



## PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into effective April 3, 2017 (the "Agreement Date") by and between:

**"CLIENT"**

Name: CITY OF VICKSBURG  
Address: PO Box 150, Vicksburg, MS 39181  
Phone: 601-634-4553 Fax: 601-631-3778  
Representative: Garnet Van Norman

**"Stantec"**

Name: STANTEC CONSULTING SERVICES INC.  
Address: 901 Jackson Street, Vicksburg, MS 39180  
Phone: 601-638-2642 Fax: 601-634-1227  
Representative: John E. McKee, Senior Principal

PROJECT NAME (the "PROJECT"):

Riverfront Park

**DESCRIPTION OF WORK:** Stantec shall render the services described in Attachment "A" (hereinafter called the "SERVICES") in accordance with this AGREEMENT. Stantec may, at its discretion and at any stage, engage subconsultants to perform all or any part of the SERVICES. The CLIENT and Stantec by written amendment to this AGREEMENT may from time to time make changes to the SERVICES. All changed work shall be carried out under this AGREEMENT. The time for completion of the SERVICES shall be adjusted accordingly.

**DESCRIPTION OF CLIENT:** The CLIENT confirms and agrees that the CLIENT has authority to enter into this AGREEMENT on its own behalf and on behalf of all parties related to the CLIENT who may have an interest in the PROJECT.

**COMPENSATION:** Charges for the SERVICES rendered will be made in accordance with the CONTRACT PRICE indicated in Attachment "A", or, if no CONTRACT PRICE is indicated, in accordance with Stantec's Schedule of Fees and Disbursements in effect from time to time as the SERVICES are rendered.

Invoices shall be paid by the CLIENT in the currency of the jurisdiction in which the SERVICES are provided without deduction or setoff upon receipt. Failure to make any payment when due is a material breach of this Agreement and will entitle Stantec, at its option, to suspend or terminate this Agreement and the provision of the SERVICES. Interest will accrue on accounts overdue by 45 days at the lesser of 1.5 percent per month (18 percent per annum) or the maximum legal rate of interest.

**REPRESENTATIVES:** Each party shall designate in the space provided above a representative who is authorized to act on behalf of that party and receive notices under this AGREEMENT. Such representatives have complete authority to act on behalf of their principals in respect to all matters arising under this AGREEMENT.

**NOTICES:** All notices, consents, and approvals required to be given hereunder shall be in writing and shall be given to the representatives of each party. All notices required by this AGREEMENT to be given by either party shall be deemed to be properly given and received within two (2) business days if made in writing to the other party by certified mail, telegram, email, facsimile or telex, addressed to the regular business address of such party as identified above.

**CLIENT'S RESPONSIBILITIES:** The CLIENT shall provide to Stantec in writing, the CLIENT's total requirements in connection with the PROJECT, including the PROJECT budget and time constraints. The CLIENT shall make available to Stantec all relevant information or data pertinent to the PROJECT which is required by Stantec to perform the SERVICES. Stantec shall be entitled to rely upon the accuracy and completeness of all information and data furnished by the CLIENT, including information and data originating with other consultants employed by the CLIENT whether such consultants are engaged at the request of Stantec or otherwise. Where such information or data originates either with the CLIENT or its consultants then Stantec shall not be responsible to the CLIENT for the consequences of any error or omission contained therein.

When required by Stantec, the CLIENT shall engage specialist consultants directly to perform items of work necessary to enable Stantec to carry out the SERVICES. Whether arranged by the CLIENT or Stantec, these services shall be deemed to be provided under direct contracts to the CLIENT unless expressly provided otherwise.

The CLIENT shall give prompt consideration to all documentation related to the PROJECT prepared by Stantec and whenever prompt action is necessary shall inform Stantec of CLIENT's decisions in such reasonable time so as not to delay the schedule for providing the SERVICES.

When applicable, the CLIENT shall arrange and make provision for Stantec's entry to the PROJECT site as well as other public and private property as necessary for Stantec to perform the SERVICES. The CLIENT shall obtain any required approvals, licenses and permits from governmental or other authorities having jurisdiction over the PROJECT so as not to delay Stantec in the performance of the SERVICES.

