

Department of Engineering
Tim Bryan, P.E., PTOE, County Engineer

3137 South Liberty Street, Canton, MS 39046
Office (601) 855-5582 FAX (601) 859-5857

MEMORANDUM

October 31, 2024

To: Casey Brannon, Supervisor, District I
Trey Baxter, Supervisor, District II
Gerald Steen, Supervisor, District III
Karl Banks, Supervisor, District IV
Paul Griffin, Supervisor, District V

From: Tim Bryan, P.E., PTOE
County Engineer

Re: Engineering Design Contract
Stribling Road from Hwy 463 to Dewees Road

The Engineering Department requests approval of the design contract with Garver, LLC for the design of the widening of Stribling Road for a fee not to exceed \$803,000.00 and to authorize the Board President to sign the contract.



**Agreement
For
Professional Services
Madison County Board of Supervisors**

Stribling Road from Hwy 463 to Dewees Rd

Project No. 2401883



Contents

RECITALS	1
1. DEFINITIONS	1
2. SCOPE OF SERVICES	1
3. PAYMENT	1
4. AMENDMENTS	2
5. OWNER'S RESPONSIBILITIES	2
6. GENERAL REQUIREMENTS	3
7. INSURANCE	6
8. DOCUMENTS	6
9. INDEMNIFICATION / WAIVERS	6
10. DISPUTE RESOLUTION	7
11. TERMINATION	8
12. MISCELLANEOUS	9
13. EXHIBITS	10



THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is made as of the Effective Date by and between the **Madison County Board of Supervisors** (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 make improvements for Stribling Road from Highway 463 to Dewees Road in Madison County, Mississippi (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. The Owner's terms and conditions set forth in a purchase order (or any similar document) are expressly rejected.

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.

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 Canton, Mississippi. 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.

10.2. 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, (ii) all costs reasonably incurred to bring such Services to an orderly cessation; and (iii) a cancellation fee equal to five percent (5%) of the value of the unperformed Services as a direct result of the termination.

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 Mississippi, 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.

[Signatures follow]



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

Madison County Board of Supervisors

Garver, LLC

By: _____
Signature

By: _____
Signature

Name: _____
Printed Name

Name: Wayne Black
Printed Name

Title: _____

Title: Business Team Leader

Date: _____

Date: 10/30/24

Attest: _____

Attest: M. Shan Well



**EXHIBIT A
(SCOPE OF SERVICES)**

I. GENERAL PROJECT DESCRIPTION

1. Madison County intends to construct roadway improvements for Stribling Road from Highway 463 to Dewees Road. Specifically, improvements will consist of roadway widening to either a four-lane or five-lane section, or a combination thereof, for approximately two (2) miles. The project is not expected to utilize federal funding; therefore, will not follow MDOT's LPA process.
2. The scope of work for engineering services will generally consist of the following tasks:
 - A. Project Management
 - B. Design Surveying Services
 - C. Geotechnical Services
 - D. Environmental Services
 - E. Utility Coordination
 - F. Roadway Design Services
 - G. Contract Documents and Technical Specifications
 - H. Bidding Services

** Right-of-Way Acquisition is not included in this scope of work and is to be contracted with Madison County separately via a future supplemental agreement.

II. SCOPE OF SERVICES

3. PROJECT MANAGEMENT
 - A. Coordinate with the County Engineer on a regular basis as needed regarding requests for information, progress updates, etc., and hold meetings with the County Engineer at construction plan submission intervals or as requested.
 - B. Provide project updates to the Board of Supervisors on a quarterly basis.
 - C. Obtain information from MDOT regarding design of Highway 463/Stribling Road intersection to ensure proper transition/connection of projects.
 - D. Coordinate with Project Engineer for the proposed Stribling Road project east of Dewees Road to ensure proper transition/connection of projects.
 - E. Attend stakeholder meetings and provide support as necessary.
4. DESIGN AND BOUNDARY SURVEYS (TICE ENGINEERING AND SURVEYING INC. AS SUBCONSULTANT)
 - A. Complete a survey of all topographic features within existing road right-of-way and of adjacent properties to be acquired for construction of the project.
 - B. Develop an aerial photograph of the project using an Unmanned Aerial Vehicle (drone) for use in design.
 - C. Establish existing roadway right-of-way to survey-grade accuracy, including establishment of adjacent subdivision boundaries where applicable.
 - D. Locate all existing overhead utilities and underground utilities as marked in response to Mississippi 811 locate request.



