**CITY OF GAUTIER**
**MEMORANDUM**

**To:** Samantha Abell, City Manager

**From:** Patty Huffman, Grants & Projects Manager PH

**Through:** Eric Meyer, Economic Development and Planning Director EM

**Date:** July 31, 2012

**Subject:** Proposed Batson and Brown Service Agreement for Engineering and Surveying Services for the Town Green Project

---

## REQUEST:

The Economic Development and Planning Department requests authorization for the City of Gautier to enter into a service agreement with Batson and Brown, Inc. for professional services for engineering and surveying services related to the 33 acre Town Green.

## BACKGROUND:

Batson and Brown, Inc. has submitted a proposal and professional services agreement to perform a topographic survey and wetlands delineation for the 33 acre tract of land which has been identified as the City's Town Green. The cost of the topographic survey has been listed at $13,500.00, and the cost of the wetlands delineation at $2,200.00 for a project total of $15,700.00. Work is expected to begin within three (3) weeks of the notice to proceed, and a completed drawing will be delivered to the City within an additional five (5) weeks. Funding for these services will be provided through a previously approved Tidelands grant.

## RECOMMENDATION:

City staff recommends that City Council authorize entering into a service agreement with Batson and Brown, Inc. for the services as described above.

The City Council may:

1. Authorize entering into the service agreement as presented; or
2. Authorize entering into the service agreement with changes; or
3. Disapprove entering into the service agreement as presented.

## ATTACHMENT(S):

Batson and Brown Proposal and Agreement for Professional Services

**BATSON AND BROWN, INC.**
CONSULTING ENGINEERS
LUCEDALE □ GAUTIER □ WIGGINS

REPLY TO:
4347 OLD SPANISH TRAIL
GAUTIER MS 39553
228/522-6353
228/522-6403FAX

## PROPOSAL AND AGREEMENT FOR PROFESSIONAL SERVICES

Between the Professional: Batson & Brown, Inc.

Client: City of Gautier

Client Contact Person: Mr. Dennis Reeves

Address: 3305 Gautier-Vancleave Road
Gautier, MS 39553

Phone Number: 228-539-5086
Fax Number: _____

This Agreement is entered into on this the _____day of _____, 2012. Batson & Brown, Inc., hereafter shall be known as the Professional and City of Gautier shall be known as the Client.

The intent of this Agreement is for the Professional to provide certain Engineering/Surveying services for Client as described under Project Description.

This Agreement shall incorporate by reference the proposal submitted by Professional dated March 4th 2012, which is attached hereto and marked as Exhibit A and shall be considered to be a part of this Agreement. In the event of a conflict between the terms of the proposal and in the terms of this Agreement, this Agreement shall be controlling.

The Professional (Batson & Brown, Inc.) shall submit two signed copies of this Agreement/Proposal to Client for approval and execution.

If the Client agrees and accepts this Agreement/Proposal, both copies shall be signed by Client and one copy will be returned to Professional (Batson & Brown). Upon execution and receipt of this Agreement/Proposal, including all pertinent documents, shall form the Agreement between Client and Professional.

The specific Professional Services to be provided under this Agreement are set forth in Exhibit A.

**BATSON & BROWN, INC.**
**EXHIBIT A**

1. Project Description/Scope of Services

Batson & Brown, Inc., proposes to provide the following services for $15,700.00

Site Survey:

A. Topographical Survey
B. Wetlands Delineation Proposal

**TOTAL:** **$15,700.00**

**NOTE:**

Invoices
Invoices will be submitted on a monthly basis or upon completion of work specified. Invoices are due and payable upon receipt and considered past due after 30 days.

2. General

Validity
This proposal/agreement is valid for 30 days. Subsequent to that date, the Professional may withdraw this proposal or review the basis of payment to allow for changing costs and adjust start and completion dates to conform to work load.