**Stantec's RESPONSIBILITIES:** Stantec shall furnish the necessary qualified personnel to provide the SERVICES. Stantec represents that it has access to the experience and capability necessary to and agrees to perform the SERVICES with the reasonable skill and diligence required by customarily accepted professional practices and procedures normally provided in the performance of the SERVICES at the time when and the location in which the SERVICES were performed. This undertaking does not imply or guarantee a perfect PROJECT and in the event of failure or partial failure of the product of the SERVICES, Stantec will be liable only for its failure to exercise diligence, reasonable care and professional skill. This standard of care is the sole and exclusive standard of care that will be applied to measure Stantec's performance. There are no other representations or warranties expressed or implied made by Stantec. In particular, but not by way of limitation, no implied warranty of merchantability or fitness for a particular purpose shall apply to the SERVICES provided by Stantec nor shall Stantec warrant or guarantee economic, market or financial conditions, proforma projections, schedules for public agency approvals, or other factors beyond Stantec's reasonable control. Stantec does not warrant the SERVICES to any third party.

In performing the SERVICES under this AGREEMENT, Stantec shall operate as and have the status of an independent contractor and shall not act as, or be an employee of the CLIENT.

The SERVICES performed by Stantec shall be subject to the inspection and the review of the CLIENT at all times but such inspection and review shall not relieve Stantec from its responsibility for the proper performance of the SERVICES.

**TERMINATION:** Either party may terminate this AGREEMENT without cause upon thirty (30) days' notice in writing. If either party breaches this AGREEMENT, the non-defaulting party may terminate this AGREEMENT after giving seven (7) days' notice to remedy the breach. On termination of this AGREEMENT, the CLIENT shall forthwith pay Stantec for the SERVICES performed to the date of termination. Non-payment by the CLIENT of Stantec's invoices within 30 days of Stantec rendering same is agreed to constitute a material breach of this AGREEMENT and, upon written notice as prescribed above, the duties, obligations and responsibilities of Stantec are terminated.

**SUSPENSION OF SERVICES:** If the project is suspended for more than thirty (30) calendar days in the aggregate, Stantec shall be compensated for services performed and charges incurred prior to receipt of notice to suspend and, upon resumption, an equitable adjustment in fees to accommodate the resulting demobilization and remobilization costs. In addition, there shall be an equitable adjustment in the project schedule based on the delay caused by the suspension. If the PROJECT is suspended for more than ninety (90) days, Stantec may, at its option, terminate this agreement upon giving notice in writing to the CLIENT.

**BUILDING CODES, BYLAWS AND OTHER PUBLIC REGULATIONS:** Stantec shall, to the best of its ability, interpret building codes, by-laws and other public regulations as they apply to the PROJECT and as they are published at the time SERVICES commence. Furthermore, Stantec shall observe and comply with all applicable laws, ordinances, codes and regulations of government agencies, including federal, state, provincial, municipal and local governing bodies having jurisdiction over the conduct of the SERVICES ("LAWS"). However, it is expressly acknowledged and agreed by the CLIENT that as the PROJECT progresses such building codes, by-laws, other public regulations and LAWS may change or the interpretation of any public authority may differ from the interpretation of Stantec, through no fault of Stantec, and any extra costs necessary to conform to such changes or interpretations during or after execution of the SERVICES will be paid by the CLIENT.

Stantec shall continue to provide equal employment opportunity to all qualified persons and to recruit, hire, train, promote and compensate persons in all jobs without regard to race, color, religion, sex, age, disability or national origin or any other basis prohibited by applicable laws.

**COST AND SCHEDULE OF CONSTRUCTION WORK:** In providing opinions of probable cost and project schedule, it is recognized that neither the CLIENT nor Stantec has control over the costs of labor, equipment or materials, or over the

Contractor's methods of determining prices or time. The opinions of probable cost or project duration are based on Stantec's reasonable professional judgment and experience and do not constitute a warranty, express or implied, that the Contractor's bids, project schedules, or the negotiated price of the Work or schedule will not vary from the CLIENT's budget or schedule or from any opinion of probable cost or project schedule prepared by Stantec. Exact costs and times will be determined only when bids have been received for the PROJECT and when the construction work has been performed and payments finalized.

