

**EXHIBIT A**  
**SCOPE OF SERVICES**  
CITY OF CORPUS CHRISTI, TEXAS  
SAND DOLLAR CONNECTION LINE 16" (CORAL VINE) AMENDMENT NO. 2  
PROJECT 23021

**BACKGROUND**

The City of Corpus Christi (City) has awarded Garver project 23021, known as the Sand Dollar Connection Line 16" (Coral Vine). This project involved the design of approximately 11,000 linear feet of 16-inch diameter water line from Whitecap Blvd. to the Coral-Vine EST, the design of a new redundant 20-inch pipeline from the Sand Dollar PS connecting across South Padre Island Drive (SPID) also known as Park Road 22, at approx. 14237 SPID. Additionally, Garver was to perform a hydraulic assessment of the impacts of the improvements on existing and future demands. Included in this assessment, was approximately 1,500 ft of pipeline extending South towards Commodores St.

In total, an additional 8,500 linear feet of pipeline design were added to the original approximate 11,000 linear feet of pipeline design.

Amendment No. 1 addressed the design of the additional pipeline by utilizing all of the funds associated with construction phase services and SUE services, with the understanding a contract amendment (No.2) would be required to re-fund the construction phase services budget and that the city would be responsible for all SUE work. In order to perform construction phase services, an additional amendment (Amendment No. 2) is required. Amendment No. 2 shall account for the construction phase effort associated with the original approximate 11,000 linear feet of pipeline work, as well as the additional construction phase effort associated with the additional approximate 8,500 linear feet of pipeline. Additionally, Amendment No. 2 shall account for additional fees from the Geotechnical sub-consultant as required to complete the geotechnical borings and analysis.

**1. SCOPE OF WORK**

The scope of services for this contract includes the Construction Phase Services, along with the additional services outlined below.

**A. BASIC SERVICES - COMPLETED**

**B. ADDITIONAL SERVICES (ALLOWANCE)**

This section defines the scope and ALLOWANCE for compensation for additional services that may be included as part of this contract, but the A/E will not begin work on this section without specific written approval by the Director of Engineering Services. Fees for Additional Services are an allowance for potential services to be provided and will be negotiated by the Director of Engineering Services as required. The A/E will, with written authorization by the Director of Engineering Services, do the following:

1. Geotechnical Investigation.
  - a. Locate borings and incorporate approximate site elevations.
  - b. Conduct investigations in areas where suspected utility conflicts exist prior to boring.
  - c. Drill borings to obtain samples. Five (5) samples will be obtained in the upper 10 feet of
  - d. each boring and an additional sample every 5 feet thereafter.
  - e. Backfill borings and patch pavement upon completion.

- f. Conduct laboratory testing on samples. Testing shall include the following but additional testing might be needed depending on soil conditions:
  - i. Water content
  - ii. Atterberg limits
  - iii. #200 Sieve
  - iv. Corrosion Test
  - v. USCS Soil Classification
- g. Prepare and submit a Draft Geotechnical Report. It shall include the following:
  - i. Boring logs with field and laboratory data;
  - ii. Stratification based on visual soil classification;
  - iii. Groundwater levels observed during and after the completion of drilling;
  - iv. Site location and exploration plans;
  - v. Subsurface exploration procedures;
  - vi. Description of subsurface conditions;
  - vii. Open trench and trenchless excavation recommendation including OSHA discussions;
  - viii. Lateral earth pressure recommendations;
    - a. Backfill recommendations and;
    - b. General pavement recommendations.
- h. Conduct QA/QC of the Geotechnical Report based on Project Management Plan.
- i. Engineer will resolve and incorporate comments into the Final Geotechnical Report in electronic format (PDF).

## **2. Construction Phase.**

The Engineer will perform contract administration to include the following:

- a. Participate in pre-construction meeting conference and provide a recommended agenda for the preconstruction meeting highlighting critical construction activities and elements impacting the project.
- b. Review up to 30 submittals for conformance to contract documents including shop and working drawings, materials, and other submittals.
- c. Review field and laboratory tests.
- d. Provide interpretations and clarifications of the contract documents for the contractor and authorize required changes which do not affect the contractor's price and are not contrary to the general interest of the City under the contract. Review and respond to 30 RFIs to be reviewed throughout the construction phase.
- e. Attend up to 6 site visits to the site of the Project to confer with the City project inspector and contractor to observe the general progress and quality of work, and to determine, in general, if the work is being done in accordance with the contract documents. This will not be confused with the project representative observation or continuous monitoring of the progress of construction.

- f. Prepare up to 2 change orders as authorized by the City (coordinate with the City's construction division); provide interpretations and clarifications of the plans and specifications for the contractor and authorize minor changes which do not affect the contractor's price and are not contrary to the general interest of the City under the contract.
- g. Attend bi-weekly progress meetings that are set up and facilitated by the City inspector, for up to 14 consecutive months, and provide meeting minutes for each meeting.
- h. Attend substantial completion inspection and final completion inspection. Provide punch list items to the City project inspector for Contractor completion.
- i. Review construction "red-line" drawings, prepare record drawings of the Project as constructed (from the "red-line" drawings, inspection, and the contractor provided plans) and deliver to the Engineering Services a reproducible set and electronic file (AutoCAD r.14 or later) of the record drawings within one month of receiving the Contractors red-line drawings. All drawings will be CADD drawn using dwg format in AutoCAD, and graphics data will be in dxf format with each layer being provided in a separate file. Attribute data will be provided in ASCII format in tabular form. All electronic data will be compatible with the City GIS system.