Delays
Any departure from the stated schedule or work that is caused in whole or part by a delay originated by the Client, or caused by conditions beyond the Professional's control (such as unfavorable weather conditions, partial or complete plant shutdowns, strikes, floods, fires, etc.,) constitutes a change of scope and will be grounds for renegotiation of the contract price and the completion date. The Client will be responsible for the cost of any additional work resulting from such delays. The Professional will be responsible for notifying the Client of any delays.

Indemnification
The Client agrees, to the fullest extent permitted by law, to indemnify and hold the Professional harmless from any damage, liability or cost (including reasonable attorney's fees and cost of defense) to the extent caused by the Client's negligent acts, errors or omissions and those of his or her contractors,

subcontractors or consultants or anyone for whom the Client is legally liable, and arising from the project that is the subject of this Agreement.

Changes

Only with the consent of the Client may changes in, additions to, and omissions from the Scope of Service be authorized under this Agreement. Any increase in the Scope of Service shall be agreed upon in writing by the parties before the Professional may proceed with such changes, additions or omissions.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the _____day of , 2012.

APPROVED BY:

_____ Date: _____

ACCEPTED:

B. Aron Cheng Date: 7/11/12
BATSON & BROWN, INC.

**BATSON AND BROWN, INC.**
CONSULTING ENGINEERS
LUCEDALE □ GAUTIER □ WIGGINS

REPLY TO:
4347 OLD SPANISH TRAIL
GAUTIER MS 39553
228/522-6353
228/522-6403FAX

March 21, 2012

Christian Preus
Christianpreus@christianpreus.com
228-539-5086

RE: Misty Meadows Farms
33 Acre Topographic and
Wetlands survey

Mr. Preus,

Batson and Brown, Inc wishes to submit the following proposal for providing Surveying Services for the above referenced project.

1) **Topographic Survey to include the Following:**
   A) Full topographic survey with contours and Autocad Surface based upon Mississippi State Plane Coordinates, East Zone, NAD 83(07) with elevations tied to NAVD 88.
   B) Spot Elevations on a maximum of 100 feet grid and cross-sections of all adjacent Roadways and ditches crossing the property on 100 feet stations.
   C) Three benchmarks and three Control Points will be provided onsite.
   D) Location of all Sewer manholes with inverts and observed sizes and Fire hydrants located within the designated survey area. If none found, the closest Fire hydrant and Manhole to the project will be shown.
   E) Flood Zone Designations based upon FEMA Maps revised on March 16, 2009.
   F) All Utilities will be based upon observed above ground evidence, provided record drawings and subsurface locations as marked by others. The Mississippi One-Call will be utilized with the ticket numbers and response ticket provided to the owner. Sizes, depths, pressure, etc. will be based upon the information that the Utility Owners are willing to provide.
   G) Sunifficant tree location including Magnolias and Liveoaks with a DBH of 6" and all other trees with a DBH of 12".
   H) Wetlands Limits as marked by D. R. SANDERS AND ASSOCIATES, INC.
   I) 3 signed and sealed copies of the survey plat.
   J) Autocad Drawing in Civil 3D 2011, within an export to Autocad 2010 with imported Land XML. An Autocad 2000 version with Exploded Civil Entities will also be provided.

Due to time frame and complexity of this survey, we will begin work within 3 weeks of given the notice to proceed and deliver the completed drawing within an additional 5 weeks.

**Topographic Survey Proposal: $13,500.00**

**Wetlands Delineation Proposal: $2,200.00**
**(SEE ATTACHED)**

**Total Proposal: 15,700.00**

Thank you for giving Batson and Brown, Inc. the opportunity to provide this proposal to you. If you foresee any items not listed above or any items listed that should not be included in our cost, please contact us and we will revise our proposal.

Respectfully Submitted,

B. Aron Chesney

B. Aron Chesney, P.L.S.

March 15, 2012

Mr. Aron Chesney
Batson and Brown
4347 Old Spanish Trail
Gautier, MS 39553

RE: Proposal for Wetlands Identification/Delineation for a 33 acre Tract of Land in the Gautier area of Jackson County, Mississippi.