**ADMINISTRATION OF CONSTRUCTION CONTRACTS:** When applicable, Stantec shall provide field services during the construction of the PROJECT only to the extent that such SERVICES are included and defined in this AGREEMENT. The performance of the construction contract is not Stantec's responsibility nor are Stantec's field services rendered for the construction contractor's benefit.

It is understood and agreed by the CLIENT and Stantec that only work which has been seen during an examination by Stantec can be said to have been appraised and comments on the balance of any construction work are assumptions only.

When field services are provided by Stantec, the authority for general administration of the PROJECT shall reside with Stantec only to the extent defined in this AGREEMENT. In such case, Stantec shall coordinate the activities of other consultants employed by the CLIENT, only to the extent that Stantec is empowered to do so by such other consultants' contracts with the CLIENT.

Stantec shall not be responsible for any contractor's failure to carry out the work in accordance with the contract documents nor for the acts or omissions of any contractor, subcontractor, any of their agents or employees, or any other persons performing any of the work in connection with the PROJECT. When field services are provided, no acceptance by Stantec of the work or services of a construction contractor or other consultants, whether express or implied, shall relieve such construction contractor or other consultants from their responsibilities to the CLIENT for the proper performance of such work or services and further, Stantec shall not be responsible to the CLIENT or to the construction contractor or to the other consultants for the means, methods, techniques, sequences, procedures and use of equipment of any nature whatsoever, whether reviewed by Stantec or not, which are employed by the construction contractor or the other consultants in executing, designing, or administering any phases of the PROJECT, or for placing into operation any plant or equipment or for safety precautions and programs incidental thereto.

When field services are provided, Stantec will not be designated as the party responsible for the compliance by others on the construction work site with the purposes or requirements of applicable environmental, occupational health and safety, or similar legislation. The CLIENT shall designate a responsible party, other than Stantec, for the coordination and performance of environmental, occupational health and safety activities on the construction work site as required by applicable legislation and associated regulations.

**JOBSITE SAFETY:** Neither the professional activities of Stantec, nor the presence of Stantec or its employees and subconsultants at a construction site, shall relieve the CLIENT and any other entity of their obligations, duties and responsibilities with respect to job site safety. Subject only to applicable legislation, Stantec and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions.

**DOCUMENTS:** All documents prepared by Stantec or on behalf of Stantec in connection with the PROJECT are instruments of service for the execution of the PROJECT. Stantec retains the property and copyright in these documents, whether the PROJECT is executed or not. Payment to Stantec of the compensation prescribed in this AGREEMENT shall be a condition precedent to the CLIENT's right to use documentation prepared by Stantec.

Any document produced by Stantec in relation to the Services is intended for the sole use of Client. The documents may not be relied upon by any other party without the express written consent of Stantec, which may be withheld at Stantec's discretion. Any such consent will provide no greater rights to the third party than those held by the Client under the contract, and will only be authorized pursuant to the conditions of Stantec's standard form reliance letter.

Stantec cannot guarantee the authenticity, integrity or completeness of data files supplied in electronic format ("Electronic Files").

**PROJECT PROMOTION:** Where the Client has control or influence over construction signage, press releases and/or other promotional information identifying the project ("Project Promotion"), the Client agrees to include Stantec in such Project Promotion.

**FORCE MAJEURE:** Any default in the performance of this AGREEMENT caused by any of the following events and without fault or negligence on the part of the defaulting party shall not constitute a breach of contract: labor strikes, riots, war, acts of governmental authorities, unusually severe weather conditions or other natural catastrophe, or any other cause beyond the reasonable control or contemplation of either party.

**GOVERNING LAW:** This AGREEMENT shall be governed, construed and enforced in accordance with the laws of the jurisdiction in which the majority of the SERVICES are performed.

**ASSIGNMENT AND SUCCESSORS:** Neither the CLIENT nor Stantec shall, without the prior written consent of the other party, assign the benefit or in any way transfer the obligations of this AGREEMENT or any part hereof. This AGREEMENT shall inure to the benefit of and be binding upon the parties hereto, and except as otherwise provided herein, upon their executors, administrators, successors, and assigns.