The City staff will:

- a. Prepare applications/estimates for payments to contractor.
- b. Conduct the final acceptance inspection with the Engineer.

### **3. FEES**

#### **B. Fee for Additional Services (ALLOWANCE).**

For services authorized by the Director of Engineering Services under Section I.B. "Additional Services" the City will pay the A/E a not-to-exceed fee as per the table below.

### C. Summary of Fees

	Original Contract fee	Amendment No. 1	Amendment No 2.	Total Contract Fee
<b>FEES FOR BASIC SERVICES</b>				
1. Preliminary Engineering	\$94,248.00	\$0.00	\$0.00	\$94,248.00
2. Hydraulic Capacity Technical Memorandum	\$50,184.00	\$0.00	\$0.00	\$50,184.00
3. 60% Design Phase	\$144,499.00	\$0.00	\$0.00	\$144,499.00
4. 90% Detailed Design	\$108,879.00	\$59,002.00	\$0.00	\$167,881.00
5. 100% and Bid Ready Design	\$70,844.00	\$32,838.00	\$0.00	\$103,682.00
6. Bid Phase	\$12,706.00	\$4,628.00	\$0.00	\$17,334.00
<b>Subtotal Basic Services Fees</b>	<b>\$481,360.00</b>	<b>\$96,468.00</b>	<b>\$0.00</b>	<b>\$577,828.00</b>
<b>FEES FOR ADDITIONAL SERVICES (ALLOWANCE)</b>				
1. Permit Preparation (as applicable)				
a. . TxDOT Permits/Amendments				
b. Wetland delineation and Permit				
c. Texas Commission of Environmental Quality (TCEQ) Permits/Amendments				
d. Nueces County				
e. Texas Historical Commission (THC)				
f. United States Environmental Protection Agency (USEPA)				
<b>Total Permitting</b>	\$20,000.00	\$3,532.00	\$0.00	\$23,532.00
2. ROW Acquisition Survey	\$20,000.00	\$0.00	\$0.00	\$20,000.00
3. Topographic Survey	\$20,600.00	\$0.00	\$0.00	\$20,600.00
4. Environmental Issues	\$7,500.00	\$0.00	\$0.00	\$7,500.00
5. Geotechnical Investigation	\$30,000.00	\$0.00	\$20,820.00	\$50,820.00
6. Subsurface Utility Engineering	\$20,000.00	-\$20,000.00	\$0.00	\$0.00
7. Warranty Phase	\$4,500.00	\$0.00	\$0.00	\$4,500.00
8. Construction Phase (Time and Materials)	\$80,000.00	-\$80,000.00	\$180,205.00	\$180,205.00
<b>Sub-Total Additional Services Fees Authorized</b>	<b>\$202,600.00</b>	<b>\$96,468.00</b>	<b>\$201,025.00</b>	<b>\$307,157.00</b>
<b>Total Authorized Fee</b>	<b>\$683,960.00</b>	<b>\$0.00</b>	<b>\$201,025.00</b>	<b>\$884,985.00</b>

Exhibit B - Manhour Breakdown for Amendment No. 2

City of Corpus Christi

Sand Dollar Connection Line 16" (Coral Vine)

		Technical Advisor	Senior PM	Project Manager	Senior Project Eng	Project Engineer	Graduate Engineer	CAD							
WORK TASK DESCRIPTION		E-7	E-6	E-5	E-4	E-2	E-1	D-2	GARVER LABOR	GARVER ODC	SUBCONSULTANT	GARVER MARKUP ON SUBS	GARVER TOTAL	SUB-CO TOTAL	TOTAL
		\$448	\$331	\$270	\$221	\$157	\$136	\$144			Terracon				
		hr.	hr.	hr.	hr.	hr.	hr.	hr.			10%				
<b>Additional Services Section</b>															
1.	<b>TASK 5 -Geotechnical Investigation</b>														
	Geotechnical analysis with up to 21 borings								\$0		\$16,200	\$4,620	\$4,620	\$16,200	\$20,820
	<b>Subtotal - TASK 5 -Geotechnical Investigation</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$16,200</b>	<b>\$4,620</b>	<b>\$4,620</b>	<b>\$16,200</b>	<b>\$20,820</b>
2.	<b>TASK 8 -Construction Phase Services (Time &amp; Materials)</b>														
	a. Attend Pre-Construction Meeting			4	8	8			\$4,104			\$0	\$4,104	\$0	\$4,104
	b. Review Shop Drawings and Submittals (up to 30)	8		48	59	88			\$43,399			\$0	\$43,399	\$0	\$43,399
	c. Review field and laboratory tests				2	4			\$1,070			\$0	\$1,070	\$0	\$1,070
	d. Respond to RFI's up to 30	16		30	69	93			\$45,118			\$0	\$45,118	\$0	\$45,118
	e. Site Visits up to 6			12	24	24			\$12,312			\$0	\$12,312	\$0	\$12,312
	f. Prepare up to two Change Order Requests	6		8	12	24			\$11,268			\$0	\$11,268	\$0	\$11,268
	g. Bi-Weekly Progress Meetings for 14 months + Minutes	6		28	56	56			\$31,416			\$0	\$31,416	\$0	\$31,416
	h. Substantial and Final Completion Walk-throughs	8		16	16	16			\$13,952			\$0	\$13,952	\$0	\$13,952
	i. As built drawings				32	32		38	\$17,566			\$0	\$17,566	\$0	\$17,566
									\$0			\$0	\$0	\$0	\$0
	<b>Subtotal - TASK 8 -Construction Phase Services (Time &amp; Materials)</b>	<b>44</b>	<b>0</b>	<b>146</b>	<b>278</b>	<b>345</b>	<b>0</b>	<b>38</b>	<b>\$180,205</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$180,205</b>	<b>\$0</b>	<b>\$180,205</b>
<b>Subtotal - Additional Services Section</b>		<b>44</b>	<b>0</b>	<b>146</b>	<b>278</b>	<b>345</b>	<b>0</b>	<b>38</b>	<b>\$180,205</b>	<b>\$0</b>	<b>\$16,200</b>	<b>\$4,620</b>	<b>\$184,825</b>	<b>\$16,200</b>	<b>\$201,025</b>
<b>Project Totals</b>		<b>44</b>	<b>0</b>	<b>146</b>	<b>278</b>	<b>345</b>	<b>0</b>	<b>38</b>	<b>\$180,205</b>	<b>\$0</b>	<b>\$16,200</b>	<b>\$4,620</b>	<b>\$184,825</b>	<b>\$16,200</b>	<b>\$201,025</b>
<b>Project Totals (Cost)</b>		<b>\$19,712.00</b>	<b>\$0.00</b>	<b>\$39,420.00</b>	<b>\$61,438.00</b>	<b>\$54,165.00</b>	<b>\$0.00</b>	<b>\$5,470.10</b>							

