



**EL DORADO CITY COMMISSION - REGULAR MEETING AGENDA**  
**CITY HALL – 220 E. FIRST AVENUE**  
**February 3, 2025 - 5:30 PM**

- 1. Call to Order**
- 2. Roll Call**
- 3. Invocation** - Pastor Jurdan Counts, Park Ave. Baptist Church
- 4. Pledge of Allegiance**

**Proclamations and Recognition**

**Personal Appearances.** Personal appearances are opportunities for organizations or citizens to make special presentations before the City Commission. Such appearances are scheduled in advance of the meeting by calling City Clerk Emerald Ashlock at (316) 321-9100 by 5:00 pm the Tuesday preceding the meeting. Presentations are limited to ten minutes. Any presentation is for information purposes only; no action will be taken.

- 5. El Dorado Main Street Annual Report**

**Public Comments.** Persons who wish to address the City Commission regarding any matter that is under the jurisdiction of the City Commission may do so when called upon by the Mayor. Comments on personnel matters, matters pending in court, and land use matters are not permitted. Land use Public Hearings are held during Planning Commission meetings.

**Consent Agenda** (*Consent agenda items will be acted on by one motion unless a majority of the City Commission votes to remove an item for discussion and separate action.*)

- 6. City Commission Special Session Minutes from January 15, 2025, and City Commission Meeting Minutes from January 21, 2025**
- 7. Consideration of the Appointment of a Vice Mayor for the 2025 Term**

**Old Business**

**New Business**

- 8. Consideration of Setting a Public Hearing on behalf of the Kansas Department of Transportation concerning 12th Avenue Bridge Project**
- 9. Consideration of Approval of the Aquatics Center Planning Services Agreement**

**Discussion Items**

**Reports**

10. City Commission and Advisory Board Updates

11. City Manager

**Executive Session**

12. Commissioner \_\_\_\_\_ moved to recess into executive session pursuant to the non-elected personnel exception under K.S.A. 75-4319(b)(1) for the purposes of discussing non-elected personnel and succession plans and to reconvene the meeting at \_\_\_\_\_ p.m. in the City Commission Room.

Commissioner \_\_\_\_\_ seconded the motion.

**Adjournment**

13. Consideration of a motion to adjourn

The El Dorado City Commission met in a work session on December 11, 2024, at 5:00 p.m. in the Commission Room with the following present: Mayor Bill Young, Commissioner Kelly Tetrick, Commissioner Syndee Scribner, Commissioner Leon Leachman, Commissioner Kendra Wilkinson, City Attorney Ashlyn Lindskog, and City Manager David Dillner. Absent:

**VISITORS**

|               |                             |               |
|---------------|-----------------------------|---------------|
| Tabitha Sharp | Assistant City Manager      | El Dorado, KS |
| Sam Cooper    | Management Intern           | El Dorado, KS |
| Mike Holton   | El Dorado Police Department | El Dorado, KS |
| Greg Mudd     | El Dorado Chamber           | El Dorado, KS |
| Emily Connell | El Dorado Main Street       | El Dorado, KS |
| Scott Rickard | City Engineer               | El Dorado, KS |
| Derek Kling   | Public Utilities            | El Dorado, KS |

**CALL TO ORDER**

Mayor Bill Young called the January 15, 2025, meeting to order.

**NEW BUSINESS**

**CONSIDERATION OF THE APPROVAL OF AN EXTENSION ON THE COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT AT DISTRICT 142**

City Engineer Scott Rickard stated that construction is almost complete at 142 N Main, for which the Kansas Department of Commerce awarded a CDBG Commercial Rehabilitation Grant. The scheduled completion date was December 30, 2024, but we would like to extend it to March 30, 2024.

Commissioner Leon Leachman moved to authorize the mayor to sign the Contract Amendment for the Kansas Department of Commerce CDBG Commercial Rehab Grant.

Commissioner Kendra Wilkinson seconded the motion.

Motion carried 5-0.

**WORK SESSION DISCUSSION ITEMS**

**CENTRAL AVENUE PROJECT AND DOWNTOWN BUSINESSES**

City Manager David Dillner stated that the Engineering Department has made numerous contacts with businesses downtown during and throughout the project. He stated that before the project started, they explained the project and the timeline to each business. He stated that they have given information on how to find updates on the project along with making periodic visits to the businesses. He stated that there is updated information on the website.

City Manager Dillner stated that one of the problems that businesses have expressed is the city helping market their openness and business. He stated that is something that we could have done to help downtown businesses.

City Manager Dillner stated that staff will be working on planning some events for re-energizing downtown once the Central Avenue Project is complete.

Commissioner Kelly Tetrick asked when the project will be completed.

City Engineer Scott Rickard stated May 27<sup>th</sup>.

City Manager Dillner stated that overall staff has done a good job of giving businesses updates and information throughout the project.

**WHOLESALE NO. 8 RURAL WATER CONTRACT**

City Manager David Dillner stated that several of the Rural Water Districts are up for renewal.

Water Treatment Superintendent Derek Kling stated that over the last 5 years, staff have taken an average of the maximum of what they have used and added 10 percent and used that as the allocation for the new contract. He stated that previously those contracts were way over-allocated.

Commissioner Syndee Scribner asked if 40 years was typical. She stated that 40 years seems like a long time.

City Manager Dillner stated that it is typical. He stated that a Rural Water District wants certainty on their water supply.

Commissioner Kendra Wilkinson asked if there was a possibility to increase rates while in the 40-year contract.

City Manager Dillner stated that it does allow for a possible increase in the cost of water. He stated that at any point the customer can request additional water based on their water needs.

City Manager Dillner stated that the City of El Dorado sells water to approximately 52,000 people within our county and region.

### **ADVISORY BOARD APPOINTMENTS**

Commissioner Kelly Tetrick said he would like to nominate Brett Remsberg again.

Commissioner Leon Leachman said he would like to appoint Wilfredo Blanco-Diaz.

### **EXECUTIVE SESSION**

Commissioner Syndee Scribner moved to recess into executive session pursuant to the non-elected personnel exception under K.S.A. 75-4319(b)(1) for the purposes of discussing non-elected personnel and to reconvene the meeting at 6:02 p.m. in the City Commission Room.

Commissioner Kendra Wilkinson seconded the motion.

### **REGULAR AGENDA PREVIEW**

The City Commission reviewed the upcoming agenda for January 21, 2025.

### **COMMISSION REPORTS**

There were no reports.

### **CITY MANAGER REPORTS**

There were no reports.

### **ADJOURNMENT**

Commissioner Syndee Scribner moved to adjourn the meeting at 6:03 PM.

Commissioner Kendra Wilkinson seconded the motion.

Motion carried 5 – 0.

