



May 6, 2016

Kentucky Employers' Mutual Insurance (KEMI)
250 W. Main Street, Suite 900
Lexington, Kentucky 40507

Attention: Mr. Paul Dillon

**Reference: Proposal for Geotechnical Services and Phase I ESA
Kingston Hall Lot 22**
Lexington, Kentucky
S&ME Proposal No. 11-1600088

Dear Mr. Dillon:

The Lexington, Kentucky office of S&ME Inc. (S&ME) is pleased to submit this proposal for providing Geotechnical Services and Phase I Environmental Site Assessment (ESA) for the proposed Kingston Hall Lot 22 in Lexington, Kentucky. This proposal is issued in response to email and telephone conversations between you and Mr. Michael Galavotti, P.E. and Mr. Andrew Fiehler, P.E. of S&ME, Inc. This proposal describes our understanding of the project, outlines our approach and presents a schedule and proposed fee for these services. Our Agreement for Services (Form AS-071) is attached and is incorporated as part of this proposal.

1. SITE AND PROJECT DESCRIPTION

The project site is located on the north side of Interstates 64 & 75 (I-64/75), east of the interchange with Newtown Pike (KY 922) in Lexington, Kentucky. S&ME understands that the planned structure will be 3-stories and have an approximate footprint of 200-feet by 200-feet. The final location of the building is not known at the time of this proposal; however, S&ME understands this will be located on the high point of the site. Based on publically available topographic information, this will be in the northeast quadrant of Lot 22. Structural loading and final grading plans were not provided at the time of this proposal.

Site topographic or planned grading information was not yet available thus we do not know the extent of the planned site grading. EA Partners requested S&ME perform site soundings to help determine the bedrock surface and facilitate final grading plans. Additionally, S&ME identified a potential sinkhole in the western portion of the field. Additional soundings will be performed around the potential sinkhole area. Please refer to the attached Boring and Sounding Location Plan for approximate locations.

2. SCOPE OF SERVICES – GEOTECHNICAL SERVICES

2.1 Geotechnical Considerations

At present, we have the following geotechnical concerns with the conceptual site development plan including:

- Previous site development, existing structure present.
- Potential sinkhole in the western portion of Lot 22.

Previous phases of site development may have altered the site from its original contours. Buried debris, buried topsoil, un-compacted fill soil or other “poor” soils are also often encountered near previous developments. We anticipate encountering varying near surface conditions across the property as portions are a gravel parking lot while other areas have been cultivated.

A potential sinkhole is located in the western portion of the cultivated field of Lot 22. S&ME will investigate this area with additional soundings spaced around the area, see attached Boring and Sounding Location plan for location. This is not currently in the area of the planned building, but indicates potential solutioning of the bedrock at this site.

2.2 Field Exploration

The proposed exploration and related analyses will be based on our experience with subsurface conditions in Lexington, Kentucky, the proposed foundation types, and typical construction techniques and site preparation methods. We will assign a Licensed Geotechnical Engineer (P.E.) to perform the work associated with your project. Our work will be directed and supervised by one of our Senior Geotechnical Engineers.

S&ME proposes to offer the following scope of geotechnical services for this project:

- Contact Kentucky Underground to mark the locations of existing underground utilities in the proposed exploration areas.
- Visit the site to observe site surface conditions, mark the boring locations, supervise the drilling activities, and log the recovered samples in the field.
- Mobilize a crew and power drilling rig mounted on an all-terrain vehicle.
- S&ME proposes to drill a total of five (5) soil test borings within the planned building footprint, and approximately 45 rock soundings. See attached Boring Location Plan for approximate locations. The building borings will be advanced to 20 feet or shallower auger refusal. Upon encountering auger refusal, 10 feet of rock core will be attempted in each of the five building soil test borings.
- The soil test borings will include split-barrel soil sampling at 2.5 to 5 foot intervals. The sampler will be driven in general accordance with the Standard Penetration Test procedures (ASTM D 1586). We will also attempt to obtain relatively undisturbed Shelby tube samples using direct push methods of representative on-site soil horizons.
- Backfill the boreholes with soil cuttings to the ground surface.

- Survey the as-drilled boring and sounding locations with a survey grade GPS unit.

