



**STANDARD SHORT FORM AGREEMENT BETWEEN OWNER AND CONSTRUCTION  
MANAGER/GENERAL CONTRACTOR**

Job No.:

This Agreement is made this 22<sup>nd</sup> day of September 2025, by and between

OWNER: **CITY OF BENTON ARKANSAS**  
**410 River Street**  
**Benton, AR 72015**

and

CONSTRUCTOR: **GRANT GARRETT EXCAVATING, INC.**  
**805 McClain Road**  
**Bentonville, AR 72712**

Tax identification number (TIN) 71-0831142 Contractor License No. 0079370625

The Owner and Constructor are collectively the "Parties." Notice to the Parties shall be given at the above addresses.

PROJECT:

**ARTICLE 1 THE WORK**

1. THE WORK: The Constructor shall furnish construction administration and management services and use the Constructor's diligent efforts to perform the Work in an expeditious manner consistent with the Contract Documents. The Constructor shall provide all labor, materials, equipment, and services necessary to complete the Work, as described in Exhibit A "The Work", all of which shall be provided in full accord with and reasonably inferable from the Contract Documents.

**ARTICLE 2 PRICE**

2.1 PRICE: As full compensation for performance by the Constructor of the Work, the Owner shall pay the Constructor the contract amount of **\$7,000,000 Seven Million Dollars and Zero Cents.** The price

amount is hereinafter referred to as the Contract Price, which shall be subject to increase or decrease as provided in this Agreement.

2.2 PRICE ESCALATION: The Contract Price is based upon construction material prices, including fuel, as of the date of the Agreement. Any price increases in construction materials that occurs during the period of time between this Agreement and Constructor's date of delivery shall cause the Contract Price to be equitably adjusted by an amount reasonably necessary to cover any increase. Constructor shall have the right to adjust the Contract Price in order to pass on increases of the material costs plus any applicable taxes at the time of shipment.

2.3 PRICE BASIS: Contract Price is subject to change based on Final Plan and Modification to Scope of Work upon presentation. Any price increases in construction materials that occurs during the period of time between this Agreement and Constructor's date of delivery shall cause the Contract Price to be equitably adjusted by an amount reasonably necessary to cover any increase. The Contract Price is based on plans and specifications provided by McClelland Engineering dated August 11, 2025.

2.4 STORED MATERIALS: If Owner determines it is in their best interest to purchase stored materials, Owner understands they will be responsible for materials stored, price adjustments and changes in material scope changes. Owner will assume all liability of stored materials. Owner will be invoiced immediately (Outside of Draw Process) for all advance purchases of materials.

### **ARTICLE 3 EXHIBITS**

3. EXHIBITS The following attached exhibits are made part of this Agreement:

EXHIBIT A: Scope of Work

Exhibit B: Schedule of Values

### **ARTICLE 4 ETHICS**

4. ETHICS: The Parties shall perform their obligations with integrity, ensuring at a minimum that each: (a) avoids conflicts of interest and promptly discloses any to the other Party; and (b) warrants that it has not and shall not pay nor receive any contingent fees or gratuities to or from the other Party, including its agents, officers, and employees, subcontractors, or others for whom they may be liable, to secure preferential treatment.

### **ARTICLE 5 CONSTRUCTOR'S RESPONSIBILITIES**

5.1 CONSTRUCTOR'S RESPONSIBILITIES: Constructor shall be responsible for supervision and coordination of the Work, including the construction means, methods, techniques, sequences, and procedures utilized, unless the Contract Documents give other specific instructions.

5.1.1 Except for permits and fees that are the responsibility of the Owner pursuant to this Agreement, the Constructor shall obtain and pay for all necessary permits, licenses, and renewals pertaining to the Work.

5.1.2 The Constructor shall pay all applicable taxes for the Work provided by the Constructor.

5.1.3 If Owner elects to perform work at the Worksite directly or by others retained by the Owner, the Constructor and Owner shall coordinate the activities of all forces at the Worksite and shall agree upon fair and reasonable schedules and operational procedures for Worksite activities. The Owner shall

require each separate contractor to cooperate with the Constructor and assist with the coordination of activities and the review of construction schedules and operations. The Contract Price and Contract Time shall be equitably adjusted, as mutually agreed by the Parties, for changes made necessary by the coordination of construction activities, and the construction schedule shall be revised accordingly.

5.1.4 Before commencing the Work, the Constructor shall examine and compare the drawings and specifications with information furnished by the Contract Documents; relevant field measurements made by Constructor; and any visible conditions at the Worksite affecting the Work.

5.1.5 COMPLIANCE WITH LAWS: Constructor shall comply with all laws at its own costs. The Constructor shall be liable to the Owner for all loss, cost, or expense, attributable to any acts or omissions by the Constructor, its employees, subcontractors, and agents for failure to comply with laws, including, fines, penalties, or corrective measures.

5.1.6 WARRANTY:

5.1.6.1. Constructor warrants that all materials and equipment shall be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. The Constructor further warrants that the Work will be free from material defects not intrinsic in the design or materials required in the Contract Documents. The Constructor's warranty does not include remedies for defects or damages caused by normal wear and tear during normal usage, use for a purpose for which the Project was not intended, improper or insufficient maintenance, modifications performed by the Owner or others retained by Owner, or abuse.