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City Clerk Emerald Ashlock

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Vice Mayor Syndee Scribner

## **EL DORADO CITY COMMISSION MEETING**

**January 21, 2025**

The El Dorado City Commission met in a regular session on January 21, 2025, at 5:30 p.m. in the Commission Room with the following present: Mayor Bill Young, Commissioner Kelly Tetrick, Commissioner Syndee Scribner, Commissioner Leon Leachman, Commissioner Kendra Wilkinson, and City Manager David Dillner Absent:

### **VISITORS**

|                 |                             |               |
|-----------------|-----------------------------|---------------|
| Mike Holton     | Police Chief                | El Dorado, KS |
| Tabitha Sharp   | Assistant City Manager      | El Dorado, KS |
| Scott Rickard   | Director of Engineering     | El Dorado, KS |
| Sam Cooper      | Management Intern           | El Dorado, KS |
| Emily Connell   | El Dorado Main Street       | El Dorado, KS |
| Mark Somerville | Family Worship Center       | El Dorado, KS |
| Danika Dixon    | Kansas One Shot Turkey Hunt | El Dorado, KS |
| Sarah Hoefgen   | El Dorado Inc               | El Dorado, KS |
| Ryan Liess      | El Dorado Inc               | El Dorado, KS |
| Bryan Coons     | El Dorado Inc               | El Dorado, KS |

### **CALL TO ORDER**

Mayor Bill Young called the January 21, 2025, meeting to order.

### **INVOCATION**

Pastor Mark Somerville, Family Worship Center, opened the meeting with an invocation.

### **PLEDGE OF ALLEGIANCE**

The City Commission led the Pledge of Allegiance.

### **PROCLAMATIONS AND RECOGNITION**

There were no Proclamations.

### **PERSONAL APPEARANCE**

Mayor Bill Young opened the floor for Personal Appearances.

Danika Dixon, Manager and Director of the Kansas One Shot Turkey Hunt, delivered a recap of the 2024 event and offered an exciting preview of what's in store for 2025.

Sarah Hoefgen, Director of El Dorado Inc, gave the 2024 El Dorado Inc Annual report.

### **PUBLIC COMMENT**

Mayor Bill Young opened the floor for public comments.

Mayor Young closed Public Comment.

**CONSENT AGENDA**

Approval of City Commission Minutes from December 16, 2024.

Approval of Appropriation Ordinance No. 12-24 in the amount of \$2,644,303.67.

Advisory Board Appointments

Commissioner Leon Leachman moved to approve the consent agenda.

Commissioner Kendra Wilkinson seconded the motion.

Motion carried 5-0.

**PUBLIC HEARING**

There was no Public Hearing.

**OLD BUSINESS**

There was no old business.

**NEW BUSINESS**

**CONSIDERATION OF AN ORDINANCE OF THE CITY OF EL DORADO AMENDING TITLE 4 OF THE CITY OF EL DORADO MUNICIPAL CODE RELATING TO THE SALE OF ALCOHOLIC BEVERAGES.**

Assistant City Manager Tabitha Sharp stated that the 2021 Legislature amended several acts, including the Liquor Control Act and Cereal Malt Beverage Act, to authorize earlier Sunday sales. Retail liquor stores and cereal malt beverage (CMB) retailers can now begin Sunday sales at 9:00 a.m. in jurisdictions where Sunday sales have been authorized. However, local ordinances must be updated to enable sales before noon. In December, City Staff was approached by a local retail liquor store requesting an amendment to the city's Sunday sales hours to align with changes made by the State of Kansas in 2021.

Commissioner Kelly Tetrick moved to approve an Ordinance of the City of El Dorado Amending Title 4 of the City of El Dorado Municipal Code Relating to the Sale of Alcoholic Beverages.

Commissioner Syndee Scribner seconded the motion.

Motion carried 5-0.

**CONSIDERATION OF A RESOLUTION APPROVING A WHOLESALE WATER CONTRACT BETWEEN THE CITY OF EL DORADO, KANSAS, A MUNICIPAL CORPORATION, AND BUTLER WHOLESALE WATER DISTRICT 8.**

City Manager David Dillner stated that the current contract expired December 31, 2023. The district is ready to sign the attached contract after several meetings and attorney recommendations back and forth. The biggest change to the contract is the allocation of water under the contract. The previous contract was written as gallons per year, whereas the new contract is written as gallons per day. This change is significant in my opinion to better align with how we treat drinking water. We treat in gallons per day and having our contracts state a gallons per day threshold will better help us plan for plant expansion triggers in the future. The new allocation also aligns with actual peak usage of the district.

Commissioner Kendra Wilkinson moved to approve a Resolution Approving a Wholesale Water Contract Between the City of El Dorado, Kansas, a Municipal Corporation, and Butler Wholesale Water District 8.

Commissioner Leon Leachman seconded the motion.

Motion carried 5-0.

**DISCUSSION ITEMS**

There were no Discussion Items.

**REPORTS**

**CITY COMMISSION AND ADVISORY BOARD UPDATES**

There were no updates.

**CITY MANAGER REPORT**

City Manager David Dillner stated that the Constant Creek Sanitary Sewer Project has started.

City Manager Dillner stated that Central and Main is open again and is a four-way stop. He stated that the contractor will resume boring the Water Main toward Denver pending the weather.

City Manager Dillner stated that the Housing Task Force will meet tomorrow and continue their conversation looking at property ownership. He stated they will also discuss strategies on getting residential development started.

City Manager Dillner stated that Garver had submitted a Scope of Services at cost of \$235,000. He stated that the Engineering Department were able to negotiate that down to a cost of \$162,000. He stated that will be finalized soon and brought to the Commission.

City Manager Dillner stated that the 12<sup>th</sup> Ave Bridge reconstruction will begin in fall of 2025. He stated that the project is anticipated to take a year to complete.

City Manager Dillner stated that we have a bidding for the Water Main Replacement at Central and Haverhill. He stated that it should be on the February 17<sup>th</sup> meeting for approval.

City Manager Dillner stated that Citizens have been commenting on Facebook about the increase in the water bills. He stated that part of the increase is from the installation of the new meters. He stated that they are reading more accurately. He stated that he encourages folks to call City Hall if they have any questions.

City Manager Dillner stated that beginning February 1<sup>st</sup> customers will be able to create an account and see their real time usage.

**ADJOURNMENT**

Commissioner Syndee Scribner moved to adjourn the meeting at 6:06 p.m.

Commissioner Kelly Tetrack seconded the motion.

Motion carried 5– 0.

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City Clerk Emerald Ashlock

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Vice Mayor Syndee Scribner

TO: City Commission  
FROM: Emerald Ashlock, City Clerk/Executive Assistant  
SUBJ: Consideration of the Appointment of a Vice Mayor for the 2025 Term  
DATE: February 3, 2025

**Summary:**

The City Commission form of government calls for the Commission to appoint a Vice-Mayor to serve for the Mayor in his/her absence. This position is a one-year term. Previous Vice-Mayors for the current Commission were: Leon Leachman (2024), Kelly Tetrick (2023), and Kendra Wilkinson (2022). As discussed in the work session on January 29th, Commissioner Syndee Scribner will fulfill the duties of Vice Mayor for the coming year.

**Attachments:**

**Funding Source:**

N/A

**Operation Impact:**

In order to ensure that business can continue when the Mayor is unable to attend a meeting, the City Commission form of government requires the appointment of a Vice-Mayor.

**Options/Alternatives:**

N/A

**Staff Recommendation:**

Select Commissioner Syndee Scribner to fulfill the duties of Vice-Mayor

**Commission Action:**

TO: City Commission  
FROM: Scott Rickard  
SUBJ: Consideration of Setting a Public Hearing on behalf of the Kansas Department of Transportation concerning 12th Avenue Bridge Project  
DATE: February 3, 2025

**Summary:**

The Kansas Department of Transportation (KDOT) is in the design phase to replace the 12th Avenue Bridge over the Walnut River as part of project 900-08 KA-6474-01. The bridge, nearing the end of its useful life, will be replaced to improve safety and accommodate future needs. The new bridge will include a shared-use path to enhance pedestrian and cyclist access, consistent with the City of El Dorado's transportation plan. Construction is scheduled to begin in Fall 2025, with detours utilizing US-77, US-54, and K-177.