**PROTECTION OF PRIVACY LAWS:** Stantec will comply with its statutory obligations respecting the collection, use, disclosure, access to, correction, protection, accuracy, retention and disposition of personal information that may be collected or created under this AGREEMENT. Stantec will refer any request for access to or correction of personal information that is made under statute to the CLIENT and will comply with any directions from the CLIENT respecting the access request, or respecting correction and annotation of personal information. Stantec will, at reasonable times and on reasonable notice, allow the CLIENT to enter its premises and inspect any personal information of the CLIENT's that is in the custody of Stantec or any of Stantec's policies or practices relevant to the management of personal information subject to this AGREEMENT.

**ENTIRE AGREEMENT:** This AGREEMENT constitutes the sole and entire agreement between the CLIENT and Stantec relating to the PROJECT and supersedes all prior agreements between them, whether written or oral respecting the subject matter hereof and no other terms, conditions or warranties, whether express or implied, shall form a part hereof. This AGREEMENT may be amended only by written instrument signed by both the CLIENT and Stantec. All attachments referred to in this AGREEMENT are incorporated herein by this reference; however, in the event of any conflict between attachments and the terms and conditions of this AGREEMENT, the terms and conditions of this AGREEMENT shall take precedence.

**SEVERABILITY:** If any term, condition or covenant of this AGREEMENT is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this AGREEMENT shall be binding on the CLIENT and Stantec.

**THE PARTIES EXPRESSLY ACKNOWLEDGE THAT THIS AGREEMENT CONTAINS LIMITATION OF LIABILITY PROVISIONS RESTRICTING RIGHTS FOR THE RECOVERY OF DAMAGES.**

The Parties, intending to be legally bound, have made, accepted and executed this AGREEMENT as of the Agreement Date noted above.

**CITY OF VICKSBURG****STANTEC CONSULTING SERVICES INC.**

George Flaggs, Jr., Mayor  
Print Name and Title

John E. McKee, Senior Principal  
Print Name and Title

Signature \_\_\_\_\_

Signature \_\_\_\_\_





## PROFESSIONAL SERVICES AGREEMENT ATTACHMENT "A"

Attached to and forming part of the AGREEMENT BETWEEN:

CITY OF VICKSBURG

(hereinafter called the "CLIENT")

- and -

STANTEC CONSULTING SERVICES INC.

(hereinafter called "Stantec")

EFFECTIVE: April 3, 2017

This Attachment details the SERVICES, CONTRACT TIME, CONTRACT PRICE, ADDITIONAL CONDITIONS and ADDITIONAL ATTACHMENTS forming part of the above described AGREEMENT.

SERVICES: Stantec shall perform the following SERVICES:

The work included shall consist of providing a topographic survey, Professional Engineering services to provide the client with design, bid, advertising and construction services to repair erosion damage, replace failed drainage structures, perform site grading in accordance with Burns Cooley Dennis geotechnical recommendations and re-locate and/or replace the walking trail and playground equipment.

(hereinafter called the "SERVICES")

CONTRACT TIME: Commencement Date: Upon receipt of Notice to Proceed  
Estimated Completion Date: 180 days from Notice to Proceed

CONTRACT PRICE: Subject to the terms below, CLIENT will compensate **Stantec** as follows:

The cost incurred in the performance of this contract shall be billed at an hourly rate as shown in the Rate Table for a not to exceed amount of \$50,000.

Project specific charges, such as subconsultants; travel, accommodations and meals; project-specific printing of deliverables; consumables; usage charges for specialized field equipment and company-owned, leased or rented project vehicles; external testing lab charges and other external services charges; specialized computer software costs; and other significant project-specific expenses will be invoiced in addition to labor fees and to the FRD.

Where not stated as being included in the fees, project specific subconsultant, contractor, lab and other similar third party charges will be charged as invoiced to Stantec with a zero percent (0%) markup.

Unless otherwise noted, the fees in this agreement do not include any value added, sales, or other taxes that may be applied by Government on fees for services. Such taxes will be added to all invoices as required.