5.1.6.2. If, prior to the Date of Substantial Completion and within one year after the date of Substantial Completion of the Work, any portion of the Work is found to be not in conformance with the Contract Documents ("Defective Work"), the Owner shall promptly notify the Constructor in writing. Unless the Owner provides written acceptance of the condition, the Constructor shall promptly correct the Defective Work at its own cost and time and bear the expense of additional services required for correction of any Defective Work for which it is responsible.

5.1.7 SAFETY: Constructor shall have overall responsibility for safety precautions and programs in the performance of the Work, except that the Constructor's subcontractors shall also be responsible for the safety of persons or property in the performance of their work, and for compliance with the provisions of laws. The Constructor shall seek to avoid injury, loss or damage to persons or property by taking reasonable steps to protect its employees and other persons at the Worksite; materials and equipment stored at on-site or off-site locations for use in the Work; and property located at the Worksite and adjacent to Work areas, whether or not the property is part of the Work.

5.1.8 HAZARDOUS MATERIALS: A Hazardous Material is any substance or material identified now or in the future as hazardous under any federal, state, or local law or regulation, or any other substance or material which may be considered hazardous or otherwise subject to statutory or regulatory requirement governing handling, disposal, or clean-up. The Constructor shall not be obligated to commence or continue work until any Hazardous Material discovered at the Worksite has been removed or rendered or determined to be harmless by the Owner as certified by an independent testing laboratory and approved by the appropriate government agency. If the Constructor incurs additional costs or is delayed due to the presence or remediation of Hazardous Material, the Constructor shall be entitled to an equitable adjustment in the Contract Price or the Contract Time.

5.1.9 MATERIALS BROUGHT TO THE WORKSITE: Constructor shall be responsible for the proper delivery, handling, application, storage, removal, and disposal of all materials and substances brought to the

Worksite by the Constructor in accordance with the Contract Documents and used or consumed in the performance of the Work.

5.1.10 SUBMITTALS: Constructor shall submit to the Owner and Design Professional for review and approval all shop drawings, samples, product data, and similar submittals required by the Contract Documents. Submittals may be submitted in electronic form if required by section 6.1.5. The Constructor shall be responsible to the Owner for the accuracy and conformity of its submittals to the Contract Documents. The Constructor shall prepare and deliver its submittals to the Owner and Design Professional in a manner consistent with the Schedule of the Work and in such time and sequence so as not to delay the performance of the Work or the work of the Owner and others retained by the Owner. The Constructor submittals shall identify in writing for each submittal all changes, deviations, or substitutions from the requirements of the Contract Documents. The approval of any Constructor submittal shall not be deemed to authorize deviations, substitutions, or changes in the requirements of the Contract Documents unless express written approval is obtained from the Owner specifically authorizing such deviation, substitution, or change. Further, the Owner shall not make any change, deviation, or substitution through the submittal process without specifically identifying and authorizing such deviation to the Constructor. The Owner shall be responsible for review and approval of submittals with reasonable promptness to avoid causing delay. The Constructor shall perform all Work strictly in accordance with approved submittals. The Owner's approval does not relieve the Constructor from responsibility for Defective Work resulting from errors or omissions of any kind on the approved shop drawings.

5.1.11 WORKSITE CONDITIONS: If the conditions at the Worksite are (a) subsurface or other physical conditions which are materially different from those indicated in the Contract Documents, or (b) unusual and unknown physical conditions which are materially different from conditions ordinarily encountered and generally recognized as inherent in the Work provided for in the Contract Documents, the Constructor shall stop Work and give prompt written notice of the condition to the Owner and Design Professional. The Constructor shall not be required to perform any work relating to the unknown condition without the written mutual agreement of the Parties. Any change in the Contract Price or Contract Time as a result of the unknown condition shall be made by Change Order.

5.1.12 CUTTING, FITTING, AND PATCHING: Constructor shall perform cutting, fitting, and patching necessary to coordinate the various parts of the Work and to prepare its Work for the work of the Owner or others retained by the Owner.

5.1.13 CLEANING UP: Constructor shall regularly remove debris and waste materials at the Worksite resulting from the Work. Prior to discontinuing Work in an area, the Constructor shall clean the area and remove all rubbish and its construction equipment, tools, machinery, waste, and surplus materials. The Constructor shall minimize and confine dust and debris resulting from construction activities. At the completion of the Work, the Constructor shall remove from the Worksite all construction equipment, tools, surplus materials, waste materials, and debris.

## **ARTICLE 6 OWNER'S RESPONSIBILITIES**

6.1 OWNER'S RESPONSIBILITIES: Any information or services to be provided by the Owner shall be provided in a timely manner.

6.1.1 FINANCIAL INFORMATION: Before commencing the Work and thereafter at the written request of the Constructor, the Owner shall provide the Constructor with evidence of Project financing. Evidence of such financing shall be a condition precedent to the Constructor's commencing or continuing the Work. The Constructor shall be notified prior to any material change in Project financing.

6.1.2 WORKSITE INFORMATION; To the extent Owner has obtained, or is required to obtain the following Worksite information, then Owner shall provide Constructor the following:

6.1.2.1 information describing the physical characteristics of the Worksite, including surveys, Worksite evaluations, legal descriptions, data, or drawings depicting existing conditions, subsurface, and environmental studies, reports, and investigations;

6.1.2.2 tests, inspections and other reports dealing with environmental matters, hazardous material and other existing conditions, including structural, mechanical, and chemical tests required by the Contract Documents or by law; and

6.1.2.3 the limits of Pollution Liability Insurance covering the Worksite held by Owner; and any other information or services requested in writing by Constructor which are required for Constructor's performance of the Work and under Owner's control.