Note: The amount of \$4,620 is based on Terracon's total fee of \$46,200. The amount of \$16,200 is the additional amount of Terracon's fee over the \$30,000 in Garver's original contract.



**PROFESSIONAL SERVICES AGREEMENT  
FOR SUBCONSULTANT PROFESSIONAL SERVICES**

**Terracon Consultants, Inc.**

**Project No. 22W09330**

**THIS AGREEMENT FOR SUBCONSULTANT PROFESSIONAL SERVICES** (“**Agreement**”) is made this February 24, 2025 (the “**Effective Date**”) by and between **GARVER, LLC**, (hereinafter referred to as “**Garver**”) and **Terracon Consultants, Inc.** (hereinafter referred to as “**Subconsultant**”). Subconsultant and Garver may individually be referred to hereinafter as a “**Party**” and/or “**Parties**” respectively.

**RECITALS**

**WHEREAS**, Garver has entered into an agreement with the **City of Corpus Christi, TX** (“**Owner**”) fully executed on November 20<sup>th</sup>, 2023 (hereinafter referred to as “**Prime Agreement**”) which provides for Garver and/or its subconsultants to perform professional services described therein (“**Project**”).

**WHEREAS**, Garver hereby engages Subconsultant to perform specific services for Garver in connection with said Project in accordance with the terms and conditions of this Agreement.

**WHEREAS**, Subconsultant agrees to provide those specified services related to the Project as further set forth herein.

**NOW THEREFORE**, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

**1. DEFINITIONS**

In addition to other defined terms used throughout this Agreement, when used herein, the following capitalized terms have the meaning specified in this Section.

“**Damages**” means any and all suits, claims, damages, liabilities, or costs (including reasonable attorneys’ fees and court costs) recoverable under applicable law.

“**Personnel**” means affiliates, directors, officials, officers, partners, members, employees, and agents.

**2. SCOPE OF SERVICES**

2.1. Services. Garver hereby engages Subconsultant to perform the scope of service more fully described in Exhibit A attached hereto (the “**Services**”). The Subconsultant’s General Terms and Conditions (or any similar document) provided in the Subconsultant’s referenced proposal are expressly rejected. Execution of this Agreement by Garver constitutes Garver’s written authorization to proceed with the Services in accordance with the terms of this Agreement.

2.2. Time of Performance. Time is of the essence. Subconsultant shall perform and complete its obligations under this Agreement in a prompt and continuous manner so as to not delay the Services for the Project, in accordance with the approved schedules. Requirements for the Subconsultant’s time of performance are set forth in Exhibit A, subject to any shorter period for performance of the same set forth in the Prime Agreement. *Notwithstanding anything*



*herein to the contrary, this Agreement is contingent upon the Prime Agreement being executed and will be terminated upon termination of the Prime Agreement.*

2.3. Incorporation by Reference. The provisions of the Prime Agreement, expressly including Exhibit D, Excerpt from Form 00 72 00 General Conditions for Construction Projects related to design services, are hereby incorporated by reference and provided in Exhibit B. Subconsultant agrees it has read and understood the terms and conditions of the Prime Agreement. To the extent applicable to Subconsultant's Services, Subconsultant shall be bound to observe all the terms and conditions of the Prime Agreement to the same extent as Garver. Any provision in the Prime Agreement that requires consent of the Owner shall be deemed to require the consent of Garver. In the event of conflict of terms between the Prime Agreement and this Agreement, the more stringent requirement upon Subconsultant shall apply.

### 3. **PAYMENT**

3.1. Fee. For the proper performance of Services described herein, except as otherwise agreed to in writing by Garver and the Subconsultant, Garver will pay Subconsultant in accordance with this Section 3 and Exhibit A.

3.2. Invoicing Statements. Subconsultant shall invoice Garver on a monthly basis. Such invoice shall include supporting documentation reasonably necessary for Garver to know with reasonable certainty the proportion of Services accomplished, including the project number and project title on each invoice. All Subconsultant invoices must be received ten (10) calendar days prior to the last Friday of the month to be included in Garver's invoice to the Owner for that month.