The project requires acquiring a small portion of right-of-way from 4(f) property, which includes lands designated for public parks, recreation, or wildlife and waterfowl refuges. In this case, the affected land is part of the El Dorado State Park. The acquisition is necessary to accommodate the shared-use path on the new bridge. To comply with federal requirements under Section 4(f) of the Department of Transportation Act, KDOT must demonstrate that the impact to this protected property is minimal and does not adversely affect its use or attributes. The U.S. Army Corps of Engineers (USACE) and the Kansas Department of Wildlife and Parks (KDWP) have reviewed the proposal and concurred that the impacts are not adverse. After the public comment period, KDOT will submit a formal de minimis request for this right-of-way acquisition.

The packet includes a drawing of the affected area and required right-of-way acquisition for review. This right-of-way acquisition is essential to ensure the project meets federal funding requirements while minimizing impacts on 4(f) land.

A 45-day public comment period is required by the Federal Highways Administration (FHWA) to complete the environmental determination process for federal funding eligibility. This comment period will begin after the publication of the public hearing notice in the official city newspaper. Comments can be submitted during the public hearing or sent by email to [engineering@eldoks.com](mailto:engineering@eldoks.com) or by mail to:

220 E. 1st Avenue  
El Dorado, KS 67042

Attn: Engineering Department

All comments received or heard at the public hearing will be forwarded to KDOT for consideration.

The City Commission is being asked to set the public hearing date for February 17, 2025,

**Attachments:**

1. 12th Ave. Bridge Replacement location

**Funding Source:**

This project will be federally funded in partnership with KDOT.

**Operation Impact:**

Temporary route closures during construction will redirect traffic to state routes. The project is expected to be completed within one year.

**Options/Alternatives:**

1. Approve setting the public hearing date as presented, allowing the 45-day public comment period to begin upon publication in the official city newspaper.
2. Postpone setting the public hearing date, delaying the environmental determination process and project timeline.

**Staff Recommendation:**

Staff recommends setting the public hearing date for February 17, 2025.

**Commission Action:**

Commissioner \_\_\_\_\_ moved to set the public hearing for KDOT Project 900-08 KA-6474-01 (El Dorado State Park Bridge Replacement/ 12<sup>th</sup> Ave.) on February 17, 2025, and authorize the 45-day public comment period to begin following publication in the official city newspaper.

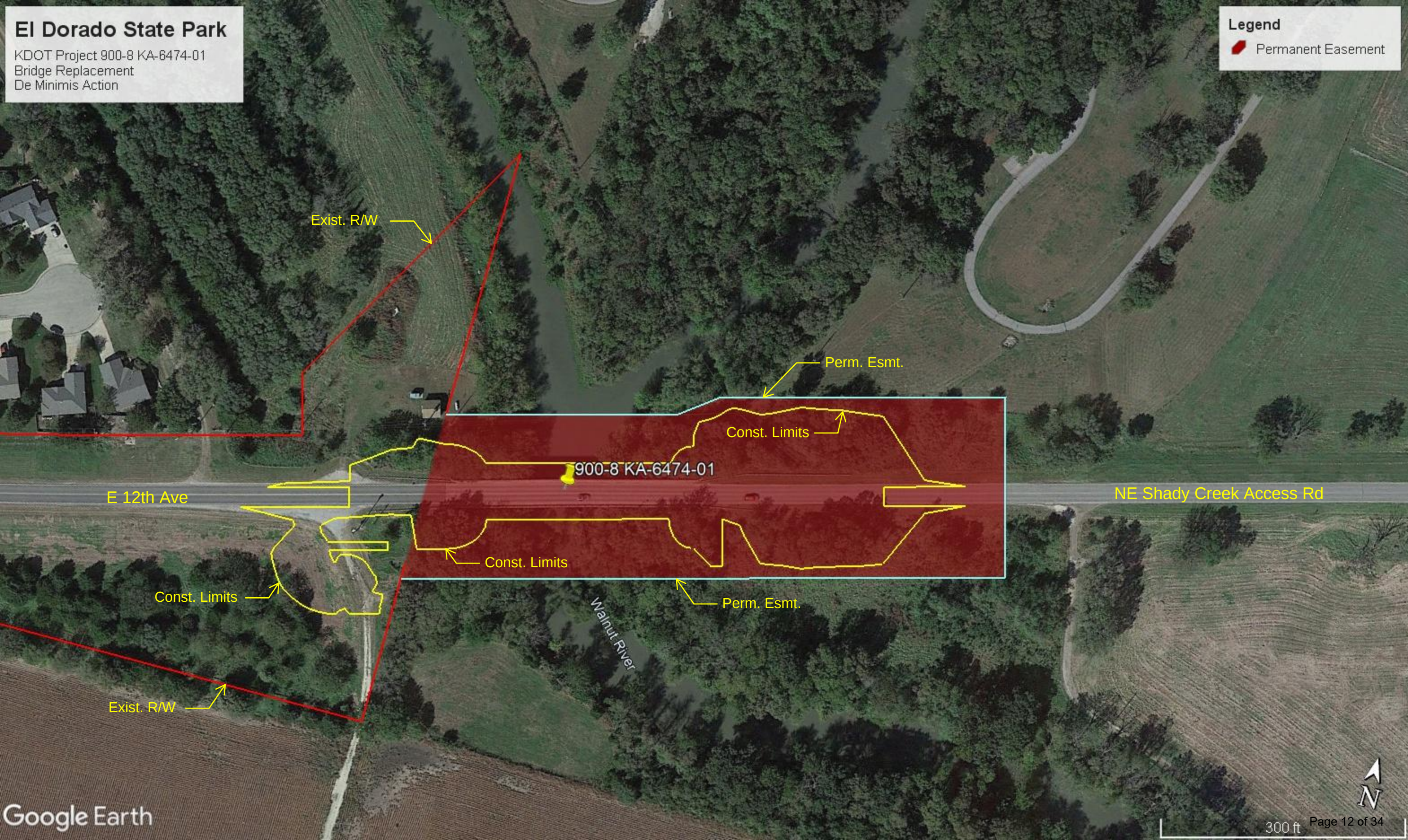
Commissioner \_\_\_\_\_ seconded the motion.

**El Dorado State Park**

KDOT Project 900-8 KA-6474-01  
Bridge Replacement  
De Minimis Action

**Legend**

 Permanent Easement



TO: City Commission  
FROM: David Dillner, City Manager  
SUBJ: Consideration of Approval of the Aquatics Center Planning Services Agreement  
DATE: February 3, 2025

**Summary:**

The City Commission authorized staff to move forward with contract negotiations with Garver concerning a scope of services for an Aquatics Center Master Plan. Garver returned the proposed agreement for the City's consideration. The scope will provide the City with the information needed to determine a location and conceptual layout for an aquatics center. The process will include opportunities for the public to provide input to help inform the City Commission's decision.

**Attachments:**

1. Professional Services Agreement with Garver for Aquatics Center Master Plan

**Funding Source:**

The funding for the agreement with Garver will be paid with fund balance from the General Fund.