Our Geoprofessional will supervise the drilling operations and log the samples as they are recovered. We do not rely on driller's logs or interpretations. We think your project deserves a more professional approach and attention. This improves the quality of the subsurface information by allowing the engineer to adjust the drilling and sampling program to reflect the actual conditions in the field. The higher quality of the data allows us to be less conservative in our design recommendations. We found that the slight increase in fee is more than offset in construction costs savings realized from more reasonable design assumptions and recommendations. The 2013 Kentucky Building code recognizes the importance of a geoprofessional supervising the exploration program as required in Chapter 18 of the KBC.

2.3 Laboratory Testing

Our Geotechnical Engineer will observe the recovered samples and visually classify them in general accordance with the Unified Soil Classification System (USCS) (ASTM D-2488). On the basis of the anticipated conditions, we propose to perform the following laboratory tests:

- Natural moisture contents
- Atterberg limits tests
- Unconfined compressive strength tests of undisturbed soil samples
- Unconfined compressive strength tests or recovered bedrock samples

2.4 Deliverables

After our analyses are complete, we will issue a report describing the exploration and outlining our recommendations. The report will include the following:

- A review of area and site geologic conditions, surface topographical features and site conditions.
- A discussion of subsurface conditions.
- A brief review of our test procedures and the results of all laboratory testing conducted.
- A review of any identified geotechnical conditions which may affect the design or construction of the project.
- A summary of recommended general design and construction criteria for the project foundations.
- A summary of recommendations for site preparation and construction of compacted fills.
- Seismic site classification.

2.5 Client Responsibilities – Geotechnical Services

We request that the client will provide us the following:

- Authorization to access to the site.
- A digital copy of the site plan showing the locations of the proposed site grading and building and pavement locations with respect to existing site features.
- Estimated structural loads and settlement tolerances for the proposed structures.

2.6 Excluded Services – Geotechnical Services

Without attempting to be a complete list of all services or potential services that will be excluded from this proposal and performed by S&ME, the following services are specifically excluded from this proposal:

- Direct measurement of shear wave velocities of the subsurface materials at the site via geophysical methods, such as Multi-Channel Analysis of Surface Wave Velocities (MASW).
- Structural design of site retaining walls.
- Pavement thickness recommendations.
- Attendance at project team meetings.
- Addenda to the geotechnical report to address changes or additions to the proposed project not known to us at the time of this proposal.
- Construction phase services. The monitoring of construction or testing of construction materials is beyond the proposed scope of geotechnical services.

If any of the above excluded services are required, please contact us so that we can modify this proposal or prepare a proposal for additional services.

3. SCOPE OF SERVICES – ENVIRONMENTAL SITE ASSESSMENT

The most widely utilized standard for performing Phase I ESAs is the standard developed by ASTM International (ASTM) entitled E1527-13, *Standard Practice for Environmental Assessments: Phase I Environmental Site Assessment Process*. An assessment performed in accordance with this standard satisfies requirements for *All Appropriate Inquiries (AAI)* as presented in 40 CFR Part 312, and thus, fulfills one requirement for the User to qualify for certain *Landowner Liability Protections (LLPs)*. We propose to use ASTM E1527-13 for the proposed project.

We understand that the proposed Phase I ESA is being performed in connection with a financial transaction involving the subject property. Accordingly, the purpose of the assessment is to identify *recognized environmental conditions* (as defined by ASTM) in connection with the property.

S&ME's approach to performing a Phase I ESA under the ASTM E1527-13 Standard Practice includes a review of the public record, interviews, a site reconnaissance and preparation of a written report containing findings, opinions and conclusions. Recent interpretations of the E1527-13 scope indicate that the potential for contaminants in vaporous form to migrate onto the subject property should be considered in conjunction with evaluation of contaminated soil or groundwater. To address this issue, ASTM developed a new "two-tiered" process to evaluate this potential, *E2600-10, Standard Guide for Vapor Encroachment Screening on Property Involved in a Real Estate Transaction*. Tier 1 of the vapor encroachment screening, as outlined in E2600-10, is included in this proposal.

3.1 Task I – Review of the Public Record

A review of public records for the site and the immediate vicinity will be conducted to characterize environmental features of the site and to identify past and present land use activities, on or in the vicinity

of the site, which may indicate a potential for *recognized environmental conditions*. The review of the public record will include:

- Review of federal, state and tribal standard environmental record sources as well as selected local records in accordance with the minimum search distances specified in ASTM E1527-13. The search of most records will be performed by a firm specializing in this service subcontracted to S&ME with results presented in a written report that will be appended to S&ME's Phase I ESA report.
- Examination of one or more of the following historical sources: aerial photographs, fire insurance maps, property tax records, street directories, USGS 7.5 minute topographic maps, building department records, and zoning/land use records of the site and vicinity for evidence suggesting past uses that might have involved hazardous substances or petroleum products.