3.3. Payment. As a condition precedent to Garver's obligation to make payment hereunder or issue a notice to proceed, Subconsultant shall have issued, and Garver shall have received, a Certificate of Insurance meeting the requirements of Section 7. Payment to the Subconsultant will be made within ten (10) days of Garver receiving payment from the Owner for the Subconsultant's Services included in each invoice, unless Garver otherwise withholds payment. Garver shall have no obligation to pay Subconsultant for Services represented by invoices received more than sixty (60) days after the billing period when the Services occurred.

3.4. Garver may withhold compensation to such extent as may be necessary, in Garver's opinion, to protect Garver from damage or loss for which Subconsultant is responsible, because of: delays in the performance of Subconsultant's Services; failure of Subconsultant to make payments to sub-subconsultants or vendors for labor, materials, or equipment; damage to Garver; or persistent failure by Subconsultant to carry out the performance of its Services in accordance with this Agreement. When the aforementioned reasons for withholding are removed or remedied by Subconsultant, compensation of the amount withheld shall be made within forty (40) days. Garver shall not be deemed in default by reason of withholding compensation as provided under this Agreement.

### 4. **AMENDMENTS**

4.1. Amendments. The terms of this Agreement may be modified by written amendment if Garver determines there is a significant change in the scope, complexity, or character of the Services or the schedule for performing the Services. In the event Subconsultant is aware any of the factors listed above would be impacted by such an authorized change in Services, and as soon as reasonably possible, Subconsultant shall forward a formal Amendment to Garver with backup supporting the Amendment. All Amendments should include, to the extent known and



available under the circumstances, documentation sufficient to enable Garver to determine: (i) the factors necessitating the possibility of a change; (ii) the impact which the change is likely to have on the cost to perform the Services; and (iii) the impact which the change is likely to have on the schedule. For additional services outside the scope of Services described herein, the Subconsultant and Garver agree to negotiate the fees and related time extensions, if required, in accordance with any limitations set forth in the Prime Agreement prior to start of the additional services. Changes or modifications will not be binding unless and until approved and executed in writing by Garver. Additional services completed without a mutually agreed upon Amendment shall be deemed part of the existing, authorized Services and fees.

## **5. GARVER'S RESPONSIBILITIES**

5.1. Garver's responsibilities shall include the following:

- 5.1.1. Reviewing documents presented by the Subconsultant and informing the Subconsultant of all decisions within a reasonable time so as not to delay the Services of the Subconsultant.
- 5.1.2. Furnishing the Subconsultant such plans and records of construction and operation of existing facilities, available aerial photography, reports, or copies of the same, related to or bearing on the proposed work as may be in the possession of Garver. Such documents or data will be returned upon completion of the Services or at the request of Garver. Subconsultant shall be entitled to rely upon Owner-provided information to the same extent Garver may rely upon Owner provided information pursuant to the Prime Agreement.
- 5.1.3. Giving prompt written notice to the Subconsultant whenever Garver observes or otherwise becomes aware of any defect in the Project or other events which may substantially alter the Subconsultant's performance under this Agreement.

## **6. GENERAL REQUIREMENTS**

6.1. Standards of Performance.

- 6.1.1. Industry Practice. Subconsultant shall perform any and all Services required herein or which would normally be required by law or common due diligence in accordance with the professional skill and care ordinarily provided by competent licensed professionals and generally accepted practices and standards employed by the applicable United States professional services industries practicing under similar conditions and professional license, and performed as expeditiously as is prudent in accordance with the standards stated herein. Subconsultant shall be represented by personnel with appropriate licensure, registration and/or certifications. Notwithstanding the foregoing, in the event a more stringent practice and/or standard is required by the Prime Agreement, the more stringent requirement takes precedence.
- 6.1.2. Garver shall not be responsible for discovering deficiencies in Subconsultant's Services. Subconsultant shall promptly correct deficiencies, as well as resulting Damages, as part of the existing, authorized fees without the need for an Amendment.
- 6.1.3. Subconsultant shall immediately provide notice to Garver when Subconsultant observes or otherwise becomes aware of any defect in the Project or other events which may substantially alter the Subconsultant's performance under this Agreement.





- 6.1.4. On-site Services. Subconsultant and its representatives shall comply with the Project specific safety programs, and any applicable survey requirements, associated with the site. Subconsultant shall ensure it has a copy of the foregoing prior to performing on-site Services and shall abide by the same.
- 6.1.5. Quality Assurance and Control Plan. The Subconsultant shall establish and maintain a quality assurance plan that ensures the Subconsultant's Services meet the requirements set forth in Section 6.1.1. The Subconsultant shall submit a copy of their quality assurance plan to Garver prior to commencing performance of the Services. Garver reserves the right to review, comment, and require a resubmission of the quality assurance plan. The Services shall be performed in conformity with the quality assurance plan. In addition to the requirements set forth above, Garver may require Subconsultant to follow Garver's quality assurance plan, including any and all related checklists, etc. Neither the submission nor acceptance of the quality assurance plan by Garver, or the request to add to such plan, shall relieve the Subconsultant of its full liability for any errors, omissions, or other deficiencies in the Services.
- 6.1.6. To the extent Subconsultant's Services include providing an opinion of probable construction cost, Subconsultant will be held to the same accuracy range included in Section 2(A) of the Scope of Services in the Prime Agreement.
- 6.2. Instruments of Service.
- 6.2.1. Deliverables. All reports, contract documents (specifications and plans), record drawings, models, submittal data, data and all other information produced, provided by Subconsultant or its lower-tier consultants and vendors (the "**Deliverables**"), shall become the property of Garver subject to the terms and conditions stated herein. Deliverables that do not meet Garver's standard may be rejected, and Subconsultant will not be compensated for having to resubmit documents. Subconsultant will furnish to Garver copies of electronic media, including CADD files, to the extent included as part of the Services. In the event of an inconsistency or conflict in the content between the Deliverables and the electronic media, however, the Deliverables shall take precedence over the electronic media.
- 6.2.2. Property Rights. All underlying property rights of a Party, including copyright, patent, and reuse ("**Intellectual Property**"), shall remain the Intellectual Property of that Party. Notwithstanding the foregoing, Subconsultant hereby agrees to grant ownership to Owner of the Intellectual Property to the extent required under the Prime Agreement. Subconsultant shall obtain all necessary Intellectual Property from any necessary third parties in order to execute the Services.
- 6.2.3. License. Subconsultant hereby grants Garver and Owner a license to use Subconsultant's Intellectual Property, but only in the operation and maintenance of the Services for which it was provided.
- 6.3. Confidentiality. Subconsultant shall consider all information provided by Garver to be confidential information. Except as legally required, and only with written notice to Garver, 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.