**Operation Impact:**

**Should the City proceed with planning and feasibility services associated with an indoor/outdoor aquatics center?** The City has recognized the need for improvements to the existing municipal pool for a number of years without planning the next step in the process of determining the needed improvements. A grassroots effort from within the community has brought the issue back to the City's attention. The proposed scope of services will assess several potential sites and conceptual layouts determine the feasibility of a potential project. The City should assess its options before making a significant, long-term capital decision to ensure that tax dollars are allocated in the best way to serve the community. The information developed during the planning process will be instrumental in garnering public support for the project and the necessary funding sources.

**Options/Alternatives:**

The cost of the services included with this agreement is \$162,086, which will be paid from General Fund reserves. The contract is written as a "not to exceed" amount, meaning that the cost of the services may be less than this amount, but it will not exceed it. City staff was able to negotiate the cost of these services down from \$235,651 by modifying some of the scope of services to be provided. Proceeding with this agreement does not obligate the City to construction of an aquatics center. The City will have to evaluate financial options before deciding to proceed with this phase of the project.

**Staff Recommendation:**

The City Manager recommends approving the professional services agreement with Garver as presented.

**Commission Action:**

Commissioner \_\_\_\_\_ moved to approve the Aquatic Center Planning Services Agreement as presented and direct the Vice Mayor to sign the contract.

Commissioner \_\_\_\_\_ seconded the motion.



**Agreement  
For  
Professional Services for the  
City of El Dorado, Kansas**



**EL DORADO**

THE FINE ART OF LIVING WELL

P.O. Box 350

El Dorado, KS 67042

**Project No. 2402268**

**Aquatics Center Master Plan**



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**THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”)** is made as of the Effective Date by and between the City of El Dorado (hereinafter referred to as “**Owner**”), and **Garver, LLC** (hereinafter referred to as “**Garver**”). Owner and Garver may individually be referred to herein after as a “**Party**” and/or “**Parties**” respectively.

## **RECITALS**

**WHEREAS**, Owner intends to develop planning and conceptual design/ layout of a new state of the art aquatics center (the “**Project**”).

**WHEREAS**, Garver will provide professional Services related to the Project as further described 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:

“**Effective Date**” means the date last set forth in the signature lines below.

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

“**Hazardous Materials**” means any substance that, under applicable law, is considered to be hazardous or toxic or is or may be required to be remediated, including: (i) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, (ii) any chemicals, materials or substances which are now or hereafter become defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” or any words of similar import pursuant to applicable law; or (iii) any other chemical, material, substance or waste, exposure to which is now or hereafter prohibited, limited or regulated by any governmental instrumentality, or which may be the subject of liability for damages, costs or remediation.

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

### **2. SCOPE OF SERVICES**

2.1. Services. Owner hereby engages Garver to perform the scope of service described in Exhibit A attached hereto (“**Services**”). Execution of this Agreement by Owner constitutes Owner’s written authorization to proceed with the Services. In consideration for such Services, Owner agrees to pay Garver in accordance with Section 3 below.



### **3. PAYMENT**

- 3.1. Fee. For the Services described under Section 2.1, Owner will pay Garver in accordance with this Section 3 and Exhibit B. Owner represents that funding sources are in place with the available funds necessary to pay Garver in accordance with the terms of this Agreement.
- 3.2. Invoicing Statements. Garver shall invoice Owner on a monthly basis. Such invoice shall include supporting documentation reasonably necessary for Owner to know with reasonable certainty the proportion of Services accomplished.
- 3.3. Payment.
- 3.3.1. Due Date. Owner shall pay Garver all undisputed amounts within thirty (30) days after receipt of an invoice. Owner shall provide notice in writing of any portion of an invoice that is disputed in good faith within fifteen (15) days of receipt of an invoice. Garver shall promptly work to resolve any and all items identified by Owner relating to the disputed invoice. All disputed portions shall be paid promptly upon resolution of the underlying dispute.
- 3.3.2. If any undisputed payment due Garver under this Agreement is not received within forty-five (45) days from the date of an invoice, Garver may elect to suspend Services under this Agreement without penalty.
- 3.3.3. Payments due and owing that are not received within thirty (30) days of an invoice date will be subject to interest at the lesser of a one percent (1%) monthly interest charge (compounded) or the highest interest rate permitted by applicable law.

### **4. AMENDMENTS**

- 4.1. Amendments. Garver shall be entitled to an equitable adjustment in the cost and/or schedule for circumstances outside the reasonable control of Garver, including modifications in the scope of Services, applicable law, codes, or standards after the Effective Date ("Amendment"). As soon as reasonably possible, Garver shall forward a formal Amendment, in the form set forth in Exhibit D, to Owner with backup supporting the Amendment. All Amendments should include, to the extent known and available under the circumstances, documentation sufficient to enable Owner 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. All Amendments shall be effective only after being signed by the designated representatives of both Parties. Garver shall have no obligation to perform any additional services created by such Amendment until a mutually agreeable Amendment is executed by both Parties.

### **5. OWNER'S RESPONSIBILITIES**

- 5.1. In connection with the Project, Owner's responsibilities shall include the following:
- 5.1.1. Those responsibilities set forth in Exhibit A.
- 5.1.2. Owner shall be responsible for all requirements and instructions that it furnishes to Garver pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Garver pursuant to this



Agreement. Garver may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items as further set forth in Exhibit A.

5.1.3. Owner shall give prompt written notice to Garver whenever Owner observes or otherwise becomes aware of the presence at the Project site of any Hazardous Materials or any relevant, material defect, or nonconformance in: (i) the Services; (ii) the performance by any contractor providing or otherwise performing construction services related to the Project; or (iii) Owner's performance of its responsibilities under this Agreement.

5.1.4. Owner shall include "Garver, LLC" as an indemnified party under the contractor's indemnity obligations included in the construction contract documents.

5.1.5. Owner will not directly or indirectly solicit any of Garver's Personnel during performance of this Agreement and for a period of one (1) year beyond completion of this Agreement.

## **6. GENERAL REQUIREMENTS**

### **6.1. Standards of Performance.**

6.1.1. Industry Practice. Garver shall perform any and all Services required herein in accordance with generally accepted practices and standards employed by the applicable United States professional services industries as of the Effective Date practicing under similar conditions and locale. Such generally accepted practices and standards are not intended to be limited to the optimum practices, methods, techniques, or standards to the exclusion of all others, but rather to a spectrum of reasonable and prudent practices employed by the United States professional services industry.

6.1.2. Owner shall not be responsible for discovering deficiencies in the technical accuracy of Garver's services. Garver shall promptly correct deficiencies in technical accuracy without the need for an Amendment unless such corrective action is directly attributable to deficiencies in Owner-furnished information.

6.1.3. On-site Services. Garver and its representatives shall comply with Owner's and its separate contractor's Project-specific safety programs, which have been provided to Garver in writing in advance of any site visits.

6.1.4. Relied Upon Information. Garver may use or rely upon design elements and information ordinarily or customarily furnished by others including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

6.1.5. Aside from Garver's direct subconsultants, Garver shall not at any time supervise, direct, control, or have authority over any contractor's work, nor shall Garver have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any such contractor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a contractor to comply with laws and regulations applicable to that contractor's services. Garver shall not be responsible for the acts or omissions of any contractor for whom it does not have a direct contract. Garver neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform



its work in accordance with the construction contract documents applicable to the contractor's work, even when Garver is performing construction phase services.