6.1.3 MECHANICS AND CONSTRUCTION LIEN INFORMATION: Within seven (7) days after receiving the Constructor's written request, the Owner shall provide the Constructor with the information necessary to give notice of or enforce mechanics lien rights and, where applicable, stop notices. This information shall include the Owner's interest in the real property on which the Project is located and the record legal title.

6.1.4 BUILDING PERMIT, FEES, AND APPROVALS: Except for those required of the Constructor pursuant to this Agreement, the Owner shall secure and pay for all other permits, approvals, easements, assessments, and fees required for the development, construction, use, or occupancy of permanent structures or for permanent changes in existing facilities, including the building permit.

6.1.5 DOCUMENTS IN ELECTRONIC FORM: If Owner requires that Owner, Design Professional, and Constructor exchange documents and data in electronic or digital form. Prior to any such exchange, the Owner, Design Professional, and Constructor shall agree on a written protocol governing all exchanges in Consensus Docs 200.2 or a separate addendum.

## **ARTICLE 7 SUBCONTRACTS**

7. SUBCONTRACTS: Work not performed by the Constructor with its own forces shall be performed by subcontractors. The Constructor agrees to bind every subcontractor and material supplier (and require every subcontractor to so bind its subcontractors and material suppliers) to all the provisions of this Agreement and the Contract Documents as they apply to the subcontractor's and material supplier's portions of the Work.

## **ARTICLE 8 CONTRACT TIME**

8.1 DATE OF COMMENCEMENT: The Date of Commencement is the Agreement date on page one, unless otherwise set forth below:

## **ARTICLE 9 SCHEDULE**

9.1 SCHEDULE OF THE WORK: Before submitting the first application for payment, Constructor shall submit to Owner, for review by the Design Professional and approval by the Owner, a Schedule of the Work that shall show the dates on which the Constructor plans to begin and to complete various parts of the Work, including dates on which information and approvals are required from the Owner.

9.1.1 The Owner may determine the sequence in which the Work shall be performed, provided it does not unreasonably interfere with the Schedule of the Work. The Owner may require the Constructor to make reasonable changes in the sequence at any time during the performance of the Work in order to

facilitate the performance of work by the Owner or others. To the extent such changes increase the Constructor's time and costs, the Contract Price and Contract Time shall be equitably adjusted.

#### **ARTICLE 10 DELAYS AND EXTENTIONS OF TIME**

10.1. If the Constructor is delayed at any time in the commencement or progress of the Work by any cause beyond the control of the Constructor, the Constructor shall be entitled to an equitable extension of the Contract Time. Examples of causes beyond the control of the Constructor include, but are not limited to, the following: acts or omissions of the Owner, the Design Professional, or others; changes in the Work or the sequencing of the Work ordered by the Owner or arising from decisions of the Owner that impact the time of performance of the Work; transportation delays not reasonably foreseeable; labor disputes not involving the Constructor; general labor disputes impacting the Project but not specifically related to the Worksite; fire; terrorism; epidemics; pandemics; quarantine; acts of God; riots; war; civil commotion; generalized lack of availability of raw materials or energy; adverse governmental actions and/or shut-downs; unavoidable accidents or circumstances; adverse weather conditions not reasonably anticipated; encountering Hazardous Materials; concealed or unknown conditions; and delay authorized by the Owner pending dispute resolution. The Constructor shall process any requests for equitable extensions of Contract Time in accordance with the provisions of ARTICLE 12.

10.2. In addition, if the Constructor incurs additional costs as a result of a delay that is caused by any of the acts or omissions contained in Article 10.1 herein, the Constructor shall be entitled to an equitable adjustment in the Contract Price subject to ARTICLE 12.

10.3. In the event delays to the Work are encountered for any reason, the Constructor shall provide prompt written notice to the Owner of the cause of such delays after the Constructor first recognizes the delay. The Owner and Constructor agree to undertake reasonable steps to mitigate the effect of such delays.

10.4. NOTICE OF DELAY CLAIMS: If the Constructor requests an equitable extension of the Contract Time or an equitable adjustment in the Contract Price as a result of a delay, the Constructor shall give the Owner written notice of the claim.

#### **ARTICLE 11 ALLOWANCES**

11.1 ALLOWANCES: All allowances stated in the Contract Documents shall be included in the Contract Price. While the Owner may direct the amounts of, and particular suppliers or subcontractors for, specific allowance items, if the Constructor reasonably objects to a material supplier or subcontractor, it shall not be required to contract with them. The Owner shall select allowance items in a timely manner so as not to delay the Work. Allowances shall include the costs of materials and equipment delivered to the Worksite less applicable trade discounts and including requisite taxes, unloading and handling at the Worksite, and labor and installation, unless specifically stated otherwise. The Constructor's overhead and profit for the allowances shall be included in the Contract Price, but not in the allowances. The Contract Price shall be adjusted by Change Order to reflect the actual costs when they are greater than or less than the allowances.