## 7. INSURANCE

### 7.1. Insurance.

7.1.1. Subconsultant shall procure and maintain in force for the life of this Agreement, the following minimum schedule of insurance:

7.1.2. Workers' Compensation and Employers Liability Insurance. Workers' Compensation and Employers Liability Insurance, in accordance with applicable law. If Subconsultant or any employee is not subject to the workers' compensation laws of the governing state, Subconsultant shall notify Garver, and Subconsultant shall obtain such insurance to the same extent as though the employer and employee were subject to the workers' compensation laws. The Employers Liability insurance shall not be less than \$1,000,000 each accident, \$1,000,000 each employee by disease, \$1,000,000 disease policy limit or such higher limits as required by the Prime Agreement. Endorsements for USL&H (Longshoreman) and Marine insurance coverages shall be provided if relevant to the Services.

7.1.3. Commercial General Liability (CGL). CGL, on an occurrence form at least as broad as an unmodified current ISO edition of CG 00 01, covering liability arising out of all locations and operations of Subconsultant, for personal injury, bodily injury, mental anguish and property damage, including contractual liability coverage covering Subconsultant's indemnification obligations herein, with a minimum per occurrence limit of \$1,000,000 and an aggregate limit of \$2,000,000 during the policy period or such higher amounts as required by the Prime Agreement. Policy limits must apply on a per project basis. Coverage shall be maintained for the greater of: four (4) years after completion of the Project, the applicable statute of repose period, or the applicable statute of limitations period.

7.1.4. Automobile Liability Insurance. Automobile liability insurance, on an occurrence form, covering owned, non-owned, and hired vehicles, and including the vicarious liability of protecting against claims for bodily injury, including without limitation death, and loss of or damage to property, with a minimum combined single limit of \$1,000,000 each accident. This insurance shall also provide contractual liability insurance coverage.

7.1.5. Not used.

7.1.6. Umbrella / Excess Liability Insurance. Umbrella / Excess Liability Insurance, on an occurrence basis, with minimum limits of \$5,000,000. Subconsultant's excess liability or umbrella insurance shall provide the same or greater coverage as the coverage required by the Commercial General Liability and Automobile Liability provisions herein and include a drop down provision, contain "pay on behalf" language, and have concurrent effective dates with the primary coverages. Coverage shall be maintained for the greater of: four (4) years after completion of the Project, the applicable statute of repose period, or the applicable statute of limitations period.

7.1.7. Professional Liability Insurance. Professional liability insurance to be provided with minimum limits of \$5,000,000 each claim, written on a "claims made" basis, to provide coverage for negligent acts, errors and omissions in the performance of professional Services. The retroactive coverage shall pre-date commencement of any professional Services, with any renewal policies maintaining the same retroactive date. Coverage shall



be maintained for a minimum of four (4) year discovery and reporting period beyond the final acceptance of the Project by Owner.

- 7.1.8.Limits of Insurance. If required insurance coverages have higher insurance limit(s) than the minimum insurance limits herein, then such higher insurance limit(s) shall be considered the minimum insurance limit(s) required herein.
- 7.1.9.Additional Insured Status. The Subconsultant shall name Garver, LLC, Owner, their respective affiliates, directors, officers, agents, employees, successors, assigns and any other party identified as an additional insured designee in the Prime Agreement (if any), as an Additional Insured ("**Additional Insured Parties**") for both ongoing and completed operations, on the Subconsultant's Commercial General Liability policy (using ISO Additional Insured Endorsement CG 20 10 11 85 and CG 20 37 07 04 or substitute(s) providing equivalent coverage), Automobile Liability policy (using ISO Additional Insured Endorsement CA 2048 or a substitute providing equivalent coverage), and Umbrella/Excess, if any. Additional insured coverage, except as otherwise required by law or this Agreement, will be at least as broad as the Subconsultant's underlying coverage.
- 7.1.10.Primary Coverage. All of Subconsultant's policies shall be endorsed to provide that Subconsultant's insurance policies, including insurance provided under the Umbrella/Excess, if any, shall apply as primary and non-contributory insurance with respect to any other insurance or self-insurance programs afforded to, or maintained by Garver or Owner.
- 7.1.11.Waiver of Subrogation. Subconsultant, and Subconsultant's insurers, shall waive all rights of subrogation in favor of the Additional Insured Parties, except on Professional Liability.
- 7.1.12.Deductible & Retention. Except specified otherwise herein, all deductibles and retentions will not be in excess of \$10,000, without written approval from Garver, and all such deductibles and retentions will be paid by Subconsultant, for which it will not be reimbursed.
- 7.1.13.Certificate of Insurance; Non-Waiver. The Garver project name and number shall be listed within the comments section of the certificate of insurance, which shall evidence all of the insurance required under this Section 7. Prior to commencement of the Services, Subconsultant shall furnish Garver with a certificate(s) of insurance, in form acceptable to Garver, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth. Failure of Garver to demand such certificate or other evidence of full compliance shall not be interpreted as a waiver of these obligations.
- 7.1.14.Maintenance & Notice. Subconsultant will ensure that such insurance policies are maintained in full force and effect, without interruption throughout the term of this Agreement or as otherwise may be required, whichever is longer, and not cancel or reduce the limits of coverage, or materially change any insurance, without giving Garver at least thirty (30) days' prior written notice. No more than three (3) business days after the date Subconsultant becomes aware of an impending or actual cancellation or expiration, or material reduction, of any required insurance of Subconsultants or its sub-subconsultants, Subconsultant will notify Garver of the same in writing. Garver shall have the option to suspend Subconsultant's performance should there be a lapse in coverage