Where the SERVICES or services conditions change, Stantec shall submit to the CLIENT in a timely manner, documentation of the revisions to Attachment "A" adjusting the Contract Services Time and Price as required.

Unless otherwise specified, charges for SERVICES are based on Stantec's hourly billing rate table ("Rate Table"), attached hereto. The Rate Table is subject to escalation from time to time.

ADDITIONAL CONDITIONS: The following additional conditions shall be read in conjunction with and constitute part of this AGREEMENT:

No Additional Conditions

ADDITIONAL ATTACHMENTS: The following additional attachments shall be read in conjunction with and constitute part of this AGREEMENT:

Rate Table

**INSURANCE  
REQUIREMENTS:**

Before any services are provided under this agreement, Stantec shall procure, and maintain in effect during the term of this agreement, insurance coverage in amounts and on terms not less than set forth below.

**General Liability:** Commercial general liability insurance for personal and bodily injury, including death, and property damage in the amount of \$1,000,000 each occurrence and not less than \$2,000,000 in the aggregate.

**Automobile Liability:** Automobile liability insurance for bodily injury, including death, and property damage in the amount of \$1,000,000 each occurrence.

**Professional Liability:** Professional liability insurance for damages incurred by reason of any negligent act, error or omission committed or alleged to have been committed by Stantec in the amount of \$1,000,000 per claim and in the aggregate.

**Workers' Compensation:** As prescribed by applicable law.

**Certificates:** Upon request, Stantec shall provide certificates of insurance evidencing coverage required above. Each certificate shall provide that the coverage therein afforded shall not be cancelled except with thirty (30) days prior written notice to the CLIENT.

City of Vicksburg  
Hourly Rate Table  
(Including Salary, Overhead and Profit)

Professional Engineer	\$148.00 /HR
Engineer Intern	\$90.00 /HR
Engineering Technician III	\$90.00 /HR
Engineering Technician II	\$75.00 /HR
Engineering Technician I	\$60.00 /HR
Professional Surveyor	\$132.00 /HR
Survey Party Chief	\$89.00 /HR
Survey Instrument Man	\$69.00 /HR
Survey Rodman	\$60.00 /HR
3-Man Survey Crew	\$218.00 /HR
Clerical	\$50.00 /HR



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(hereinafter called the "CLIENT")

- and -

STANTEC CONSULTING SERVICES INC.

(hereinafter called "Stantec")

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(hereinafter called the "SERVICES")

CONTRACT TIME: Commencement Date: Upon receipt of Notice to Proceed  
Estimated Completion Date: 180 days from Notice to Proceed

CONTRACT PRICE: Subject to the terms below, CLIENT will compensate **Stantec** as follows:

The cost incurred in the performance of this contract shall be billed at an hourly rate as shown in the Rate Table for a not to exceed amount of \$45,000.

Project specific charges, such as subconsultants; travel, accommodations and meals; project-specific printing of deliverables; consumables; usage charges for specialized field equipment and company-owned, leased or rented project vehicles; external testing lab charges and other external services charges; specialized computer software costs; and other significant project-specific expenses will be invoiced in addition to labor fees and to the FRD.

Where not stated as being included in the fees, project specific subconsultant, contractor, lab and other similar third party charges will be charged as invoiced to Stantec with a zero percent (0%) markup.

Unless otherwise noted, the fees in this agreement do not include any value added, sales, or other taxes that may be applied by Government on fees for services. Such taxes will be added to all invoices as required.

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**General Liability:** Commercial general liability insurance for personal and bodily injury, including death, and property damage in the amount of \$1,000,000 each occurrence and not less than \$2,000,000 in the aggregate.

**Automobile Liability:** Automobile liability insurance for bodily injury, including death, and property damage in the amount of \$1,000,000 each occurrence.

**Professional Liability:** Professional liability insurance for damages incurred by reason of any negligent act, error or omission committed or alleged to have been committed by Stantec in the amount of \$1,000,000 per claim and in the aggregate.

**Workers' Compensation:** As prescribed by applicable law.

**Certificates:** Upon request, Stantec shall provide certificates of insurance evidencing coverage required above. Each certificate shall provide that the coverage therein afforded shall not be cancelled except with thirty (30) days prior written notice to the CLIENT.