- E. Establish horizontal and vertical control points for construction layout purposes.
 - F. Development of survey plats and legal descriptions for individual properties to be acquired for right-of-way and/or easements are not included in this scope of work. This work is to be contracted with Madison County separately via a future supplemental agreement.
5. GEOTECHNICAL SERVICES (TERRACON AS SUBCONSULTANT)
- A. Perform field borings and laboratory work along the roadway alignment at intervals necessary for adequate design.
 - B. Develop plan(s) of remediation for existing pavement failure areas within the project limits.
 - C. Develop a geotechnical report that includes boring logs (including groundwater levels if encountered), centerline profile of soil stratification, subsurface exploration procedures, earthwork and site preparation recommendations, a pavement design and recommended pavement options, and recommendations to remediate the pavement failures mentioned in 2b above.
6. ENVIRONMENTAL SERVICES
- A. USACE Coordination
 - 1. Wetland Delineation, Report, and Preliminary Jurisdictional Determination

Garver will conduct a wetland delineation to determine the limits of potentially jurisdictional Waters of the United States, including streams, within the project limits. Each potentially jurisdictional feature will be mapped with a sub-meter GPS, which will be used to create shapefiles for use in determining avoidance and minimization of impacts and permitting. The delineation will utilize methodologies outlined in the appropriate Regional Supplement to the U.S. Army Corps of Engineers (USACE) Wetlands Delineation Manual. Garver will accomplish the following as part of the wetland delineation:

 - Review pertinent resources related to the project site's hydrology and soils, and review of historical topographic maps and aerial photographs.
 - Field survey of wetlands and streams within the project boundary.
 - Create shapefiles from field-collected data to be utilized in wetland report exhibits and for quantification of wetland acreages and stream lengths within the project.
 - Complete a wetland delineation report of findings that includes necessary documentation for submittal to the USACE to obtain a Preliminary Jurisdictional Determination (PJD) and appropriate Section 404 permit application.
 - 2. Section 404 Nationwide Permit Coordination

Garver will coordinate with the USACE for the issuance of a Section 404 Nationwide Permit (NWP) for potential wetland and/or stream impacts. Mitigation planning beyond mitigation banking coordination assistance is considered extra work. Garver will:

 - Compile a Section 404 NWP package that will include the following:
 - Eng Form 6082



- Impact determinations (acreage and linear feet) shown on aerial exhibits and/or design plan sheets.
- Functional Value Assessment (FVA) for determining required mitigation credits.
- Design plan sheets
- Locate and coordinate the appropriate wetland and/or stream mitigation bank.
- Facilitate the purchase of required credits with the Client and USACE.

B. USFWS Coordination

Garver will conduct a habitat assessment of the project area to identify suitable habitat for state and federally listed threatened and endangered species of concern. Garver will contact the U.S. Fish and Wildlife (USFWS) to obtain concurrence on preliminary effects determinations and to coordinate avoidance and minimizations efforts, if necessary, as part of informal Section 7 consultation. If suitable habitat for any listed threatened or endangered species is encountered within the project location, it may be necessary to survey for the species. Presence and absence surveys for any listed threatened or endangered species are not included as a part of this scope as they can require federally permitted biologists. Section 7 formal consultation is not part of this scope, but can be added by written amendment.

C. SHPO Coordination

At the direction of the Client and USACE, Garver will conduct initial coordination with the State Historic Preservation Officer (SHPO) to determine if historic or archaeological sites are in the area of the project. If such sites are determined to be located within the study area by SHPO or interested Tribes recommend a Cultural Resources Survey, such survey will be completed.

D. Storm Water Pollution Prevention Plan (SWPPP)

If the project disturbs more than five (5) acres, a Large Construction Notice of Intent and Storm Water Pollution Prevention Plan (SWPPP) will be submitted to the Mississippi Department of Environmental Quality on behalf of Madison County for review and approval. If the project disturbs between one (1) and five (5) acres, a Small Construction Notice of Intent and SWPPP will be prepared and kept on file.

7. UTILITY COORDINATION

- A. Establish and maintain communication with all impacted utility providers (Entergy, Centerpoint Energy, Bear Creek Water Association, Canton Municipal Utilities, all telecommunication companies, gas transmission pipeline company with facility west of McMillon Road, and any others currently unknown that are identified during project design).
- B. Verify utility locations provided by topographic survey through field investigations, utility records, and consultation with utility providers.