at any time during this Agreement. Failure to provide and maintain the required insurance shall constitute a material breach of this Agreement. In addition to any other remedies Garver may have upon Subconsultant's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, Garver shall have the right to withhold any payment(s) if any, which become due to Subconsultant hereunder until Subconsultant demonstrates compliance with the requirements hereof.

7.1.15. Should an insurance policy expire, an updated Certificate of Insurance shall be resubmitted and approved prior to any payments by Garver to Subconsultant on all subsequent invoices for the duration of the Services.

7.1.16. By requiring insurance herein, Garver does not represent that coverage and limits will necessarily be adequate to protect Subconsultant, and such coverage and limits shall not be deemed as a limitation on Subconsultant's liability under the indemnities granted to Garver in this Agreement. These insurance requirements shall support, but shall not limit Subconsultant's duties, obligations, and liabilities under any other provision of this Agreement.

7.1.17. Exclusionary Endorsements. Required coverages will not contain endorsements that limit or exclude coverage that is otherwise required by this Agreement.

7.1.18. Insurance Company Rating & Status. All insurers must be authorized in any state where Subconsultant's services are performed and rated at least A-(minus):VIII by the current A.M. Best's Key Rating Guide.

7.1.19. Sub-Subconsultants. Subconsultant will require all its subconsultants and vendors to provide the same types of insurance coverages required of Subconsultant herein, including, without limitation, the limits of insurance, duration of coverage, additional insured status, waiver of subrogation, and primary/non-contributory application benefiting the Additional Insured Parties. Subconsultant will furnish proof of this insurance prior to any work or services by such sub-subconsultants and vendors.

7.1.20. Prime Agreement. To the extent the Prime Agreement requires more stringent, or additive, insurance requirements than those provided in this Agreement, Subconsultant, as well as its sub-subconsultants and vendors, will also satisfy those requirements.

## **8. DOCUMENTS**

8.1. Audit. Subconsultant will retain all pertinent records, including any and all information, materials and data of every kind and character, for a period of four (4) years beyond completion of the Services and final acceptance of the Project by Owner or final resolution of an ongoing dispute beyond that period. Garver, Owner, or their designees, which may include their internal auditors or outside representatives shall have the right to access, audit, examine or inspect the Subconsultant's records during normal business hours. The Subconsultant's facilities and current employees must also be made available if deemed necessary. Subconsultant also agrees to provide adequate and appropriate work space necessary to conduct said audits, inspections and examinations.

8.2. Delivery. After completion of the Services, and prior to final payment, Subconsultant shall deliver to Garver all Deliverables required under this Agreement.



## 9. INDEMNIFICATION

### 9.1. Indemnification.

9.1.1. Garver Indemnity. Garver agrees to defend, indemnify, and hold Subconsultant harmless for Damages to the extent caused by the negligent acts, errors, or omissions of Garver, or any other party (excluding Subconsultant) for whom Garver is legally liable in the performance of its obligations under this Agreement.

9.1.2. Subconsultant Indemnity. The Subconsultant shall fully indemnify and hold Garver, and Garver's Personnel harmless from and against any and all Damages to the extent caused by or resulting from the negligent acts, errors or omissions, failure to pay a subcontractor or supplier, intentional tort, or intellectual property infringement of Subconsultant or any other party for whom Subconsultant is legally liable in the exercise of rights or performance of the Services under this Agreement. Subconsultant shall further indemnify and hold Garver and Garver's Personnel harmless from any liens, claims, security interests, or encumbrances filed by anyone claiming by, through or under the items covered by payments made by Garver to Subconsultant. In the event Garver's indemnification obligation towards the Owner in the Prime Agreement is more stringent than the obligation imposed on the Subconsultant by this Section 9.1.2, Subconsultant shall assume towards Garver the indemnification obligation Garver has assumed towards Owner in the Prime Agreement. Subconsultant shall defend Garver, with counsel satisfactory to Garver, from and against any and all Damages if such Damages are not based wholly or partly on the negligence of, fault of, or breach of contract by Garver. If a claim is based wholly or partly on the negligence of, fault of, or breach of contract by Garver, the Subconsultant shall reimburse Garver's reasonable attorney's fees in proportion to the Subconsultant's liability.