Dear Mr. Chesney:

This letter consists of our proposal to provide the above-referenced services, specifically a 33 acre tract of land which is located north of Singing River Mall in Gautier, Mississippi.

This estimate is for the flagging of wetland boundary lines if any exist on the site, and providing a written report which could be submitted to the USACE, Mobile District, if a Jurisdictional Wetland Determination should be required. Batson and Brown Surveying will locate the flags and provide a map showing the location and area of wetlands as they exist. Since you will be surveying the location of the wetland flags, I will number them in sequential order so they can be followed easily.

Cost Estimate. The following cost estimate is for Wetland Delineation for each of the 33 acre tract:

| | | |
|---|---|---|
| Wetland Delineation Flagging (2.5 Days @ $700.00 per day) | $1700.00 | |
| Wetland Delineation Report | $500.00 | |
| Total | | $2200.00 |

Keep in mind that these prices are estimates. You will only be billed for the actual amount of time and number of flags as the job requires for completion.

Terms: Invoicing for the work performed during a month will occur on the first working day of the following month. If partial billing is necessary, payment will be expected on a "due on receipt" basis.

We guarantee our work as follows: If the government disagrees with our delineation, we will perform required corrections at no additional cost to the client.

If you or anyone else wishes to discuss our involvement with the project, please contact me at one of the telephone numbers or the e-mail address shown on this stationery.

Sincerely,

Dana R. Sanders, Sr., PhD.
President, D. R. SANDERS AND ASSOCIATES, INC.

**BATSON & BROWN INC.**
STANDARD BUSINESS CONDITIONS

## I. RESPONSIBILITIES OF BATSON & BROWN (hereafter known as the Professional)

### A. SAFETY

Batson & Brown personnel always endeavors to conduct field activities in such a manner as to protect themselves and others from accidents and injury. Batson & Brown personnel use their own safety equipment (hard hats, goggles, protective clothing, etc.) unless otherwise instructed. When the Client is aware of a need for special safety equipment, the Client should so specify before the work proceeds.

### B. CONFIDENTIALITY AND NON-USE

During the conduct of specific engineering/surveying assignments, the Professional and its employees may obtain, directly or indirectly, secret and confidential information proprietary to the Client. Accordingly, the Professional agrees, on behalf of itself and its employees, to maintain as secret and confidential all said proprietary information and not disclose it to others or use it without specific authorization from the Client, except as may be required by law.

### C. INSURANCE

The Professional will maintain insurance coverage in the following amounts and, upon request of the Client, will provide a Certificate of Insurance so indicating:

| Type of Policy | Limits of Liability |
|---|---|
| (a) Standard Worker's Compensation | Statutory |
| Employer's Liability | $500,000 |
| (b) General Aggregate | $2,000,000 |
| Combined Single Limit (Bodily Injury and Property Damage | Each Occurrence |
| (c) Automobile Liability | $100,000 |
| Combined Single Limit (Bodily Injury and Property Damage | Each Occurrence |
| (d) Professional Liability | $1,000,000 Each Occurrence |

### D. INDEMNIFICATION

Batson & Brown agrees, to the fullest extent permitted by law, to indemnify and hold the Client harmless from any damage, liability or cost (including reasonable attorney's fees and costs of defense) to the extent caused by the Professional's negligent acts, errors or omissions in the performance of professional services under this Agreement and those of his or her sub-consultants or anyone for whom the Professional is legally liable.

The Professional is not obligated to indemnify the Client in any manner whatsoever for the Client's own negligence.

The Professional's total liability under this indemnification is limited to the type and amount of insurance coverage as previously listed in Paragraph 1. - C - INSURANCE.

## I. RESPONSIBILITIES OF THE CLIENT

### A. COORDINATION

The Client will provide a representative to coordinate all onsite activities and to serve as the Professional's point of contact.

### B. REVIEW

The Client will provide timely and expeditious review of the Professional's reports, provide general guidance during execution of the work, and, in general, cooperate to the fullest extent possible during the Professional's performance of the work and meeting project schedules.