3.2 Task II – Site Reconnaissance

A site reconnaissance will be performed to identify visual signs of environmental conditions on or adjoining the site, and to evaluate evidence found in the review of public record that might be indicative of activities resulting in hazardous substances or petroleum products being used or deposited on the site. The site reconnaissance will include the following activities:

- A visual reconnaissance of the site and adjoining properties will be performed to observe signs of spills, stressed vegetation, buried waste, underground or above ground storage tanks, subsidence, transformers, or unusual soil discoloration which may indicate the possible presence of hazardous substances (as per CERCLA) or petroleum products.
- The periphery of the property will be viewed and a walk-through of accessible areas of the site interior will be conducted.
- Areas of the site will be photographed to document the current use(s) of the property as well as significant conditions such as unusually discolored soil, stressed vegetation, or other significant features associated with the property.

3.3 Task III – Interviews

Interviews with appropriate local officials will be conducted to consider any local knowledge of hazardous substances or petroleum products on the subject property or on adjacent properties. In addition, current property owner(s), operators and occupants will be interviewed regarding the potential for contamination at the subject property to the extent they have been identified by the client. Interviews with past owners, operators and occupants may be necessary, particularly if the current owner has held title for less than two years, or if past owner interviews are necessary to fill data gaps.

3.4 Task IV – Written Report

Upon completion of the public record review, interviews and site reconnaissance, S&ME will prepare a written report documenting findings, opinions and conclusions. The report will reflect our evaluation for use by the client in completing the planned property transaction. The conclusions will be presented in terms of the presence or absence of *recognized environmental conditions* as defined in ASTM Standard Practice E1527-13. Unless otherwise directed, we will produce two print copies of the report as well as one electronic copy in PDF format.

3.5 Task V – Tier 1 Vapor Encroachment Screening

Should a potential vapor encroachment condition (VEC) be identified at the site S&ME will perform a Tier 1 Vapor Encroachment Screening as outlined in ASTM E2600-10. The purpose of Tier 1 is to conduct a screening using information assembled for the Phase I ESA as well as other physical and chemical data to determine if a VEC exists at the subject property. Accordingly, Tier 1 services would include the following considerations:

- Establish an area of concern (AOC) up-gradient, down-gradient, and side-gradient of the subject property with respect to possible sources of contaminant vapors.
- Identify the existing and planned use of the subject property.
- Identify the type(s) of existing and planned structures on the subject property.
- Describe the current use of the area surrounding the subject property.
- Review of federal, state, local and tribal governmental records for the subject property and AOC.
- Review records of past use of the subject property and surrounding properties within the AOC for potential sources of chemicals that could potentially migrate through the subsurface as vapors.
- Examine the physical setting including soil types as well as geological, hydrogeological, hydrologic, and topographic information.
- Evaluate potential natural and man-made preferential pathways that could function as a direct path for vapors.
- Specialized or commonly known information possessed by the user.

Tier 1 conclusions would indicate whether a VEC exists, likely exists, cannot be ruled out, or can be ruled out because it does not or is not likely to exist. In the event that a VEC cannot be ruled out in the Tier 1 screen, the client may authorize a more refined Tier 2 screening. Tier 2 may include a review of reasonably ascertainable regulatory files or other documents, or invasive data collection such as sampling of soil, soil vapor, and/or groundwater. The cost and schedule to perform Tier 2 services are not included in this proposal.

3.6 Excluded Services – Environmental Site Assessment

Unless specifically authorized as an addition to the Phase I ESA scope of services, the assessment will not address environmental conditions not specifically included in the ASTM E1527-13 standard including, but not limited to sampling of materials (i.e., soil, surface water, groundwater or air) or the assessment of business risk issues such as; mold or moisture intrusion; indoor air quality, including vapor intrusion; high voltage power lines; cultural/historic resources; ecological resources, or endangered species.