9.1.3. In the event claims or Damages are found to be caused by the joint or concurrent negligence of Subconsultant and Garver, they shall be borne by each Party in proportion to its own negligence.

9.1.4. Subconsultant must advise Garver in writing within 24 hours of any claim or demand against Garver or Subconsultant known to Subconsultant related to or arising out of Subconsultant's activities under this Agreement.

9.1.5. The Subconsultant agrees that any claim or suit for Damages made or filed against Garver by the Subconsultant will be made or filed solely against Garver or its successors or assigns and that no member or employee of Garver shall be personally liable to the Subconsultant for Damages under any circumstances.

9.1.6. The Subconsultant waives all rights against the Owner and Garver and its agents, officers, directors and employees for recovery of Damages to the extent these Damages are covered or should have been covered by the insurance policies required in Section 7.

9.1.7. If the Subconsultant's failure to meet contractual obligations causes Garver to suffer actual damages, Garver may elect to pursue its actual damages and any other remedy allowed by law.



## 10. DISPUTE RESOLUTION

10.1. Any controversy or claim ("**Dispute**") arising out of or relating to this Agreement, or the breach thereof, shall be resolved in accordance with the following:

10.1.1. Any Dispute that cannot be resolved by the project managers of Garver and Subconsultant may, at the request of either Party, be referred to the senior management of each Party. If the senior management of the Parties cannot resolve the Dispute within thirty (30) days after such request for referral, then either Party may request mediation. If both Parties agree to mediation, it shall be scheduled at a mutually agreeable time and place with a mediator agreed to by the Parties. Should mediation fail, should either Party refuse to participate in mediation, or should the scheduling of mediation be impractical, either Party may file a Dispute in accordance with the dispute resolution provisions of Section 12.2 of the Prime Agreement.

10.1.2. To avoid multiple proceedings and the possibility of inconsistent results, either Party may seek to join third parties with an interest in the outcome or to consolidate dispute resolution with another matter regarding the same nucleus of facts. Subconsultant hereby further agrees to joinder in any and all proceedings related to the Prime Agreement and the underlying Services.

10.1.3. Subconsultant further agrees to include a similar dispute resolution provision in all agreements with independent contractors and subconsultants retained for the Project.

## 11. TERMINATION

11.1. Termination for Convenience. Garver shall have the right, at its sole discretion, to terminate or suspend this Agreement for convenience at any time upon giving Subconsultant five (5) days' written notice. In the event of a termination for convenience, Subconsultant shall immediately bring any ongoing Services to an orderly cessation. Garver shall compensate Subconsultant for all Services properly rendered in accordance with this Agreement.

11.2. Termination for Default. This Agreement may be terminated by Garver in the event of failure by the Subconsultant to perform any material obligation in accordance with the terms hereof. Prior to termination of this Agreement for cause, Garver shall provide at least ten (10) days' written notice and an opportunity to cure to the Subconsultant. The Subconsultant must begin, within three (3) days of receipt of such notice, to correct its failure and proceed to diligently cure such failure within ten (10) days. If the Subconsultant again fails to perform under this Agreement, Garver may terminate the Agreement upon seven (7) days' written notice with no additional cure period. In all events of termination for cause due to an event of default by the Subconsultant, Garver shall be entitled to retain all or a portion of payments otherwise due and payable, which are necessary to protect Garver until resolution of the Dispute. If it is determined the Subconsultant was not in default of the Agreement, the rights and obligations of the Parties shall be the same as if Garver issued the termination for its convenience in accordance with Section 11.1. above.

11.3. Within thirty (30) days after receipt of the notice of termination, unless Subconsultant has successfully cured a failure to perform, Subconsultant shall submit a statement showing in detail the Services performed under this Agreement prior to the effective date of termination. Subconsultant shall further submit all completed and/or partially completed Deliverables under this Agreement.





11.4. It is recognized that if Subconsultant becomes insolvent, or institutes or has instituted against it bankruptcy proceedings, or makes a general assignment for the benefit of creditors, or if a receiver is appointed for the benefit of its creditors, or if a receiver is appointed on account of its insolvency, such event or events could impair or frustrate Subconsultant's performance of this Agreement. Accordingly, it is agreed that upon the occurrence of any such event, Garver shall be entitled to take over the Services following notice to Subconsultant.

## 12. MISCELLANEOUS

12.1. Governing Law. This Agreement is governed by the laws of the State of Texas, without regard to its choice of law provisions. Venue for legal proceedings lies exclusively in Nueces County, Texas. Cases must be filed and tried in Nueces County and cannot be removed from Nueces County.

12.2. Successors and Assigns. Garver and Subconsultant each bind themselves and their successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; neither Garver nor Subconsultant shall assign, sublet, or transfer their interest in this Agreement without the prior written consent of the other, which shall not be unreasonably withheld or delayed.

12.3. Independent Contractor. Subconsultant is, and at all times shall be deemed, an independent contractor in the performance of the Services under this Agreement.

12.4. Severance. The illegality, unenforceability, or occurrence of any other event rendering a portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of the Agreement. Any void provision of this Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void.

12.5. Counterpart Execution. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together constitute one Agreement. Delivery of an executed counterpart of this Agreement by fax or electronic transmission in legible form shall be equally effective as delivery of a manually executed counterpart of this Agreement.

### 12.6. Debarment and Suspension.

The signer of this Agreement certifies that to the best of their knowledge and belief that Subconsultant and its principals:

- Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- Have not within a three (3) year period preceding execution of this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and



- Have not within a three (3) year period preceding this Agreement had one or more public transactions (Federal, State, or local) terminated for cause or default.