## C. INDEMNIFICATION

The Client agrees, to the fullest extent possible permitted by law, to indemnify and hold the Professional harmless from any damage, liability or cost (including reasonable attorney's fees and cost of defense) to the extent caused by the Client's negligent acts, errors or omissions and those of his or her contractors, sub-contractors or consultants or anyone for whom the Client is legally liable, and arising from the project that is the subject of this Agreement.

## I. INVOICES

### A. INVOICES

Invoices will be submitted on a monthly basis for work completed and are due upon receipt. Past due balances are subject to interest at the rate of 1 ½ percent per month, effective 45 days after the date of invoice. This represents an annual charge of 18 percent.

If full payment is not received within 60 days after the date of invoice, the Professional has the option to cease work on the project.

### B. DISPUTED AMOUNTS

The Client will notify the Professional within two (2) weeks receipt of an invoice if there is a dispute on the invoice. The Client will pay that segment of the invoice not in dispute and the disputed amount will be credited or billed on the next monthly invoice.

### C. CREDIT

The Professional will provide services on credit terms of Net 30 days. Where credit cannot be approved, the Professional will make every effort to arrange alternate payment schedule.

### D. FEE ADJUSTMENT FOR NON-INDEMNIFICATION

The proposed fee and/or hourly rates are predicated on the acceptance and execution of these *Standard Business Conditions*, which contain an indemnification clause (Paragraph II. - C). If an indemnification clause is deleted for any reason, the entire amount of all invoices shall be increased 10 percent to recognize the Professional's potential liability and insurance costs.

## I. GENERAL

### A. VALIDITY

This proposal is valid for 30 days. Subsequent to that date, the Professional may withdraw this proposal or review the basis of payment to allow for changing costs and adjust start and completion dates to conform to our work load.

### B. CHANGES

Only with the consent of the Client may changes in, additions to, and omissions from the Scope of Services be authorized under this Agreement. Any increase in the Scope of Services shall be agreed upon in writing by the parties before the Professional may proceed with such changes, additions or omissions.

### C. DELAYS

Any departure from the stated schedule of work that is caused in whole or part by a delay originated by the Client, or caused by conditions beyond the Professional's control (such as unfavorable weather conditions, partial or complete plant shutdowns, strikes, floods, or fires) constitutes a change of scope and will be grounds for renegotiation of the contract price and the completion date. The Client will be responsible for the cost of any additional work resulting from such delays. The Professional will be responsible for notifying the Client of any delays.

## D. TERMINATION

Either party may terminate this Agreement without cause upon 30 calendar days' written notice to the other party. In the event of termination, the Client will pay the Professional for all costs (plus profit) incurred to date of termination plus reasonable costs (plus profit) associated with termination of the work.

## E. OWNERSHIP OF DOCUMENTS

Upon payment of all fees for services, costs and disbursements, the Client shall be entitled to reproduce any documents prepared under the Agreement where such reproduction is in furtherance of project objectives. Any other reproduction, publication, distribution, or use of such documents or copies is permitted only upon obtaining prior written consent of the Professional. Such documents and copies at all times shall remain the property of the Professional. All unauthorized uses are at the sole risk of the users.

## F. NON-SOLICITATION

Neither the Professional nor the Client shall offer employment to the other's employees during this Agreement and for a period of one (1) year following the date on which the employee(s) last performs services under this Agreement, unless there is a mutual consent in regards to a particular employee.

## G. PRIVACY OF PROPOSAL CONTENT

This information contained in this proposal is considered privileged and confidential. Any use or release of this information for purposes other than evaluation of its content as a basis of contract award is prohibited.

## H. AGREEMENT TERMS AND CONDITIONS

The terms and conditions of this proposal constitute the entire Agreement between the Professional and the Client. Any terms, revisions, or conditions in the Client's purchase orders, correspondence or other forms that are not consistent with the terms, provisions or conditions of the document are void, unenforceable and not part of this Agreement.