3.7 Limitations – Environmental Site Assessment

As indicated in ASTM E1527-13, the practice is intended to constitute *all appropriate inquiries* to permit the User to satisfy one requirement to qualify for *Landowner Liability Protections* including the innocent landowner, contiguous property owner or bona fide prospective purchaser limitations on CERCLA liability in an approach that is both commercially prudent and reasonable. As such, the ASTM standard practice seeks to reduce, but not eliminate uncertainty regarding the potential for *recognized environmental conditions* in connection with the property. Further, *appropriate inquiry* does not imply an exhaustive assessment of real property, but instead calls for the environmental professional to identify a balance

between competing demands of limited cost and time and the reduction of uncertainty about unknown conditions. A conclusion of “no evidence of recognized environmental conditions” should not be interpreted as a guarantee or warranty that the property is “clean” or free of all contaminants. Environmental conditions may exist on the property that may not be identified through the scope of ASTM E1527.

3.8 Viability Of The Phase I Esa

ASTM E 1527-13 states that an ESA “meeting or exceeding” this practice and completed less than 180 days prior to the date of acquisition or intended transaction is presumed to be valid if the report is being relied on by the user for whom the assessment was originally prepared. The components of the practice that must be completed within 180 days prior include: interviews, searches for recorded environmental cleanup liens, the regulatory review, site visit and the declaration by the environmental professional responsible for the assessment. If these components were not completed within 180 days, or if the report is to be used by an entity other than the User for whom the assessment was originally prepared, additional information is required to comply with the ASTM E 1527-13 practice.

3.9 Client Responsibilities - Environmental Site Assessment

The Scope of Services, fee and project schedule presented herein are contingent upon the client fulfilling the following responsibilities:

- Provide a signed Agreement for Services (attached Form AS-071).
- Provide the name and contact information for past and present property owner(s), operators and occupants to enable us to conduct the interviews specified in ASTM E1527-13.
- Provide access to the property including any on-site buildings.
- Complete and return the attached User Questionnaire as specified in ASTM E1527-13 including a review of recorded land title and judicial records for environmental liens or activity and use limitations.
- Provide copies of all existing environmental reports or testing results relating to conditions at the subject property that may be available to the client (see attached User-Furnished Information checklist).
- Identify the addressees of the Phase I ESA report such as a lender, if applicable.

4. COMPENSATION/SCHEDULE

4.1 Geotechnical Exploration

On the basis of the workscope defined herein, we propose a **lump sum fee of \$18,100** for our services. We have included 8 hours of time for a dozer to assist with site clearing activities in this cost estimate. If subsurface conditions are encountered that require a modification to the workscope, you will be notified. Our fee does not include surveying or clearing/reclamation of the site.

Our fee estimate assumes that S&ME personnel can access the project site during normal business hours (i.e. – not nights, weekends, etc.) without any special working conditions being mandated. If this is not possible, or if we are required to drill at other times, additional fees will be required.

Based upon our present schedule, we anticipate starting the drilling the week of May 16th assuming we receive written authorization to proceed. Depending on our drill schedule, we may employ sub-contract drilling services. Please be aware that our schedule changes each day as we add projects. Delaying authorization will change our schedule.

We expect the field work will take three (3) to four (4) days to complete. A preliminary report will be delivered by May 27th. The preliminary report will discuss the identified geo-hazards at the site, address the adequacy of the site for development and evaluate the extent and potential impact of the apparent sinkhole. The preliminary report will not include construction or design recommendations. The final report will be available by June 15th due to laboratory testing requirements. The final report will contain the construction and design recommendations. We can normally provide preliminary verbal recommendations soon after the drilling has been completed and reviewed by an S&ME Senior Engineer.

4.2 Phase I Environmental Site Assessment

S&ME is prepared to complete the Phase I ESA services outlined above for the **lump sum fee of \$3,500**. *Should a potential vapor encroachment condition be identified at the site, S&ME will perform the Tier 1 Vapor Encroachment Screening as outlined in ASTM E2600-10 for an additional lump sum fee of \$500.* Any subsequent services or project deliverables, such as additional report copies, requested by you will be invoiced on a time-and-expense basis. This quotation is valid for a period of 90 days.

Additional written reliance on the Phase I ESA report may be provided under the terms and conditions of the attached Agreement for Services for \$500 per request. *The additional fee for Small Business Administration (SBA) reliance or any "Read and Rely" reliance which requires an increase of the Limit of Liability described in the attached Agreement for Services, AS-071 will be \$1,000.*

The Phase I ESA scope of work outlined above will be completed within 15 working days of written authorization to proceed. Our schedule and fee are contingent upon your completion of those items listed under User Responsibilities in this proposal.