#### **ARTICLE 12 CHANGES**

12.1 Constructor may request, or Owner may order changes in the Work or the timing or sequencing of performance of the Work that impacts the Contract Price or the Contract Time. All such changes in the Work that affect the Contract Time or Contract Price shall be formalized in a Change Order.

12.2 The Parties shall negotiate in good faith an appropriate adjustment to the Contract Price or the Contract Time and shall conclude these negotiations as expeditiously as possible. Acceptance of the Change Order and any adjustment in the Contract Price or Contract Time shall not be unreasonably withheld.

**12.4. COST OR CREDIT DETERMINATION:**

12.4.1. An increase or decrease in the Contract Price or the Contract Time resulting from a change in the Work shall be determined by one or more of the following methods:

- (a) unit prices set forth in this Agreement or as subsequently agreed.
- (b) a mutually accepted, itemized lump sum; or
- (c) costs calculated on a basis agreed upon by Owner and Constructor plus 5% overhead and 10% profit.

12.4.1.1 If a cost or credit determination cannot be agreed to above, the cost of the change in the Work shall be determined by the reasonable actual expense incurred or savings realized in the performance of the Work resulting from the change. If there is a net increase in the Contract Price, the Constructor's overhead and profit shall be adjusted accordingly. In case of a net decrease in the Contract Price, the Constructor's overhead and profit shall not be adjusted unless ten percent (10%) or more of the Project is deleted. The Constructor shall maintain a documented itemized accounting evidencing the expenses and savings.

12.5. UNIT PRICES: If unit prices are included in the Contract Documents or are subsequently agreed to by the Parties, but the character or quantity of such unit price items as originally contemplated is so different in a proposed Change Order that the original unit prices will cause substantial inequity to the Owner or Constructor, such unit prices shall be equitably adjusted.

**ARTICLE 13 PAYMENT**

13.1. SCHEDULE OF VALUES: Within twenty-one (21) days from the date of execution of this Agreement, the Constructor shall prepare and submit to the Owner and, if directed, the Design Professional, a schedule of values apportioned to the various divisions or phases of the Work. Each line item contained in the schedule of values shall be assigned a monetary price such that the total of all items shall equal the Contract Price.

13.2. PROGRESS PAYMENTS: The Constructor shall submit to the Owner and the Design Professional a monthly application for payment no later than the 20<sup>th</sup> day of the calendar month for the preceding thirty (30) days. The Constructor's applications for payment shall be itemized and supported by the Constructor's schedule of values and any other substantiating data as required by this Agreement. Payment applications shall include payment requests on account of properly authorized Change Orders. The Owner shall pay the amount otherwise due on any payment application, less any amounts as set forth below, no later than fifteen (15) days after the Constructor has submitted a complete and accurate payment application. The Owner may deduct, from any progress payment, such amounts as may be retained pursuant to section.

13.3 RETAINAGE: From each progress payment made prior to Substantial Completion the Owner may retain 5% percent of the amount otherwise due after deduction of any amounts as provided in section no retainage will be held on materials stored if applicable.

13.4. After the Work is fifty percent (50%) complete, the Owner shall withhold no additional retainage and shall pay Constructor the full amount due on subsequent progress payments.

13.4 ADJUSTMENT OF CONSTRUCTOR'S PAYMENT APPLICATION: Owner may adjust or reject a payment application or nullify a previously approved payment application, in whole or in part, as may reasonably be necessary to protect Owner from loss or damage based upon the following, to the extent that Constructor is responsible for such under this Agreement:

13.4.1 Constructor's repeated failure to perform the Work as required by the Contract Documents;

13.4.2 loss or damage arising out of or relating to this Agreement and caused by the Constructor to the Owner or to others retained by the Owner to whom the Owner may be liable;

13.4.3 Constructor's failure to properly pay subcontractors for labor, materials, or equipment furnished in connection with the Work following receipt of such payment from the Owner;

13.4.4 rejected or Defective Work not corrected in a timely fashion;

13.4.5 reasonable evidence demonstrating that the unpaid balance of the Contract Price is insufficient to fund the cost to complete the Work; and

13.4.6 uninsured third-party claims involving the Constructor;

No later than seven (7) days after receipt of an application for payment, the Owner shall give written notice to the Constructor disapproving or nullifying it or a portion of it, specifying the reasons for the disapproval or nullification. When the above reasons for disapproving or nullifying an application for payment are removed, payment shall be made for the amounts previously withheld.

13.5 PAYMENT DELAY: If for any reason not the fault of the Constructor, the Constructor does not receive a progress payment from the Owner within seven (7) days after the time such payment is due, the Constructor, without prejudice to and in addition to any other legal remedies, may stop Work until payment of the full amount owing to the Constructor has been received. The Contract Price and Contract Time shall be equitably adjusted by Change Order for reasonable cost and delay resulting from shutdown, delay, and start-up, including but not limited to Constructor's costs associated with demobilization and remobilization.

13.6 SUBSTANTIAL COMPLETION: When Substantial Completion of the Work or a designated portion thereof is achieved, the Constructor shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, and the respective responsibilities of the Owner and Constructor for interim items such as security, maintenance, utilities, insurance, and damage to the Work, and fixing the time for completion of all items on the list accompanying the Certificate. The Certificate of Substantial Completion shall be submitted by the Constructor to the Owner for written acceptance of responsibilities assigned in the Certificate. Unless otherwise provided in the Certificate of Substantial Completion, warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or a designated portion. If no Certificate of Substantial Completion is produced then the date of Substantial Completion will be the last day of progress made on a contract item for this scope of work.