- C. Conduct up to three (3) utility coordination meetings to discuss project impacts, timelines, and required actions for each utility.
 - D. Analyze potential conflicts between existing utilities and the proposed road widening design. Coordinate with utility companies to review relocation plans and schedule to ensure compatibility with the road design and construction schedule.
 - E. Facilitate utility agreements, including any cost-sharing arrangements if applicable.
 - F. Monitor the progress of utility relocations to ensure they adhere to the project design and schedule.
 - G. Coordinate with the respective gas pipeline company regarding the proposed pipeline crossing just west of McMillon Road.
 - H. It is assumed at this point that a Subsurface Utility Engineering (SUE) Level A or Level B survey is not required and is not included in this scope of services.
 - I. Design of relocated utilities will be provided by the respective utility companies and is not included in this scope of services.
8. ROADWAY DESIGN
- A. Perform a capacity analysis to determine the operational and geometric requirements of the project. Traffic analysis will be conducted for two proposed alternatives (four-lane and five-lane) for future design year. Capacity and queueing analyses will be conducted for the AM and PM peak hours utilizing the Synchro software.
 - B. Provide conceptual roadway layout(s) to the County Engineer as needed to minimize impacts to residential properties.
 - C. Obtain traffic counts for use in capacity analysis and pavement design. Traffic data will be collected for intersections along Stribling Road at Highway 463, Hartfield Road, Charlton Drive /Johnstone Drive, Devlin Springs Drive, Devlin Drive, McMillon Road, Camden Lake Drive, Silverleaf Drive, Camden Crossing, and Dewees Road.
 - D. Provide construction plan progress sets at preliminary and final design levels. Plans will be developed using Bentley Geopak or OpenRoads software.
 - E. Provide cost estimates to supplement the preliminary and final construction plan submissions.
 - F. Plans sheets shall include title sheet, detailed index, general notes, typical sections, summary of quantities, erosion control sheets, plan/profile sheets, special design sheets (as required), traffic control plans, pavement markings, signing, standard detail sheets, and cross-sections.



- G. Existing hydraulic structures will be analyzed according to the appropriate roadway classification or design event based on existing conditions and re-designed as necessary.
9. CONTRACT DOCUMENTS AND TECHNICAL SPECIFICATIONS
- A. The contract documents will include the construction drawings mentioned in the previous section and in addition will include but not be limited to notice to bidders, proposal forms, bid forms, bond forms, general conditions, supplementary conditions, special provisions (if required), technical specifications, and any other information required by Madison County to competitively bid the work.
 - B. If applicable, the Owner will provide Garver with a digital copy of their standard contract forms, drawing formats, etc., to be utilized for development of the contract documents.
 - C. General conditions shall be those published by the Engineers Joint Contract Documents Committee (EJCDC).
 - D. Technical specifications shall be the Mississippi Standard Specifications for Road and Bridge Construction, latest edition.
10. BIDDING SERVICES
- A. Assist Madison County in preparation of a legal advertisement for the project in accordance with State of Mississippi bid laws and regulations.
 - B. Distribute contract documents to prospective bidders, with compensation provided by the bidders to cover the approximate cost of printing and distribution.
 - C. Provide responses to questions from Contractors and prepare responses in the form of an addenda.
 - D. Facilitate a pre-bid conference if deemed necessary by the County Engineer.
 - E. Facilitate and/or attend the bid opening for the project.
 - F. Prepare a bid tabulation.
 - G. Evaluate bids and recommend award of the project.
11. IN ADDITION TO THOSE OBLIGATIONS SET FORTH IN THE AGREEMENT, OWNER SHALL:
- A. 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.
 - B. Make provision for the Personnel of Garver to enter public and private lands as required for Garver to perform necessary preliminary surveys and other investigations required under the applicable Work Order.
 - C. 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.

- D. Pay all plan review and advertising costs in connection with the project.
- E. Provide legal, accounting, and insurance counseling services necessary for the project and such auditing services as Owner may require.
- F. Furnish permits, permit fees, and approvals from all governmental authorities having jurisdiction over the project and others as may be necessary for completion of the project.



