

**General Services Agreement
For
PRS2/ARPA Stormwater Projects**

CONSULTANT NAME: Stantec Consulting Services Inc.

THIS CONTRACT is between City of Cape Girardeau, Missouri, hereinafter referred to as the "City", and Stantec Consulting Services Inc., 500 N. Broadway #1425, St. Louis, Missouri 63102, hereinafter referred to as the "Consultant".

INASMUCH as funds have been made available by the City to complete the Parks and Recreation and Stormwater Phase 2 (PRS2)/American Rescue Plan Act (ARPA) projects which require professional services. The Consultant, upon the City's request through written Task Orders, will provide the City with any and all professional services hereinafter detailed for the planning, design and/or construction inspection of the desired improvements and the City will pay the Consultant as provided in this contract and subsequent Task Orders. A Task Order amount shall not be exceeded except by issuance of an additional Task Order. Costs for specific phases of work will not exceed the Task Order. If additional work is needed, an additional Task Order will be issued. It is mutually agreed as follows:

ARTICLE I - SCOPE OF SERVICES

A. **DESIGN PHASE** - The Consultant will if requested by the City:

1. determine the needs of the City for the project;
2. conduct topographic, property and utility surveys sufficient to develop plans for the project;
3. arrange for subsurface investigations if needed, and make recommendations for structure foundations and pavement sections;
4. perform traffic studies and/or traffic modeling if needed;
5. conduct hydraulic studies, prepare alternative designs and cost estimates, develop preliminary plans, and recommend to the City the best overall general design based on these studies;
6. submit appropriate copies of preliminary plans, estimates and/or studies for review by the City;
7. prepare detailed construction plans, cost estimates, specifications and related documents as necessary, including a Stormwater Pollution Prevention Plan (SWPPP), for the

purpose of soliciting bids for constructing the project. Provision will be made in the contract documents for that portion of the work that will be performed by City's forces;

8. secure adequate property title information, determine right-of-way requirements, prepare right-of-way plans, legal descriptions, and exhibits, and assist the City in acquiring the right-of-way deeds and necessary easements needed for the project;
9. ensure compliance with water quality requirements by coordinating with the Missouri Department of Natural Resources and the U.S. Army Corps of Engineers and also ensure compliance with the requirements of the Federal Emergency Management Agency (FEMA);
10. ensure compliance with historic preservation requirements through coordination with the Missouri Department of Natural Resources, and if deemed necessary, arrange to have the site examined by a qualified archaeologist on a subcontract basis;
11. ensure compliance with all regulations in regards to noise abatement and air quality, if necessary; and
12. after making final corrections resulting from reviews by agencies involved, provide the City with the appropriate sets of completed plans, specifications, studies and/or cost estimates for the purpose of obtaining construction authorization from the City.

- B. **BIDDING PHASE** - If requested by the City, the Consultant will assist the City in advertising for bids and evaluating bids.

Bids Exceeding Cost Estimate: If all bids exceed Consultant's Estimate, due to error or negligence on the Consultant, the Consultant shall, at the request of City and for no additional cost, prepare a report for City identifying why all the bids exceed the estimate. The City has four (4) options if all bids exceed Consultant's Estimate. The City may: (1) give written approval of an increase in the Project cost; (2) authorize rebidding of the Project, (3) terminate the Project and this Agreement, or (4) cooperate in revising the Project scope, plans, or specifications, or all as necessary to reduce the construction cost. In the case of (4), Consultant, without additional charge to City, shall consult with City and shall revise and modify the scope, plans, or specifications as necessary to achieve compliance with the Consultant's Estimate.

