
3-Man Crew (GPS Survey).....	\$ 279.00
<b>Construction Observation</b>	
C-1.....	\$ 130.00
C-2.....	\$ 165.00
C-3.....	\$ 198.00
C-4.....	\$ 256.00
C-5.....	\$ 294.40
<b>Management/Administration</b>	
M-1.....	\$ 426.00
X-1.....	\$ 90.00
X-2.....	\$ 114.00
X-3.....	\$ 181.00
X-4.....	\$ 214.00
X-5.....	\$ 225.00
X-6.....	\$ 267.00
X-7.....	\$ -
X-8.....	\$ -
X-9.....	\$ 433.00

Agreement for Professional Services  
 Addison Athletic Club Renovation

Garver Project No. XXXXXXX