13.6.1 Upon acceptance by the Owner of the Certificate of Substantial Completion, the Owner shall pay to the Constructor the remaining retainage held by the Owner for the Work described in the Certificate of Substantial Completion less a sum equal to one hundred and fifty percent (150%) of the estimated cost of completing or correcting remaining items on that part of the Work, as agreed to by the Owner and Constructor as necessary to achieve final completion. Uncompleted items shall be completed by the

Constructor in a mutually agreed timeframe. The Owner shall pay the Constructor monthly the amount retained for unfinished items as each item is completed.

13.7. FINAL COMPLETION: When final completion has been achieved, the Constructor shall prepare for the Owner's acceptance a final application for payment stating that to the best of Constructor's knowledge, and based on the Owner's inspections, the Work has reached final completion in accordance with the Contract Documents.

13.7.1. Final payment of the balance of the Contract Price shall be made to the Constructor within fifteen (15) days after the Constructor has submitted to the Owner a complete and accurate application for final payment and the following submissions:

- (a) an affidavit declaring any indebtedness connected with the Work, e.g., payrolls or invoices for materials or equipment, to have been paid, satisfied, or to be paid with the proceeds of final payment, so as not to encumber the Owner's property.
- (b) as-built drawings, manuals, copies of warranties, and all other close-out documents required by the Contract Documents.
- (c) release of any liens, conditioned on final payment being received.
- (d) consent of any surety, if applicable; and
- (e) a report of any accidents or injuries experienced by the Constructor or its subcontractors at the Worksite.

13.8. Claims not reserved by the Owner in writing with the making of final payment shall be waived except for claims relating to liens or similar encumbrances, warranties, Defective Work, and latent defects. Unless the Constructor provides written identification of unsettled claims known to the Constructor at the time of making application for final payment, acceptance of final payment constitutes a waiver of such claims.

13.9. LATE PAYMENT Payments due but unpaid shall bear interest from the date payment is due at the maximum amount allowed by Arkansas state law.

#### **ARTICLE 14 INDEMNITY**

14.1. To the fullest extent permitted by law, the Constructor shall indemnify and hold harmless the Owner, Owner's officers, directors, members, consultants, agents, and employees and the Design Professional (the Indemnitees) from all claims for bodily injury and property damage, other than to the Work itself and other property insured under section 15.3, including reasonable attorneys' fees, costs, and expenses, that may arise from the performance of the Work but only to the extent caused by the negligent acts or omissions of the Constructor, subcontractors or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable. The Constructor shall be entitled to reimbursement of any defense costs paid above the Constructor's percentage of liability for the underlying claim to the extent provided in the section immediately below.

14.2. To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Constructor, its officers, directors, or members, subcontractors, or anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable from all claims for bodily injury and property damage, other than property insured under section 15.3, including reasonable attorneys' fees, costs, and expenses, that may arise from the performance of work by the Owner, Design Professional, or others retained by the Owner, but only to the extent caused by the negligent acts or omissions of the Owner, the Design Professional, or others retained by the Owner. The Owner shall be entitled to reimbursement of any defense costs paid above the Owner's percentage of liability for the underlying claim to the extent provided in the section immediately above.

14.3. NO LIMITATION ON LIABILITY: In any and all claims against the Indemnites by any employee of the Constructor, anyone directly or indirectly employed by the Constructor or anyone for whose acts the Constructor may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Constructor under Workers' Compensation acts, disability benefit acts, or other employment benefit acts.

#### **ARTICLE 15 INSURANCE**

15.1. Before commencing the Work and as a condition precedent to payment, the Constructor shall procure and maintain in force Workers' Compensation Insurance, Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance (CGL). The CGL policy shall include coverage for liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, contractual liability, and broad form property damage. The Constructor shall maintain completed operations liability insurance for one year after Substantial Completion, or as required by the Contract Documents, whichever is longer. If requested, the Constructor shall provide the Owner with certificates of the insurance coverage required. The Constructor's Employers' Liability, Business Automobile Liability, and CGL policies, as required in this article, shall be written with at least the following limits of liability:

15.1.1. Employers' Liability Insurance:

- (a) \$1,000,000.00 bodily injury by accident per accident.
- (b) \$1,000,000.00 bodily injury by disease policy limit
- (c) \$1,000,000.00 bodily injury by disease per employee.

15.1.2. Business Automobile Liability Insurance \$1,000,000.00 per accident.

15.1.3. CGL Insurance:

- (a) \$1,000,000.00 per occurrence.
- (b) \$2,000,000.00 general aggregate.
- (c) \$2,000,000.00 products/completed operations aggregate.
- (d) \$1,000,000.00 personal and advertising injury limit.