- C. **CONSTRUCTION PHASE** - If requested by the City, the Consultant will serve as the City's representative for administering the terms of the construction contract between City and their Contractor. Consultant will endeavor to protect the City against defects and deficiencies in workmanship and materials in work by the Contractor. However, the furnishing of such project representation will not make Consultant responsible for the construction methods and procedures used by the Contractor or for the Contractor's failure to perform work in accordance with the contract documents. Consultant's services will include more specifically as follows if needed:

1. assist the City with a preconstruction conference to discuss project details with the Contractor;

2. make periodic site visits to observe the Contractor's progress and quality of work, and to determine if the work conforms to the contract documents. The Consultant will accompany City representatives on visits of the project site as requested;
3. check shop drawings and review schedules and drawings submitted by the Contractor;
4. reject work not conforming to the project documents;
5. prepare change orders for issuance by the City as necessary and assure that proper approvals are made prior to work being performed. All change orders shall be submitted to the Missouri Department of Natural Resources for approval;
6. review wage rates, postings, equal employment opportunity and other related items called for in the contract documents;
7. inspect materials, review material certifications furnished by Contractor, sample concrete and other materials as required, and arrange for laboratory testing of samples by others on a subcontract basis. Independent assurance samples and tests will be performed by City personnel and such sampling and testing is excluded from the work to be performed by the Consultant under this contract;
8. maintain progress diary and other project records, measure and document quantities, and review monthly estimates for payments due the Contractor;
9. be present during critical construction operations, including but not limited to the following:
 - a. structure layout;
 - b. excavation and backfilling;
 - c. installation of piping;
 - d. driving of piles;
 - e. checking of reinforcing steel prior to concrete placement;
 - f. concrete batching and pouring;
 - g. placement of girders; and
 - h. placement of surfacing materials; and
10. participate in final inspection, provide the City with project documentation (diaries, test results, certifications, etc.), and provide as-built plans for the City's records.

ARTICLE II - ADDITIONAL SERVICES

The City reserves the right to request additional work; changed or unforeseen conditions may require changes and work beyond the scope of this contract. In this event, a supplement to this agreement shall be executed and submitted for the approval of City prior to performing the additional or changed work or incurring any additional cost thereof. Any change in compensation will be covered in the supplement.

ARTICLE III - RESPONSIBILITIES OF CITY

The City will cooperate fully with the Consultant in the development of the project, including the following:

- A. make available all information pertaining to the project which may be in the possession of the City;
- B. provide the Consultant with the City's requirements for the project;
- C. make provisions for the Consultant to enter upon property at the project site for the performance of his duties;
- D. examine all studies and layouts developed by the Consultant and render decisions thereon in a prompt manner so as not to delay the Consultant;
- E. designate a City employee to act as City's representative under this contract, such person shall have authority to transmit instructions, interpret the City's policies and render decisions with respect to matters covered by this agreement;
- F. perform appraisals and appraisal review, negotiate with property owners and otherwise provide all services in connection with acquiring all right-of-way and easements needed to construct this project.

ARTICLE IV - PERIOD OF SERVICE

The Consultant will commence work within two weeks after receiving signed a Task Order and notice to proceed from the City. The phases of work shall be completed in accordance with the associated Task Order.

The times are exclusive of review time by other agencies and exclusive of time needed to acquire right-of-way. The City will grant time extensions for unavoidable delays beyond the control of the Consultant. Requests for extensions of time should be requested in writing by the Consultant, stating fully the reasons for the request.

This contract shall remain in effect for five years from the date executed by the City of Cape Girardeau City Manager.

ARTICLE V - STANDARDS

The Consultant shall be responsible for working with the City in determining the appropriate design parameters and construction specifications for the project using good engineering judgment based on the specific site conditions, City needs, and guidance provided in the most current version of the City of Cape Girardeau's Standard Specifications and Drawings. If the project is on MoDOT Right-of-Way, then the latest version of the Engineering Policy Guide (EPG) and Missouri Standard Specifications for Highway Construction shall be followed.

ARTICLE VI - COMPENSATION

For services provided under this contract, the City will compensate the Consultant as determined in the Task Order based on Consultant's Charge Out Rates as determined below:

1. Charge Out rates shall include all direct payroll, general and administrative overhead, specialized equipment costs, payroll taxes, holiday and vacation pay, sick leave pay, insurance benefits, retirement and incentive pay.
2. Additional work incurred by others on a subcontract basis, said costs are to be passed through the Consultant on the basis of reasonable and actual cost as invoiced by the subcontractors, only if required and approved by the City.

METHOD OF PAYMENT – Unless otherwise stated in the Task Order, partial payments will be made to the Consultant for work satisfactorily completed upon receipt of itemized invoices by the City.