6.1.6. In no event is Garver acting as a "municipal advisor" as set forth in the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission. Garver's Services expressly do not include providing advice pertaining to insurance, legal, finance, surety-bonding, or similar services.

## 6.2. Instruments of Service.

6.2.1. Deliverables. All reports, specifications, record drawings, models, data, and all other information provided by Garver or its subconsultants, which is required to be delivered to Owner under Exhibit A (the "**Deliverables**"), shall become the property of Owner subject to the terms and conditions stated herein.

6.2.2. Electronic Media. Owner hereby agrees that all electronic media, including CADD files ("**Electronic Media**"), are tools used solely for the preparation of the Deliverables. Upon Owner's written request, Garver will furnish to Owner copies of Electronic Media 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 in all respects. Electronic Media is furnished without guarantee of compatibility with the Owner's software or hardware. Because Electronic Media can be altered, either intentionally or unintentionally, by transcription, machine error, environmental factors, or by operators, it is agreed that, to the extent permitted by applicable law, Owner shall indemnify and hold Garver, Garver's subconsultants, and their Personnel harmless from and against any and all claims, liabilities, damages, losses, and costs, including, but not limited to, costs of defense arising out of changes or modifications to the Electronic Media form in Owner's possession or released to others by Owner. Garver's sole responsibility and liability for Electronic Media is to furnish a replacement for any non-functioning Electronic Media for reasons solely attributable to Garver within thirty (30) days after delivery to Owner.

6.2.3. Property Rights. All intellectual property rights of a Party, including copyright, patent, and reuse ("**Intellectual Property**"), shall remain the Intellectual Property of that Party. Garver shall obtain all necessary Intellectual Property from any necessary third parties in order to execute the Services. Any Intellectual Property of Garver or any third party embedded in the Deliverables shall remain so imbedded and may not be separated therefrom.

6.2.4. License. Upon Owner fulfilling its payment obligations under this Agreement, Garver hereby grants Owner a license to use the Intellectual Property, but only in the operation and maintenance of the Project for which it was provided. Use of such Intellectual Property for modification, extension, or expansion of this Project or on any other project, unless under the direction of Garver, shall be without liability to Garver and Garver's subconsultants. To the extent permitted by applicable law, Owner shall indemnify and hold Garver, Garver's subconsultants, and their Personnel harmless from and against any and all claims, liabilities, damages, losses, and costs, including but not limited to costs of defense arising out of Owner's use of the Intellectual Property contrary to the rights permitted herein.



### 6.3. Opinions of Cost.

6.3.1. Since Garver has no control over: (i) the cost of labor, materials, equipment, or services furnished by others; (ii) the contractor or its subcontractor(s)' methods of determining prices; (iii) competitive bidding; (iv) market conditions; or (v) similar material factors, Garver's opinions of Project costs or construction costs provided pursuant to Exhibit A, if any, are to be made on the basis of Garver's experience and qualifications and represent Garver's reasonable judgment as an experienced and qualified professional engineering firm, familiar with the construction industry. Garver cannot and does not guarantee that proposals, bids, or actual Project or construction costs will not vary from estimates prepared by Garver.

6.3.2. Owner understands that the construction cost estimates developed by Garver do not establish a limit for the construction contract amount. If the actual amount of the low construction bid or resulting construction contract exceeds the construction budget established by Owner, Garver will not be required to re-design the Services without additional compensation. In the event Owner requires greater assurances as to probable construction cost, then Owner agrees to obtain an independent cost estimate.

6.4. Underground Utilities. Except to the extent expressly included as part of the Services, Garver will not provide research regarding utilities or survey utilities located and marked by their owners. Furthermore, since many utility companies typically will not locate and mark their underground facilities prior to notice of excavation, Garver is not responsible for knowing whether underground utilities are present or knowing the exact location of such utilities for design and cost estimating purposes. In no event is Garver responsible for damage to underground utilities, unmarked or improperly marked, caused by geotechnical conditions, potholing, construction, or other contractors or subcontractors working under a subcontract to this Agreement.

### 6.5. Design without Construction Phase Services.

6.5.1. If the Owner requests in writing that Garver provide any specific construction phase services or assistance with resolving disputes or other subcontractor related issues, and if Garver agrees to provide such services, then Garver shall be compensated for the services as an Amendment in accordance with Sections 4 and 10.2.

6.6. Hazardous Materials. Nothing in this Agreement shall be construed or interpreted as requiring Garver to assume any role in the identification, evaluation, treatment, storage, disposal, or transportation of any Hazardous Materials. Notwithstanding any other provision to the contrary in this Agreement and to the fullest extent permitted by law, Owner shall indemnify and hold Garver and Garver's subconsultants, and their Personnel harmless from and against any and all losses which arise out of the performance of the Services and relating to the regulation and/or protection of the environment including without limitation, losses incurred in connection with characterization, handling, transportation, storage, removal, remediation, disturbance, or disposal of Hazardous Material, whether above or below ground.

6.7. Confidentiality. Owner and Garver shall consider: (i) all information provided by the other Party that is marked as "Confidential Information" or "Proprietary Information" or identified as confidential pursuant to this Section 6.7 in writing promptly after being disclosed verbally; and (ii) all documents resulting from Garver's performance of Services to be Confidential Information. Except as legally required, Confidential Information shall not be discussed with or transmitted to any third parties, except on a "need to know basis" with equal or greater



confidentiality protection or written consent of the disclosing Party. Confidential Information shall not include and nothing herein shall limit either Party's right to disclose any information provided hereunder which: (i) was or becomes generally available to the public, other than as a result of a disclosure by the receiving Party or its Personnel; (ii) was or becomes available to the receiving Party or its representatives on a non-confidential basis, provided that the source of the information is not bound by a confidentiality agreement or otherwise prohibited from transmitting such information by a contractual, legal, or fiduciary duty; (iii) was independently developed by the receiving Party without the use of any Confidential Information of the disclosing Party; or (iv) is required to be disclosed by applicable law or a court order. All confidentiality obligations hereunder shall expire three (3) years after completion of the Services. Nothing herein shall be interpreted as prohibiting Garver from disclosing general information regarding the Project for future marketing purposes.

## **7. INSURANCE**

### **7.1. Insurance.**

7.1.1. Garver shall procure and maintain insurance as set forth in Exhibit C until completion of the Service. Upon request, Garver shall name Owner as an additional insured on Garver's General Liability policy to the extent of Garver's indemnity obligations provided in Section 9 of this Agreement.

7.1.2. Upon request, Garver shall furnish Owner a certificate of insurance evidencing the insurance coverages required in Exhibit C.

## **8. DOCUMENTS**

8.1. Audit. Garver will retain all pertinent records for a period of three (3) years beyond completion of the Services. Owner may have access to such records during normal business hours with three (3) business days advanced written notice. In no event shall Owner be entitled to audit the makeup of lump sum or other fixed prices (e.g., agreed upon unit or hour rates).

8.2. Delivery. After completion of the Project, and prior to final payment, Garver shall deliver to the Owner all Deliverables required under Exhibit A.

## **9. INDEMNIFICATION / WAIVERS**

### **9.1. Indemnification.**

9.1.1. Garver Indemnity. Subject to the limitations of liability set forth in Section 9.2, Garver agrees to indemnify and hold Owner, and Owner's Personnel harmless from Damages due to bodily injury (including death) or third-party tangible property damage to the extent such Damages are caused by the negligent acts, errors, or omissions of Garver or any other party for whom Garver is legally liable, in the performance of the Services under this Agreement.