15.2 Employers' Liability, Business Automobile Liability, and CGL coverage required in the subsection above may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella liability policies. The Constructor shall maintain in effect all insurance coverage required in the section immediately above with insurance companies lawfully authorized to do business in the jurisdiction in which the Project is located. If the Constructor fails to obtain or maintain any insurance coverage required under this Agreement, the Owner may purchase such coverage and charge the expense to the Constructor or terminate this Agreement. To the extent commercially available to the Constructor from its current insurance company, insurance policies required under section 15.1 shall contain a provision that the insurance company or its designee must give the Owner written notice transmitted in paper or electronic format: (a) 30 days before coverage is nonrenewed by the insurance company and (b) within 10 business days after cancellation of coverage by the insurance company. Prior to commencing the Work and upon renewal or replacement of the insurance policies, the Constructor shall furnish the Owner with

certificates of insurance until one year after Substantial Completion or longer if required by the Contract Documents. In addition, if any insurance policy required under section 15.1 is not to be immediately replaced without lapse in coverage when it expires, exhausts its limits, or is to be cancelled, the Constructor shall give Owner prompt written notice upon actual or constructive knowledge of such condition.

15.3. If the Owner elects to purchase the property insurance required by this Agreement, including all of the same coverages and deductibles for the duration, then Owner shall give written notice to Constructor and Design Professional before the Work is commenced and provide a copy of the property policy or policies obtained. Owner may then provide insurance to protect its interests and the interests of Constructor, Subcontractors, Suppliers, and Sub subcontractors. If Owner gives written notice of its intent for Constructor to purchase property or builders risk insurance required by this Agreement, Owner shall be responsible for costs. The costs if this insurance shall be paid by Owner in a Change Order.

15.3.1 The Parties each waive all rights against each other and their respective employees, agents, contractors, subcontractors, suppliers, and sub subcontractors, and design professional for damages caused by risks covered by the property insurance except such rights as they may have to the proceeds of the insurance.

15.3.2 To the extent of the limits of the Constructor's CGL insurance specified in section 15.1 Constructor shall indemnify any and all liability, claims, demands, damages, losses, and expenses, including attorneys' fees, in connection with or arising out of any damage to any of the Owner's existing adjacent property that may arise from the performance of the Work, to the extent caused by the negligent acts or omissions of the Constructor, subcontractor, or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable.

15.3.3 RISK OF LOSS: Except to a loss is covered by applicable insurance, risk of loss from damage to the Work shall be upon the Party obtaining and maintaining the Builder's risk Policy pursuant to section 15.3 until the Date of Final Completion.

15.3.4 POLLUTION LIABILITY INSURANCE: Constructor is not required to maintain pollution liability insurance. Unless indicated affirmatively, the obligation to procure such insurance is not triggered. If applicable: in the following amounts: N/A occurrence and shall apply for N/A year(s) after Final Completion.

15.4. ADDITIONAL LIABILITY COVERAGE: Owner shall not require Constructor to purchase and maintain liability coverage.

## **ARTICLE 16 BONDS**

16.1 BONDS: Performance and Payment Bonds are not required of the Constructor.

## **ARTICLE 17 WAIVER OF CONSEQUENTIAL DAMAGES**

17.1 LIMITED WAIVER OF CONSEQUENTIAL DAMAGES: Except for (a) losses covered by insurance required by the Contract Documents, or (b) specific items of damages excluded from this waiver as mutually agreed upon by the Parties and identified below, the Parties agree to waive all claims against each other for any consequential damages that may arise out of or relate to this Agreement. The provisions of this section shall also apply to the termination of this Agreement and shall survive such

termination. The Owner and the Constructor shall require similar waivers in contracts with the subcontractors and others retained for the Project.

## **ARTICLE 18 NOTICE TO CURE AND TERMINATION**

18.1 NOTICE TO CURE A DEFAULT: If the Constructor persistently fails to supply enough qualified workers, proper materials, or equipment to maintain the approved Schedule of the Work in accordance with article 9, or fails to make prompt payment to its workers, subcontractors, or material suppliers, disregards law or orders of any public authority having jurisdiction or is otherwise guilty of a material breach of a provision of this Agreement, the Constructor may be deemed in default. If the Constructor fails within seven (7) business days after written notification to commence and continue satisfactory correction of such default with diligence and promptness, then the Owner shall give the Constructor a second written notice to correct the default within a three (3) business day period. If the Constructor fails to promptly commence and continue satisfactory correction of the default following receipt of such second notice, the Owner, without prejudice to any other rights or remedies, shall have the right to take reasonable steps it deems necessary to correct deficiencies and charge the cost to the Constructor, who shall be liable for such payments including reasonable overhead, profit, and attorneys' fees.

18.2 TERMINATION BY OWNER: If, within seven (7) days of receipt of a notice to cure pursuant to section immediately above, the Constructor fails to commence and satisfactorily continue correction of the default set forth in the notice to cure, the Owner may notify the Constructor that it intends to terminate this Agreement for default absent appropriate corrective action within fourteen (14) additional days. After the expiration of the additional fourteen (14) day period, the Owner may terminate this Agreement by written notice absent appropriate corrective action. Termination for default is in addition to any other remedies available to the Owner. If the Owner's costs arising out of the Constructor's failure to cure, including the cost of completing the Work and reasonable attorney fees, exceed the unpaid Contract Price, the Constructor shall be liable to the Owner for such excess costs. If the Owner's costs are less than the unpaid Contract Price, the Owner shall pay the difference to the Constructor. In the event the Owner exercises its rights under this section, upon the request of the Constructor, the Owner shall furnish to Constructor a detailed accounting of the costs incurred by the Owner.