1. The City shall make payments to the Consultant in accordance with section 8.960, RSMo.
2. Invoices will be submitted monthly. Invoices submitted on or before the 20th day of any month shall become due and payable on the 10th day of the following month. Invoices for each Task Order shall be submitted separately.
3. City's Right to Withhold Payment. In the event the City becomes informed that any representations of the Consultant provided in its monthly billing, are wholly or partially inaccurate, City may withhold payment of sums then or in the future otherwise due to the Consultant until the inaccuracy and the cause thereof, is corrected to the City's reasonable satisfaction. The Consultant shall correct or revise any errors or deficiencies in its designs, drawings or specifications without additional compensation when due solely to Consultant's negligent acts, errors, or omissions.

PROPERTY ACCOUNTABILITY - If it becomes necessary to acquire any specialized equipment for the performance of this contract, appropriate credit will be given for any residual value of said equipment after completion of usage of the equipment.

ARTICLE VII - COVENANT AGAINST CONTINGENT FEES

The Consultant warrants that he has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warranty, the City shall have the right to annul this agreement without liability, or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee, plus reasonable attorney's fees.

ARTICLE VIII - SUBLETTING, ASSIGNMENT OR TRANSFER

No portion of the work covered by this contract, the contract itself, or any Task Order, except as provided herein, shall be assigned, sublet or transferred without the written consent of the City. The subletting of the work shall not relieve the Consultant of his primary responsibility for the quality and performance of the work. The Consultant may engage subcontractors for the purposes of: foundation and/or geotechnical borings and tests, abstracts of title, archaeological studies, traffic studies, and environmental studies, if required and approved by the City.

ARTICLE IX - PROFESSIONAL ENDORSEMENT

All plans, specifications and other documents shall be endorsed by the Consultant and shall reflect the name and seal of the Professional Engineer endorsing the work. By signing and sealing the Plans, Specifications, and Estimate submittals the Engineer of Record will be representing to the City that the design is meeting the intent of the program. Any review or approval by the City of any documents prepared by the Consultant and/or its subconsultants including but not limited to the plans and specifications, shall be solely for the purpose of determining whether such documents are consistent with City's construction program and intent and shall not be construed as approval of same by City. No review of such documents shall relieve Consultant of its responsibility for the accuracy, adequacy, fitness, suitability, and coordination of its work product.

Consultant shall assign only qualified personnel to perform any service concerning the Project. At the time of execution of the Task Order, the parties will agree on the Project Manager for the Task. This person shall be the primary contact with the City's Project Manager and shall have authority to bind Consultant.

ARTICLE X - RETENTION OF RECORDS

The Consultant shall maintain all records, survey notes, design documents, cost and accounting records, construction records, and other records pertaining to this contract and to the project covered by this contract, for a period of not less than three years following final payment by City. Said records shall be made available for inspection by authorized representatives of the City during regular working hours at the Consultant's place of business.

ARTICLE XI - OWNERSHIP OF DOCUMENTS

Plans, tracings, maps, and specifications prepared under this contract shall be delivered to and become the property of the City upon termination or completion of work. Basic survey notes, design computations, and other data prepared under this contract shall be made available to the City upon request. All such information produced under this contract shall be available for use by the City without restriction or limitation on its use. If the City incorporates any portion of the work into a project other than that for which it was performed, the City shall save the Consultant harmless from any claims and liabilities resulting from such use.

ARTICLE XII - TERMINATION

The City may terminate the contract at any time by giving written notice. If the contract is terminated because the project is abandoned or postponed by the City, the Consultant will be paid for actual time and covered expenses incurred up to the date of termination, plus a pro-rated portion of any fixed fee.

If the contract is terminated due to the Consultant's services being unsatisfactory in the judgment of the City, or if the Consultant fails to prosecute the work with due diligence, the City may procure completion of the work in such manner as it deems to be in the best interest of the City. A Notice of Termination will be sent to the Consultant and the Consultant shall have a period of ten (10) days to remedy the cause for termination. The Consultant will be responsible for any excess cost in addition to that provided for in this contract or any damages the City may sustain by reason of the termination of this contract due to unsatisfactory performances or prosecution. When Consultant services have been so terminated, such termination shall not affect any rights or remedies of the City against the Consultant then existing or which may later accrue. Similarly, any retention or payment of monies due the Consultant shall not release the Consultant from liability.