9.1.2. Owner Indemnity. Subject to the limitations of liability set forth in Section 9.2, Owner agrees to indemnify and hold Garver and Garver's subconsultants and their Personnel harmless from Damages due to bodily injury (including death) or third-party tangible property damage to the extent caused by the negligent acts, errors, or omissions of Owner or any other party for whom Owner is legally liable, in the performance of Owner's obligations under this Agreement.



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

9.2. Waivers. Notwithstanding any other provision to the contrary, the Parties agree as follows:

9.2.1. The Parties agree that any claim or suit for Damages made or filed against the other Party will be made or filed solely against Garver or Owner respectively, or their successors or assigns, and that no Personnel shall be personally liable for Damages under any circumstances.

9.2.2. Mutual Waiver. To the fullest extent permitted by law, neither Owner, Garver, nor their respective Personnel shall be liable for any consequential, special, incidental, indirect, punitive, or exemplary damages, or damages arising from or in connection with loss of use, loss of revenue or profit (actual or anticipated), loss by reason of shutdown or non-operation, increased cost of construction, cost of capital, cost of replacement power or customer claims, and Owner hereby releases Garver, and Garver releases Owner, from any such liability.

9.2.3. Limitation. In recognition of the relative risks and benefits of the Project to both the Owner and Garver, Owner hereby agrees that Garver's and its Personnel's total liability under the Agreement shall be limited to one hundred percent (100%) of Garver's fee set forth in Exhibit B or an amount equal to the amount of compensation actually received by Garver from Owner.

9.2.4. No Other Warranties. No other warranties or causes of action of any kind, whether statutory, express or implied (including all warranties of merchantability and fitness for a particular purpose and all warranties arising from course of dealing or usage of trade) shall apply. Owner's exclusive remedies and Garver's only obligations arising out of or in connection with defective Services (patent, latent or otherwise), whether based in contract, in tort (including negligence and strict liability), or otherwise, shall be those stated in the Agreement.

9.2.5. The limitations set forth in Section 9.2 apply regardless of whether the claim is based in contract, tort, or negligence including gross negligence, strict liability, warranty, indemnity, error and omission, or any other cause whatsoever.

## 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 Owner and Garver 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 for arbitration in lieu of litigation.



- 10.1.2. Arbitration of the Dispute shall be administered by the American Arbitration Association (“AAA”) in accordance with its Construction Industry Arbitration Rules. EACH PARTY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, ANY AND ALL RIGHT TO TRIAL BY JURY. The arbitration shall be conducted by a single arbitrator, agreed to by the Parties. In no event may a demand for arbitration be made if the institution of legal or equitable proceedings based on such dispute is barred by the applicable statute of limitations.
- 10.1.3. The site of the arbitration shall be El Dorado, Kansas. Each Party hereby consents to the jurisdiction of the federal and state courts within whose district the site of arbitration is located for purposes of enforcement of this arbitration provision, for provisional relief in aid of arbitration, and for enforcement of any award issued by the arbitrator.
- 10.1.4. To avoid multiple proceedings and the possibility of inconsistent results, either Party may seek to join third parties with an interest in the outcome of the arbitration or to consolidate arbitration under this Agreement with another arbitration. Within thirty (30) days of receiving written notice of such a joinder or consolidation, the other Party may object. In the event of such an objection, the arbitrator shall decide whether the third party may be joined and/or whether the arbitrations may be consolidated. The arbitrator shall consider whether any entity will suffer prejudice as a result of or denial of the proposed joinder or consolidation, whether the Parties may achieve complete relief in the absence of the proposed joinder or consolidation, and any other factors which the arbitrators conclude should factor on the decision.
- 10.1.5. The arbitrator shall have no authority to award punitive damages. Any award, order or judgment pursuant to the arbitration is final and may be entered and enforced in any court of competent jurisdiction.
- 10.1.6. The prevailing Party shall be entitled to recover its attorneys’ fees, costs, and expenses, including arbitrator fees and costs and AAA fees and costs.
- 10.1.7. The foregoing arbitration provisions shall be final and binding, construed and enforced in accordance with the Federal Arbitration Act, notwithstanding the provisions of this Agreement specifying the application of other law. Pending resolution of any Dispute, unless the Agreement is otherwise terminated, Garver shall continue to perform the Services under this Agreement that are not the subject of the Dispute, and Owner shall continue to make all payments required under this Agreement that are not the subject of the Dispute.
- 10.1.8. Owner and Garver further agree to use commercially reasonable efforts to include a similar dispute resolution provision in all agreements with independent contractors and subconsultants retained for the Project.
- 10.1. Litigation Assistance. This Agreement does not include costs of Garver for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by Owner, unless litigation assistance has been expressly included as part of Services. In the event Owner requests such services of Garver, this Agreement shall be amended in writing by both Owner and Garver to account for the additional services and resulting cost in accordance with Section 4.

## **11. TERMINATION**



- 11.1. Termination for Convenience. Owner shall have the right at its sole discretion to terminate this Agreement for convenience at any time upon giving Garver ten (10) days' written notice. In the event of a termination for convenience, Garver shall bring any ongoing Services to an orderly cessation. Owner shall compensate Garver in accordance with Exhibit B for: (i) all Services performed and reasonable costs incurred by Garver on or before Garver's receipt of the termination notice, including all outstanding and unpaid invoices, and (ii) all costs reasonably incurred to bring such Services to an orderly cessation.
- 11.2. Termination for Cause. This Agreement may be terminated by either Party in the event of failure by the other Party to perform any material obligation in accordance with the terms hereof. Prior to termination of this Agreement for cause, the terminating Party shall provide at least seven (7) business days written notice and a reasonable opportunity to cure to the non-performing Party. In all events of termination for cause due to an event of default by the Owner, Owner shall pay Garver for all Services properly performed prior to such termination in accordance with the terms, conditions and rates set forth in this Agreement.
- 11.3. Termination in the Event of Bankruptcy. Either Party may terminate this Agreement immediately upon notice to the other Party, and without incurring any liability, if the non-terminating Party has: (i) been adjudicated bankrupt; (ii) filed a voluntary petition in bankruptcy or had an involuntary petition filed against it in bankruptcy; (iii) made an assignment for the benefit of creditors; (iv) had a trustee or receiver appointed for it; (v) becomes insolvent; or (vi) any part of its property is put under receivership.

## 12. MISCELLANEOUS

- 12.1. Governing Law. This Agreement is governed by the laws of the State of Kansas, without regard to its choice of law provisions.
- 12.2. Successors and Assigns. Owner and Garver each bind themselves and their successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; neither Owner nor Garver shall assign, sublet, or transfer their interest in this Agreement without the written consent of the other, which shall not be unreasonably withheld or delayed.
- 12.3. Independent Contractor. Garver is and at all times shall be deemed an independent contractor in the performance of the Services under this Agreement.
- 12.4. No Third-Party Beneficiaries. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than Owner and Garver. This Agreement does not contemplate any third-party beneficiaries.
- 12.5. Entire Agreement. This Agreement constitutes the entire agreement between Owner and Garver 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.
- 12.6. 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.