Please note that our ability to complete the services involved in the review of the public record within the project schedule often depends on the availability of certain maps and records that we may want to review or personnel whom we would want to interview. If we were to experience difficulties in this regard, we would inform you at the earliest possible time and obtain your concurrence on extending the evaluation time period, or terminating that aspect of the evaluation with a discussion of the ramifications of producing the report without the benefit of that information. ASTM Standard Practice E1527-13 states that information is *reasonably ascertainable* if it can be provided for review within 20 days of the request. If information which we request to review is not made available within a 10-day period, we would consult with you on whether to extend our scheduled completion date or to complete the project without the benefit of that information (either option will satisfy ASTM Standard Practice E1527-13 requirements).

4 USE OF PROPOSAL/REPORTS

This proposal is solely intended for the services as described in the Scope of Services. The Scope of Services may not be modified or amended, unless the changes are first agreed to in writing by the client and S&ME, Inc. Use of this proposal and corresponding final reports is limited to above-referenced project and client. No other use is authorized by S&ME, Inc.

5 LIMITATIONS

We will contact the local utility locators prior to mobilizing to the site. The utility location services will only mark public utility lines; therefore, we will need assistance in locating private lines or underground structures, and we request that the Client provide us with any drawings depicting on-site utilities. We will also require assistance from the treatment plant staff to locate underground lines prior to beginning drilling operations. Our firm cannot be held responsible for damage to utility lines or subsequent loss of service if utility locations are not made known to us or are mislocated by others.

We assume that the Client will obtain right-of-entry into the site for our equipment and personnel. While we will try to limit site disturbance, our fee does not include re-landscaping or otherwise restoring the site to its original condition. Our services will include backfilling the borings with the excavated material, unless otherwise directed. Over time, you should expect some settlement of the backfilled material. Please inform us if your requirements are any different.

We should be informed of any possible contamination on the site prior to drilling to prevent spreading of the contamination. If contaminated soil or groundwater is encountered during excavation, it is possible that the contamination may be spread to other soil zones or aquifers that were not previously contaminated. Because it is impossible to eliminate the risk of encountering existing contamination during excavation and because the geotechnical exploration is an essential aspect of the services that we are providing, our firm is not responsible for any claim which may arise as a result of contamination allegedly caused by the geotechnical exploration.

We should be informed of any known or suspected soil or groundwater contamination at the site. If contamination is known or suspected, we will handle the excavated materials as waste materials and place them in labeled containers for proper removal and disposal. If this is a concern, we would be pleased to provide a cost estimate for placing the excavated materials in drums and having the drums disposed.

Our fee includes discussion and interpretation of our findings with other members of the design team, but does not include meetings concerning construction or changes in design. The fee also does not include review of construction documents such as plans and specifications. We would be pleased to provide unit price estimates for these additional services.

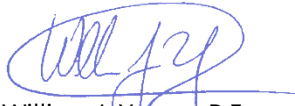
6 AUTHORIZATION

Our Agreement for Services, Form Number AS-071, is attached and is incorporated as a part of this proposal. Please indicate your acceptance of our proposal by signing the form and returning it to our office. We will then proceed with the performance of the services.

If you elect to accept our proposal by issuing a purchase order, then please reference this proposal number and date. Your purchase order will be an acceptance of our Agreement of Services and an authorization to proceed with the performance of our services. The terms and conditions included in any purchase order shall not apply, as our agreement is for services that are not compatible with purchase order agreements. If this proposal is transmitted to you via email, and if you choose to accept this proposal by email, your reply email acceptance will serve as your representation to S&ME that you have reviewed the proposal and the associated Agreement for Services (AS-071) and hereby accept both as written.

S&ME appreciates the opportunity to be of service to you. If you have any questions regarding the outlined scope of work, or if we may be of any further assistance, please call.

Sincerely,
S&ME, Inc.