ARTICLE XIII - DECISIONS UNDER THIS CONTRACT

The City will determine the acceptability of work performed under this contract, and will decide all questions which may arise concerning the project. The City's decision shall be final and conclusive.

ARTICLE XIV - SUCCESSORS AND ASSIGNS

Subject to the restrictions on assignments in Article VIII above, the City and the Consultant agree that this contract and all contracts entered into under the provisions of this contract shall be binding upon the parties hereto and their successors and assigns.

ARTICLE XV - COMPLIANCE WITH LAWS

The Consultant shall comply with all federal, state, and local laws, ordinances, and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964 and non-discrimination clauses incorporated herein, and shall procure all licenses and permits necessary for the fulfillment of obligations under this contract. Consultant shall further comply with the following state law requirements:

Work Authorization Program. If the Contract is for services expected to cost more than \$5,000.00, the Consultant shall comply with of Section 285.530 RSMo., pertaining to enrollment and participation in a federal work authorization program (as defined therein) and shall provide verification through an affidavit (attached as **Attachment C**) that the Consultant (1) does not knowingly employ any person who is an unauthorized alien in connection with the Contract and (2) is enrolled in a federal work authorization program and provide documentary proof thereof. The affidavit shall contain the notarized signature of the registered agent, legal representative, or corporate officer of the Consultant including but not limited to the human resources director or their equivalent.

Proof of Lawful Presence. Section 208.009 RSMo., requires that all applicants at the time of application for any contract provided by a local government provide “affirmative proof that the

applicant is a citizen or a permanent resident of the United States or is lawfully present in the United States.” Consultant’s affirmative proof must be established through (i) a Missouri driver's license, (ii) any “documentary evidence recognized by the department of revenue when processing an application for a driver's license,” or (iii) “any document issued by the federal government that confirms an alien's lawful presence in the United States.” §208.009.3

ARTICLE XVI - RESPONSIBILITY FOR CLAIMS AND LIABILITY

The Consultant agrees to save harmless the City from all claims and liability due to his negligent acts or the negligent acts of his employees, agents, or subcontractors. The City shall be entitled to recover its actual attorneys’ fees from Consultant for the City's enforcement of this Agreement.

ARTICLE XVII - INSURANCE

The Consultant shall maintain commercial general liability, automobile liability, and worker’s compensation and employer’s liability insurance in full force and effect to protect the Consultant from claims under Worker’s Compensation Acts, claims for damages for personal injury or death, and for damages to property arising from the negligent acts, errors, or omissions of the Consultant and its employees, agents and subconsultants in the performance of the services covered by this Agreement, including, without limitation, risks insured against in commercial general liability policies.

The Consultant shall also maintain professional liability insurance to protect the City against the negligent acts, errors, or omissions, of the Consultant and those for whom it is legally responsible, arising out of the performance of professional services under this Agreement.

Unless another amount is agreed to by the City based on the circumstances, the Consultant and his subconsultants shall procure and maintain during the life of this Agreement insurance of the types and minimum amounts as follows:

<u>Insurance Type</u>	<u>Amount</u>
Worker’s Compensation:	In full compliance with statutory requirements of Federal and State of Missouri
Comprehensive General and Professional Liability, including: Comprehensive Automobile Liability, Employer Liability, City’s Protective Bodily Injury Including Death, and City’s Protective Property Damage	\$488,755 each person \$3,258,368 each occurrence

Certificates evidencing such insurance shall be furnished to the City prior to the Consultant commencing the work on this project. Except for Workers’ Compensation and Employer’s Liability, the certificates must state, “The CITY OF CAPE GIRARDEAU is an additional insured”. The City reserves the right to adjust the limit coverage requirements in accordance with changes in the statutory sovereign immunity limits over the life of this contract to reflect any changes in the limits as published by the Missouri Department of Insurance in the state register pursuant to RSMo. §537.610.