12.7. 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 transmitted electronically in legible form, shall be equally effective as delivery of a manually executed counterpart of this Agreement.

### 13. EXHIBITS

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

- Exhibit A – Scope of Services
- Exhibit B – Compensation Schedule
- Exhibit C – Insurance
- Exhibit D – Form of Amendment

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

Owner and Garver, by signing this Agreement, acknowledges that they have independently assured themselves and confirms that they individually have examined all Exhibits, and agrees that all of the aforesaid Exhibits shall be considered a part of this Agreement and agrees to be bound to the terms, provisions, and other requirements thereof, unless specifically excluded.

Acceptance of this proposed Agreement is indicated by an authorized agent of the Owner signing in the space provided below. Please return one signed original of this Agreement to Garver for our records.



**IN WITNESS WHEREOF**, Owner and Garver have executed this Agreement effective as of the date last written below.

**City of El Dorado, Kansas**

**Garver, LLC**

By: \_\_\_\_\_  
*Signature*

By: \_\_\_\_\_  
*Signature*

Name: \_\_\_\_\_  
*Printed Name*

Name: \_\_\_\_\_  
*Printed Name*

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_



## **EXHIBIT A (SCOPE OF SERVICES)**

### **I. GENERAL**

Generally, the scope of services includes existing site assessments, community engagement, market opportunity analysis, concept design, financial feasibility assessment, and development of a comprehensive master planning documents for assist in the planning and conceptual design/ layout of a new state-of-the-art aquatics center. Improvements will consist primarily of an indoor/ outdoor aquatics facility to provide recreational, competitive, and therapeutic facilities for the community, and serve the needs of the local population, including residents, schools, and competitive swimming teams.

### **II. SURVEYS**

Survey is not anticipated for the completion of the Project and not included in this scope of services but can be added by amendment. Any information provided by Owner to Garver is assumed as correct.

### **III. GEOTECHNICAL SERVICES**

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

### **IV. ENVIRONMENTAL SERVICES**

Environmental Services are not anticipated for the completion of the Project and not included in this scope of services and can be added by amendment. Any information provided by Owner to Garver is assumed as correct.

### **V. Preliminary Design/ Master Planning**

This scope of work is outlined below and will include the following tasks:

#### **Task 1- Site Assessment**

- We will evaluate up to five separate locations identified by the Owner. This evaluation will encompass a review of access, utilities, topography, and environmental concerns, as well as identifying any zoning or permitting issues. Additional considerations will include drainage concerns and visual assessments. Findings from the evaluations will be compiled into a comprehensive site analysis report.

#### **Task 2- Community Engagement/ Public Outreach**

- Owner will host and update project website on City of El Dorado's StoryMap account.. Up to three community workshops or open houses will be organized and facilitated by the City to gather input and share project updates. Garver staff will attend these meetings, and will print display boards, banners, and other materials and will invoice as reimbursable expenses. Additionally, up to two online surveys will be developed and distributed by the City to collect broader feedback. The results of the surveys will be provided to the Garver Team for incorporation into the overall design concepts. Community outreach materials will be prepared to support engagement efforts, and participation will be tracked through attendance at meetings, survey responses, and interactions on social media platforms.



### **Task 3- Preliminary Concept Design**

- Develop preliminary concepts for each site, up to four total site locations (site fit concepts). This will include building concept design, pool and pool deck design (indoor and/or outdoor), aquatics features design, determine building programming needs, and review utility access options.
- Operations Budget
- Establish Project Schedule
- For the final selected site location, develop multiple conceptual master plan alternatives based on a more refined programming and site analysis. We will consider all of the previous information discovered during the planning phases to direct the design of the facilities.
- Existing outdoor pool facility assessment including visual review of the pool structure, filter building, mechanical systems, water loss conditions, pool deck and fence, pool features and amenities, pool deck equipment, and pool site.
- Existing interior pool facility- review the site conditions of the indoor pool and review previous conditions reports.
- Illustrate design concepts through diagrams, renderings, and site plans. Preliminary site fit options will be in a 2d plan view, and the final selected site will be in a 2d plan view as well as selected 3d views.
- Present design alternatives to City staff, stakeholders, and the public for review and feedback.
- Provide conceptual level cost estimate

### **Task 4- Financial Feasibility Assessment**

- Step 1- Kick off meeting- we will set up a virtual meeting to discuss the process and timing for the financial feasibility assessment phase.
- Step 2- Detailed Financial Forecast (Pro Forma)
  - In this step, we will produce a 5-year cash flow forecast and 20-year financial outlook. Our pro forma documents are detailed, institutional-grade financial forecasts used to support decision-making and financing.
  - The pro forma will provide insight into the financial potential of the project and will include projections related to construction and start-up costs, revenue/ expenses by product/ program, EBITDA, net income, facility utilization.
  - The pro forma will provide the OWNER with detailed financial projections related to and based on:
    - The ideal business model



- Realistic and/or recommended debt-to-equity mix and debt service
  - Right-sized program spaces and space requirements
  - Construction and start-up costs based on recent, comparable projects
  - Recommended parking
  - Revenue by product/ program
  - Direct/ variable costs (cost of goods sold)
  - Facility and operating expenses
  - Management and staffing model
  - Utilization projections
- Step 3- Economic Impact Analysis
    - In this step, we will project the economic impact of the facility on an annual basis. Economic impact is defined as new off-site spending that will occur in the market as a result of tournaments and events held at the facility. This information is used to project economic activity from out-of-town visitors who would not be in the market but for the events that will be held at the facility.
  - Step 4- Executive Summary & Recommendations
    - In this step, we will produce a summary report for the project. The summary report will include an overview of the market analysis and feasibility assessment (pro forma). Also included are considerations around playing surface materials, onsite amenities, parking, concessions, lighting, and more. Consultant will work with the Client on next steps for the project as well as provide recommendations on the existing facility (if any) and programming plans.

#### **Task 5- Development of Comprehensive Master Planning Document**

- In the final task, we will refine the selected aquatics concept to a more detailed light schematic level plan based on feedback from the City and public. A detailed master plan document will be developed, incorporating data collected and insights gained during previous tasks. This document will include a phased implementation strategy and an opinion of probable costs to guide the project's future steps.

#### **VI. PROJECT DELIVERABLES**

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

- A. Comprehensive master planning document summarizing all data discovered and developed during this phase of work.
- B. Garver will provide a digital PDF copy and 10 hard copies of the document to the OWNER.

#### **VII. EXTRA WORK**

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



1. Survey
2. Geotechnical
3. Construction Documents
4. Environmental Services
5. Mechanical/ Electrical/ Plumbing/ Structural Services

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

#### **VIII. SCHEDULE**

Garver shall begin work under this Agreement within ten (10) days of a Notice to Proceed and shall completed within 27 weeks. A more detailed schedule will be provided at notice to proceed.

#### **IX. ADDITIONAL OBLIGATIONS**

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

1. Give thorough consideration to all documents and other information presented by Garver and informing Garver of all decisions within a reasonable time so as not to delay the Services.
2. Make provision for the Personnel of Garver to enter public and private lands as required for Garver to perform necessary work.
3. Furnish Garver such plans and records of construction and operation of existing facilities, available aerial photography, reports, surveys, or copies of the same, related to or bearing on the proposed work as may be in the possession of Owner. Such documents or data will be returned upon completion of the Services or at the request of Owner.