18.2.1 Owner shall make reasonable efforts to mitigate damages arising from the Constructor default and shall promptly invoice the Constructor for all amounts due.

18.3 TERMINATION BY CONSTRUCTOR: Upon seven (7) days' written notice to the Owner, the Constructor may terminate this Agreement if the Work has been stopped for a thirty (30) day period through no fault of the Constructor for any of the following reasons: (a) under court order or order of other governmental authorities having jurisdiction; (b) as a result of the declaration of a national emergency or other governmental act during which, through no act or fault of the Constructor, materials are not available.

18.3.1. In addition, upon seven (7) days' written notice to Owner, Constructor may terminate the Agreement if the Owner does any of the following: (a) fails to furnish reasonable evidence that sufficient funds are available and committed for the entire cost of the Project in accordance with section 6.1; (b) assigns this Agreement over the Constructor's reasonable objection; (c) fails to pay the Constructor in accordance with this Agreement and the Constructor has complied with the notice provisions of section 13.5; or (d) otherwise materially breaches this Agreement.

18.3.2 Upon termination by the Constructor pursuant to this Agreement, the Constructor shall be entitled to recover from the Owner payment for all Work executed and for any proven loss, cost, or expense in connection with the Work, including all demobilization costs plus reasonable overhead and profit.

18.4. OBLIGATIONS ARISING BEFORE TERMINATION: Even after termination the provisions of this Agreement still apply to any Work performed, payments made, events occurring, costs charged or incurred, or obligations arising before the termination date.

## **ARTICLE 19 DISPUTE MITIGATION AND RESOLUTION**

19.1 CLAIMS FOR ADDITIONAL COST OR TIME: Except as provided in sections 10.3 and 10.4 for any claim for an increase in the Contract Price or the Contract Time, the Constructor shall give the Owner written notice of the claim within fourteen (14) days after the occurrence giving rise to the claim or within fourteen (14) days after the Constructor first recognizes the condition giving rise to the claim, whichever is later. Except in an emergency, notice shall be given before proceeding with the Work. Any change in the Contract Price or the Contract Time resulting from such claim shall be authorized by Change Order.

19.2 DIRECT SETTLEMENT DISCUSSIONS: If a dispute arises out of or relates to this Agreement or its breach, the Parties shall endeavor to settle the dispute through direct discussions. Within five (5) business days, the Parties' representatives, who shall possess the necessary authority to resolve such matter and who shall record the date of first discussions shall conduct direct discussions and make a good faith effort to resolve such dispute.

19.3 MEDIATION: Disputes between the Owner and Constructor not resolved by direct discussion shall be submitted to mediation. The Parties shall select the certified mediator within fifteen (15) days of the request for mediation. Engaging in mediation is a condition precedent to any form of binding dispute resolution.

19.4 BINDING DISPUTE RESOLUTION: If neither direct discussions nor mediation successfully resolves the dispute, the Parties shall submit the matter to the binding dispute resolution procedure selected below:

ARBITRATION: Unless the Parties mutually agree otherwise in writing, all claims, disputes and matters in question arising out of, or relating to, this Agreement shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the AAA then in effect. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. An award entered in an arbitration proceeding shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

19.4.1. COSTS: The costs of any binding dispute resolution procedures and reasonable attorneys' fees shall be borne by the non-prevailing Party, as determined by the adjudicator of the dispute.

19.4.2. VENUE: The venue of any binding dispute resolution procedure shall be in Pulaski County, Arkansas.

19.4.3. Neither Party may commence arbitration if the claim or cause of action would be barred by the applicable statute of limitations had the claim or cause of action been filed in a state or federal court. Receipt of a demand for arbitration by the person or entity administering the arbitration shall constitute the commencement of legal proceedings for the purposes of determining whether a claim or cause of action is barred by the applicable statute of limitations.

19.4.4. An award entered in an arbitration proceeding pursuant to this Agreement shall be final and binding upon the Parties, and judgment may be entered upon an award in any court having jurisdiction.

## ARTICLE 20 MISCELLANEOUS

20.1 EXTENT OF AGREEMENT: Except as expressly provided, this Agreement is for the exclusive benefit of the Parties and not for the benefit of any third party. This Agreement represents the entire and integrated agreement between the Parties, and supersedes all prior negotiations, representations, or agreements, either written or oral.

20.2 ASSIGNMENT: Except as to the assignment of proceeds, neither Party shall assign its interest in this Agreement, in whole or in part, without the written consent of the other Party. The terms and conditions of this Agreement shall be binding upon both Parties, their partners, successors, assigns, and legal representatives.

20.3 GOVERNING LAW: This Agreement shall be governed by Arkansas law.

20.4 NOTICE: Unless changed in writing, a Party's address indicated in Article 1 shall be used when delivering notice to a physical address, except for Agreement termination and as otherwise specified in the Contract Documents. Notice is effective upon transmission by any effective means, including U.S. postal service and overnight delivery service.

20.5 JOINT DRAFTING: The Parties expressly agree that this Agreement was jointly drafted, and that they both had opportunity to negotiate terms and to obtain assistance of counsel in reviewing terms before execution. This Agreement shall not be construed in favor of either Party but shall be construed in a neutral manner.

OWNER:

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

CONSTRUCTOR:        GRANT GARRETT EXCAVATING, INC.