The Consultant shall, upon request at any time, provide the City with certificates of insurance evidencing the Consultant's commercial general or professional liability policies and evidencing that they and all other required insurance is in effect, as to the services under this Contract.

Any insurance policy required as specified in this Article shall be written by a company that is incorporated in the United States of America or is based in the United States of America. Each insurance policy must be issued by a company authorized to issue such insurance in the State of Missouri.

ARTICLE XVIII - FINDINGS CONFIDENTIAL

To the fullest extent permitted by law, all reports, information, data, etc. prepared or assembled by the Consultant under this contract are confidential, and the Consultant agrees they shall not be made available to any individual or organization without the prior written approval of the City. The use and disclosure of the confidential information shall not apply to information which (a) was known to the Consultant before receipt of same from the City; or (b) becomes publicly known other than through the Consultant; or (c) is disclosed pursuant to the requirements of a governmental authority or judicial order.

ARTICLE XIX - NONDISCRIMINATION

The Consultant, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the ground of race, color or national origin in the selection and retention of subcontractors. The Consultant will comply with Title VI of the Civil Rights Act of 1964, as amended. More specifically, the Consultant will comply with the regulations of the Department of Transportation relative to nondiscrimination in federally assisted programs of the Department of Transportation, as contained in 49 CFR 21 through Appendix H and 23 CFR 710.405 which are herein incorporated by reference and made a part of this contract. In all solicitations either by competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the Consultant's obligations under this contract and the regulations relative to non-discrimination on the ground of color, race or national origin.

The Consultant agrees to take steps to ensure that disadvantaged business enterprises (DBEs) are utilized when possible as sources of supplies, equipment, construction, and services as required by 2 CFR 200.321.

ARTICLE XX - ATTACHMENTS

The following exhibits are attached hereto and are hereby made part of this contract:

Attachment A – Charge out rates for 2023, 2024, 2025, 2026, 2027, and 2028

Attachment B – Certification Regarding Debarment, Suspension, and Other
Responsibility Matters - Primary Covered Transactions

Attachment C – Affidavit of Participation in Federal Work Authorization Program

Executed by the Consultant this _____ day of _____, 2023.

Executed by the City this _____ day of _____, 2023.

FOR: CITY OF CAPE GIRARDEAU

BY: _____
Dr. Kenneth Haskin, City Manager

ATTEST: _____
Bruce Taylor, Deputy City Clerk

FOR: STANTEC CONSULTING SERVICES INC.

BY: _____
Matthew Hoy, Senior Principal

ATTEST: _____
Robert W. Welsch, Senior Principal

ATTACHMENT A
BREAK OUT RATES FOR YEAR ____

ATTACHMENT B

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," "proposal" and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction" provided by the department or

agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to check the Nonprocurement List at the Excluded Parties List System.
<https://www.epls.gov/eplsearch.do?page=A&status=current&agency=69#A>.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters -Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Comes now _____ as _____ first being duly sworn, on my oath,
(name) (office held)
 affirm _____ (“Consultant”) is enrolled and will continue to participate in a
(company name)
 federal work authorization program in respect to employees that will work in connection with the
 contracted services related to General Services Agreement and any incidental items
 associated with this work for the duration of the contract, if awarded, in accordance with Section
 285.530.2, Revised Statutes of Missouri. I also affirm that the Consultant does not and will not
 knowingly employ a person who is an unauthorized alien in connection with the contracted services for
 the duration of the contract, if awarded. Attached to this affidavit is documentation of the Consultant’s
 participation in a federal work authorization program.

(ATTACH DOCUMENTATION SHOWING THAT COMPANY PARTICIAPTES IN FEDERAL WORK AUTHORIZATION PROGRAM. ALSO ATTACH PROOF OF LAWFUL PRESENCE, AS PROVIDED IN THE GENERAL CONDITIONS)

In Affirmation thereof, the facts stated above are true and correct (The undersigned understands that false statements made in this filing are subject to the penalties provided under Section 575.040, RSMo).

Printed Name

Date _____

State of Missouri)
County of _____) ss.

Subscribed and sworn to before me this _____ day of _____, 20__.

Notary Public