**EXHIBIT B  
(COMPENSATION SCHEDULE)**

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

| WORK DESCRIPTION                                              | FEE AMOUNT   | FEE TYPE      |
|---------------------------------------------------------------|--------------|---------------|
| Task 1- Site Assessment                                       | \$31,611.00  | RATE SCHEDULE |
| Task 2- Community Engagement/Public Outreach                  | \$13,429.00  | RATE SCHEDULE |
| Task 3- Preliminary Concept Design                            | \$53,133.00  | RATE SCHEDULE |
| Task 4- Financial Feasibility Assessment                      | \$37,196.00  | RATE SCHEDULE |
| Task 5- Development of Comprehensive Master Planning Document | \$26,717.00  | RATE SCHEDULE |
| TOTAL FEE                                                     | \$162,086.00 |               |

The Owner will pay Garver for Service rendered at the agreed upon rates for each classification of Garver's personnel (may include contract staff classified at Garver's discretion) plus reimbursable expenses including but not limited to printing, courier service, reproduction, and travel. The total amount paid to Garver under this Agreement is estimated to be \$162,086.00. The actual total fee may exceed this estimate. For informational purposes, a breakdown of Garver's estimated cost is included in this Exhibit B with approximate current hourly rates for each employee classification. The agreed upon rates will be increased annually with the first increase effective on or about June 2026.

Expenses other than salary costs that are directly attributable to performance of our Services will be billed as follows:

1. Direct cost for travel, long distance and wireless communications, outside reproduction and presentation material preparation, and mail/courier expenses.

Additional Services (Extra Work). For services not described or included in Section 2, but requested by the Owner in writing or otherwise permitted under Section 4, the Owner will pay Garver as expressly set forth in the applicable Amendment, or in the event the Amendment is silent, for the additional time spent on the Project, at the agreed upon rates for each classification of Garver's personnel (may include contract staff classified at Garver's discretion) plus reimbursable expenses including but not limited to printing, courier service, reproduction, and travel.



**Exhibit B**  
**City of El Dorado, KS**  
**El Dorado, KS Aquatics Phase 1**  
**Garver Hourly Rate Schedule: July 2024 - June 2025**

| Classification                  | Rates     | Classification                     | Rates     |
|---------------------------------|-----------|------------------------------------|-----------|
| <b>Engineers / Architects</b>   |           | <b>Resource Specialists</b>        |           |
| E-1                             | \$ 136.00 | RS-1                               | \$ 109.00 |
| E-2                             | \$ 150.00 | RS-2                               | \$ 143.00 |
| E-3                             | \$ 181.00 | RS-3                               | \$ 202.00 |
| E-4                             | \$ 212.00 | RS-4                               | \$ 279.00 |
| E-5                             | \$ 257.00 | RS-5                               | \$ 349.00 |
| E-6                             | \$ 317.00 | RS-6                               | \$ 428.00 |
| E-7                             | \$ 439.00 | RS-7                               | \$ 479.00 |
| <b>Planners</b>                 |           | <b>Environmental Specialists</b>   |           |
| P-1                             | \$ 164.00 | ES-1                               | \$ 109.00 |
| P-2                             | \$ 204.00 | ES-2                               | \$ 137.00 |
| P-3                             | \$ 254.00 | ES-3                               | \$ 175.00 |
| P-4                             | \$ 284.00 | ES-4                               | \$ 206.00 |
| P-5                             | \$ 321.00 | ES-5                               | \$ 258.00 |
| <b>Designers</b>                |           | ES-6                               | \$ 331.00 |
| D-1                             | \$ 123.00 | ES-7                               | \$ 414.00 |
| D-2                             | \$ 141.00 | ES-8                               | \$ 468.00 |
| D-3                             | \$ 168.00 | <b>Project Controls</b>            |           |
| D-4                             | \$ 201.00 | PC-1                               | \$ 111.00 |
| <b>Technicians</b>              |           | PC-2                               | \$ 146.00 |
| T-1                             | \$ 99.00  | PC-3                               | \$ 186.00 |
| T-2                             | \$ 119.00 | PC-4                               | \$ 239.00 |
| T-3                             | \$ 145.00 | PC-5                               | \$ 292.00 |
| T-4                             | \$ 188.00 | PC-6                               | \$ 376.00 |
| <b>Surveyors</b>                |           | PC-7                               | \$ 473.00 |
| S-1                             | \$ 61.00  | <b>Administration / Management</b> |           |
| S-2                             | \$ 81.00  | AM-1                               | \$ 78.00  |
| S-3                             | \$ 108.00 | AM-2                               | \$ 100.00 |
| S-4                             | \$ 154.00 | AM-3                               | \$ 140.00 |
| S-5                             | \$ 195.00 | AM-4                               | \$ 178.00 |
| S-6                             | \$ 227.00 | AM-5                               | \$ 218.00 |
| 2-Man Crew (Survey)             | \$ 234.00 | AM-6                               | \$ 283.00 |
| 3-Man Crew (Survey)             | \$ 294.00 | AM-7                               | \$ 333.00 |
| 2-Man Crew (GPS Survey)         | \$ 255.00 | M-1                                | \$ 531.00 |
| 3-Man Crew (GPS Survey)         | \$ 315.00 |                                    |           |
| <b>Construction Observation</b> |           |                                    |           |
| C-1                             | \$ 117.00 |                                    |           |
| C-2                             | \$ 146.00 |                                    |           |
| C-3                             | \$ 178.00 |                                    |           |
| C-4                             | \$ 230.00 |                                    |           |
| C-5                             | \$ 270.00 |                                    |           |

Agreement for Professional Services  
El Dorado, Ks Aquatics Phase 1

Garver Project No. 2402268



**EXHIBIT C  
(INSURANCE)**

Pursuant to Section 7.1 of the Agreement, Garver shall maintain the following schedule of insurance until completion of the Services:

|                                                           |                 |
|-----------------------------------------------------------|-----------------|
| Worker's Compensation                                     | Statutory Limit |
| Automobile Liability                                      |                 |
| Combined Single Limit (Bodily Injury and Property Damage) | \$500,000       |
| General Liability                                         |                 |
| Each Occurrence                                           | \$1,000,000     |
| Aggregate                                                 | \$2,000,000     |
| Professional Liability                                    |                 |
| Each Claim Made                                           | \$1,000,000     |
| Annual Aggregate                                          | \$2,000,000     |



EXHIBIT D  
(FORM OF AMENDMENT)

AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT  
City of El Dorado, Kansas  
Project No. 22W34060

AMENDMENT NO. [?]

This Amendment No. [?], effective on the date last written below, shall amend the original contract between the City of El Dorado, Kansas] (“**Owner**”) and Garver, LLC (“**Garver**”), dated [Insert date] (the “**Agreement**”).

This Amendment No. [?] adds/modifies the Services for the:

**[Describe improvements and location]**

The Agreement is hereby modified as follows:

**SECTION [?] – [Insert section heading]**

Section [?] of the Agreement is hereby amended as follows:

This Amendment may be executed in two (2) or more counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, Owner and Garver have executed this Amendment effective as of the date last written below.

City of El Dorado, Kansas

Garver, LLC

By: \_\_\_\_\_  
*Signature*

By: \_\_\_\_\_  
*Signature*

Name: \_\_\_\_\_  
*Printed Name*

Name: \_\_\_\_\_  
*Printed Name*

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_