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

# **Exhibit A**

# GARETT X

BEST ON EARTH

<b>To:</b> City Of Benton	<b>Contact:</b>
<b>Address:</b> Benton, AR	<b>Phone:</b>
	<b>Fax:</b>
<b>Project Name:</b> Benton City RV Park And Soccer Complex	<b>Bid Number:</b> 25041
<b>Project Location:</b>	<b>Bid Date:</b> 9/19/2025

Item #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
1	<b>MOBILIZATION</b>	1.00	LS	\$354,937.37	\$354,937.37
2	<b>EROSION CONTROL</b> <ul style="list-style-type: none"> <li>• SWPPP Mailbox</li> <li>• Construction Entrance</li> <li>• Silt Fence</li> <li>• Inspections &amp; Maintenance</li> </ul> <b>Exclusions:</b> <ul style="list-style-type: none"> <li>* Check Dams</li> <li>* Rip Rap</li> <li>* Work Not Specified</li> </ul>	1.00	LS	\$143,144.07	\$143,144.07
3	<b>DEMOLITION</b> <ul style="list-style-type: none"> <li>• Designated Concrete Removal</li> <li>• Designated Pipe Removal</li> </ul> <b>Excludes:</b> <ul style="list-style-type: none"> <li>* Utility Relocation</li> </ul>	1.00	LS	\$4,111.21	\$4,111.21
4	<b>EARTHWORK RV SOUTH SOCCER PARKING</b> <ul style="list-style-type: none"> <li>• Price Is Dependent On 27,000 CY Import From Buc'ees</li> <li>• Clearing &amp; Grubbing Entire Site - Burn Onsite</li> <li>• Import Select Fill</li> <li>• Onsite Cut / Fill (All Onsite Cut Used To Meet Design Grades)</li> <li>• Build/Remove Land Bridge Between North &amp; South Sites</li> <li>• Fine Grading (+/- .50'; Grade To General Shape To Provide Positive Drainage Per Grading Plan)</li> <li>• Seed And Straw Of Slopes</li> </ul> <b>Exclusions:</b> <ul style="list-style-type: none"> <li>* Striping</li> <li>* Export Of Soils</li> <li>* Permits &amp; Fees</li> <li>* Work Not Specified</li> <li>* Seed And Straw Other Than Slopes</li> </ul>	1.00	LS	\$3,519,550.38	\$3,519,550.38
5	<b>EARTHWORK SOCCER FIELDS &amp; POND</b> <ul style="list-style-type: none"> <li>• Clearing &amp; Grubbing - Burn Onsite</li> <li>• Import Select Fill</li> <li>• Onsite Cut / Fill (All Onsite Cut Used To Meet Design Grades)</li> <li>• Fine Grading (+/- .50'; Grade To General Shape To Provide Positive Drainage Per Grading Plan)</li> <li>• Seed And Straw Of Soccer Field</li> </ul> <b>Exclusions:</b> <ul style="list-style-type: none"> <li>* Striping</li> <li>* Export Of Soils</li> <li>* Permits &amp; Fees</li> <li>* Work Not Specified</li> </ul>	1.00	LS	\$2,978,256.97	\$2,978,256.97

**Total Bid Price: \$7,000,000.00**

**Notes:**

- Engineering: An electronic file (CAD file) and at least 8 control points must be provided for GPS control.
- Pricing includes reusing onsite topsoil stripped from the site. Topsoil may contain rocks, roots, organics, etc.
- Mobilizations are included in this quote for a continuous flow of work through each scope of work. If we are forced to demobilize the project due to circumstances that are not the fault of GGE, there will be a associated fee per occurrence.
- Material/fuel price increases greater than 3% caused by acts of God or Owner created delays will need to be absorbed by the Owner.
- Price is contingent on using off road equipment with access from Jesse Thompson along the northern side of the Buc-ees project.
- **Base Bid Exclusions:** Permits & fees; all utility charges associated with removal or establishment of service; BIM or Equal as-built drawings; work items not specified in the outlined scope of work; mass or trench rock; export of unsuitable materials; importing topsoil; undercutting or handling subgrade soils; chemical stabilization of soils; subsurface dewatering; dewatering for other trades; handling contaminated soils; handling spoils from other trades; assessment or abatement of hazardous materials; removal, relocation or demolition of existing utilities; electrical, cable, fiber, gas, sanitary, water or storm lines; landscaping and irrigation.

<p><b>ACCEPTED:</b> The above prices, specifications and conditions are satisfactory and hereby accepted.</p> <p><b>Buyer:</b> _____</p> <p><b>Signature:</b> _____</p> <p><b>Date of Acceptance:</b> _____</p>	<p><b>CONFIRMED:</b> <b>Grant Garrett Excavation</b></p> <p><b>Authorized Signature:</b> _____</p> <p><b>Estimator:</b> Grant Garrett 501-520-1130 ggarrett5467@gmail.com</p>
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# Exhibit B

Benton RV Park/Soccer Field SOV

		BID
1	MOBILIZATION	\$ 354,937.37
2	EROSION CONTROL	\$ 143,144.07
3	DEMO	\$ 4,111.21
4	EARTHWORK RV SITE	\$ 3,519,550.38
5	EARTHWORK SOCCER FIELD	\$ 2,978,256.97
	TOTALS	\$ 7,000,000.00