**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
Design & Boundary Surveys	\$87,000	Cost Plus Fixed Fee
Environmental Services	\$54,000	Cost Plus Fixed Fee
Geotechnical Services	\$53,000	Cost Plus Fixed Fee
Preliminary Roadway Design	\$148,000	Cost Plus Fixed Fee
Final Roadway Design	\$337,000	Cost Plus Fixed Fee
Traffic Analysis	\$45,000	Cost Plus Fixed Fee
Utility Coordination	\$64,000	Cost Plus Fixed Fee
Bidding Services	\$15,000	Cost Plus Fixed Fee
TOTAL FEE	\$803,000	Cost Plus Fixed Fee

The maximum not to exceed cost plus fixed fee amount to be paid under this Agreement is \$803,000. For informational purposes, a breakdown of Garver's estimated costs is included in this Exhibit B with approximate current hourly rates for each employee classification.

Any unused portion of the fee, due to delays beyond Garver's control, will be increased six percent (6%) annually with the first increase effective on or about July 1, 2026.

The Owner will pay Garver at the unburdened hourly payroll rate of each of Garver's personnel during the performance of these Services, plus payroll and general overhead costs of 196.63% of the unburdened hourly rate, plus direct reimbursable expenses normal and necessary for the completion of the Services, plus a fixed fee of 12%. Estimated cost of these Services, including the fixed fee is \$803,000. The actual total fee may exceed this estimate. For informational purposes, a breakdown of Garver's estimated costs is included in this Exhibit B with approximate current hourly rates for each employee classification. Notwithstanding the foregoing, Garver shall be entitled, in its sole discretion, to substitute a more qualified person (e.g., C-4) with a less qualified person (e.g., C-1); provided however, in such event Garver shall only be entitled to payment at the lesser rate.

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.
2. Charges similar to commercial rates for reports, plan sheets, presentation materials, etc.
3. The amount allowed by the federal government for mileage.

Garver shall provide Owner notice when Garver is within ten percent (10%) of the not-to-exceed amount. In which event, Owner may direct Garver to proceed with the Services up to the not-to-exceed budgetary threshold before ceasing performance of the Services or increase the not-to-exceed amount with notice to Garver. Underruns in any phase may be used to offset overruns in another phase as long as the overall Agreement amount is not exceeded. In no event shall the not-to-exceed amount be interpreted as a guarantee the Services can be performed for the not-to-exceed budgetary threshold.



Exhibit B
Madison County Board of Supervisors
Stribling Road - Hwy 463 to Dewees Road
Garver Hourly Rate Schedule: July 2024 - June 2025

Classification	Rates	Classification	Rates
Engineers / Architects		Resource Specialists	
E-1	\$ 46.03	RS-1	\$ 36.79
E-2	\$ 53.55	RS-2	\$ 48.54
E-3	\$ 61.46	RS-3	\$ 68.85
E-4	\$ 71.86	RS-7	\$ 163.11
E-5	\$ 87.66		
E-6	\$ 107.73		
Planners		Environmental Specialists	
P-1	\$ 55.41	ES-1	\$ 36.79
P-2	\$ 69.33	ES-2	\$ 46.28
P-3	\$ 86.59	ES-3	\$ 59.33
		ES-4	\$ 69.99
		ES-5	\$ 88.04
		ES-6	\$ 112.72
Designers		Project Controls	
D-1	\$ 41.71	PC-1	\$ 37.42
D-2	\$ 47.74	PC-2	\$ 49.67
D-3	\$ 56.97	PC-3	\$ 63.21
Technicians		Management / Administration	
T-1	\$ 33.56	AM-1	\$ 26.37
T-2	\$ 40.44	AM-2	\$ 34.05
T-3	\$ 49.32	AM-3	\$ 47.43
T-4	\$ 63.68		
Surveyors		Construction Observation	
S-1	\$ 20.27	C-1	\$ 39.75
S-2	\$ 27.19	C-2	\$ 49.62
S-3	\$ 36.58	C-3	\$ 60.73
S-4	\$ 52.53	C-4	\$ 78.46
2-Man Crew (Survey)			
3-Man Crew (Survey)			



**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
Madison County Board of Supervisors
Project No. 2401883

AMENDMENT NO. [?]

This Amendment No. [?], effective on the date last written below, shall amend the original contract between the Madison County Board of Supervisors (“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.

Madison County Board of Supervisors

Garver, LLC

By: _____
Signature

By: _____
Signature

Name: _____
Printed Name

Name: _____
Printed Name

Title: _____

Title: _____

Date: _____

Date: _____

Attest: _____

Attest: _____