The signer of this Agreement understands that a false statement on this certification regarding debarment and suspension may be grounds for termination of this Agreement. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to five (5) years, or both.

**12.7. Notice.**

**12.7.1. Notice to Garver.** Subconsultant shall provide all notices required under this Agreement to the following address:

Garver, LLC  
Attn: Garver, LLC  
Attn: Taylor Hecht  
12141 Wickchester Lane  
Suite 200,  
Houston, TX- 77079

Any notice provided in writing under the terms of this Agreement shall be in writing and may be effectuated by registered or certified mail, return receipt requested, unless specifically requested through electronic mail. All notices or communication required to be given in writing by registered or certified mail shall be considered as having been given to the addressee on the date such notice or communication is postmarked. Garver may change the address to which notice may be sent by giving notice of such change.

**12.8. Compliance with Law.** The Subconsultant agrees to comply with any and all applicable law, including but not limited to:

**12.8.1. Civil Rights Act of 1964.** The Subconsultant agrees to comply with Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., including all requirements imposed by or pursuant to Title 49, C.F.R., Part 21 – “Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964”.

**12.8.2. City Codes and Standards.** Subconsultant shall follow City Codes and Standards effective at the time of the execution of the task order, issued subsequently to the Prime Agreement, associated with the Subconsultant's scope.

**12.8.3.** Subconsultant shall further comply with the following provisions of the Prime Agreement as it relates to their Services:

- 12.8.3.1. Article 1 Section 1.3
- 12.8.3.2. Article I Section 1.6
- 12.8.3.3. Article III Section 3.6
- 12.8.3.4. Article III Section 3.12
- 12.8.3.5. Article XIII Section 13.8
- 12.8.3.6. Article XIII Section 13.9
- 12.8.3.7. Article XIII Section 13.10
- 12.8.3.8. Article XIII Section 13.11





12.8.3.9. Exhibit D, Excerpt from Form 00 72 00 General Conditions for Construction Projects related to design services

12.9. Entire Agreement. This Agreement, including the Exhibits referenced below, constitutes the entire agreement between Garver and Subconsultant and supersedes all prior written or oral understandings and shall be interpreted as having been drafted by both Parties. This Agreement may be amended, supplemented, or modified only in writing by and executed by both Parties.

### 13. **EXHIBITS**

13.1. The following Exhibits are attached to and made a part of this Agreement:

Exhibit A – Scope of Services and Payment Schedule  
Exhibit B – Prime Agreement

13.2. If there is an express conflict between the provisions of this Agreement and any Exhibit (excluding Exhibit B) hereto, the terms of this Agreement shall take precedence over the conflicting provisions of the Exhibit.

Subconsultant, by signing this Agreement, acknowledges that it has independently assured itself of the terms of this Agreement and agrees to be bound to the terms, provisions, and other requirements thereof.

Acceptance of this proposed Agreement is indicated by an authorized agent of the Subconsultant signing in the space provided below.

*[Signatures follow on next page]*



**IN WITNESS WHEREOF**, Garver and Subconsultant hereby execute this Agreement as of the Effective Date written above.

**GARVER, LLC**

By: *RM McIntyre*  
*Signature*

Name: Randall G. McIntyre  
*Printed Name*

Title: Vice President

Date: March 10, 2025

**TERRACON CONSULTANTS, INC.**

By: *Tom Barker*  
*Signature*

Name: Tom Barker  
*Printed Name*

Title: National Account Manager

Date: March 3, 2025



**Exhibit A**

**SCOPE OF SERVICES AND PAYMENT SCHEDULE**

**A. Scope of Work**

Terracon will provide geotechnical engineering services to support the Sand Dollar Collection line 16-inch project. Some of the items specifically called out as part of the scope related to this service are itemized below. These specific items were identified in the initial scoping, but Terracon will be providing geotechnical engineering services for completion of the project.

- Locate borings and incorporate approximate site elevations.
- Conduct investigations in areas where suspected utility conflicts exist prior to boring.
- Drill borings to obtain samples. Five (5) samples will be obtained in the upper 10 feet of each boring and an additional sample every 5 feet thereafter.

Number of Borings	Planned Boring Depth	Planned Location
17	20 feet	Along 16" water line
4	50 feet	Along 16" water line

- Backfill borings and patch pavement upon completion.
- Conduct laboratory testing on samples. Testing shall include the following but additional testing might be needed depending on soil conditions:
  - Water content
  - Atterberg limits
  - #200 Sieve
  - Corrosion Test
  - USCS Soil Classification
- Prepare and submit a Draft Geotechnical Report. It shall include the following:
  - Boring logs with field and laboratory data;
  - Stratification based on visual soil classification;
  - Groundwater levels observed during and after the completion of drilling;
  - Site location and exploration plans;
  - Subsurface exploration procedures;
  - Description of subsurface conditions;
  - Open trench and trenchless excavation recommendation including OSHA discussions;
  - Lateral earth pressure recommendations;
  - Backfill recommendations and;
  - General pavement recommendations.
- Conduct QA/QC of the Geotechnical Report based on Project Management Plan.
- Engineer will resolve and incorporate comments into the revised Draft Geotechnical Report in electronic format (PDF).



## **B. Engineering Services Fees**

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

Work Description	Fee Type	Fee
Subsurface Exploration, Laboratory Testing, Geotechnical Consulting and Report	Lump Sum	\$46,200
Total		\$46,200

## **C. Deliverables**

- Draft Geotechnical Report Due Date – 9 Weeks from Subconsultant Contract Execution