William J. Young, P.E.
Project Engineer

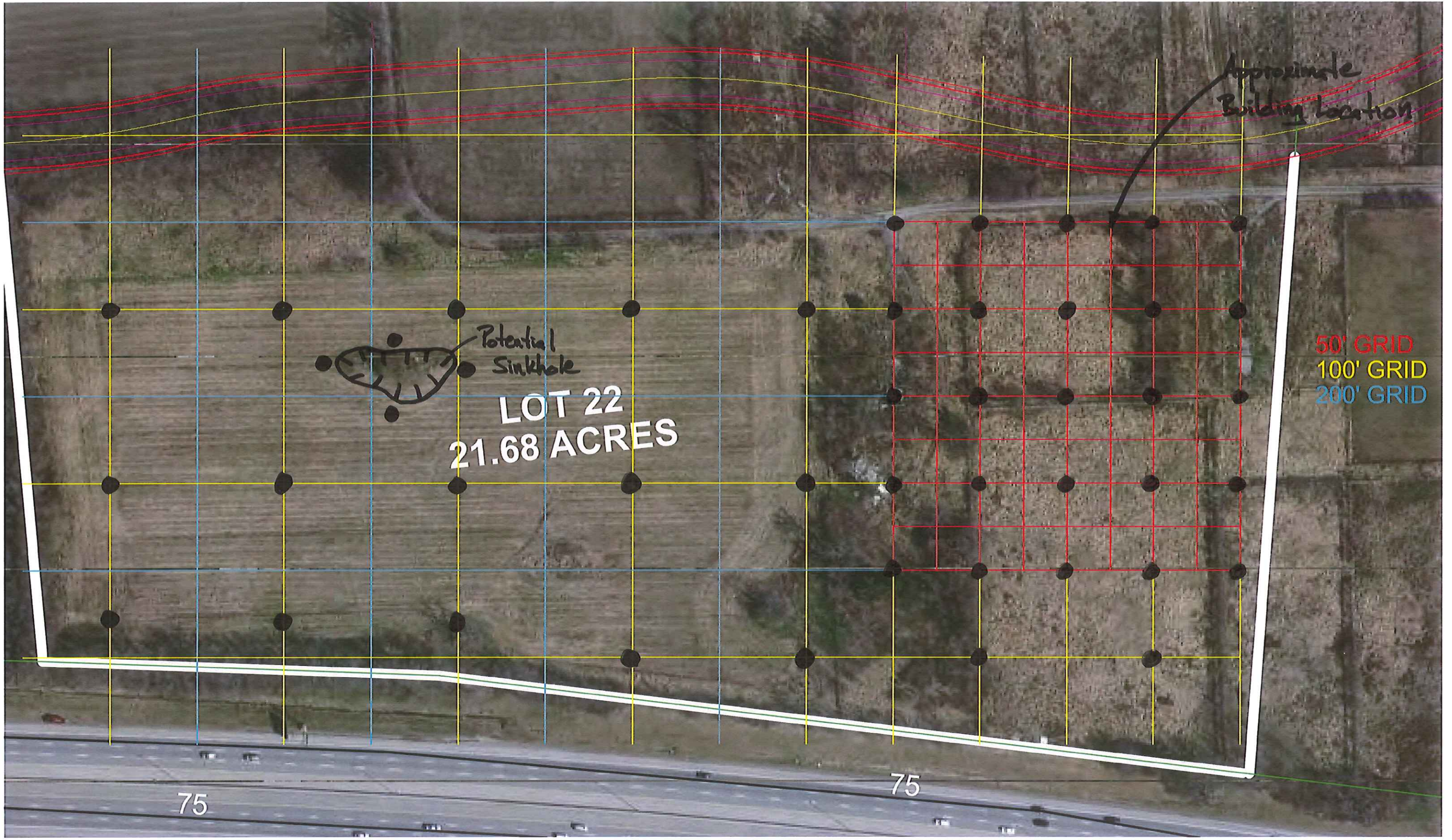


Craig S. Lee, P.E.
Vice President

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Attachments: Boring and Sounding Location Plan
 ESA User Questionnaire
 Agreement for Services (Form AS-071)

● - Boring/Sounding Location



50' GRID
100' GRID
200' GRID

LOT 22
21.68 ACRES

75

75

PHASE I ENVIRONMENTAL SITE ASSESSMENT

User Questionnaire

SITE: Kingston Hall Lot 22, Lexington, Kentucky

S&ME Proposal No: 11-1600088

In order to qualify for *Landowner Liability Protections (LLPs)*, ASTM E1527-13 specifies that the ESA User must provide the following information, if available, to the Environmental Professional. Failure to provide this information could make the ESA incomplete and the User unable to qualify for *LLPs*.

1. Are you aware of any environmental clean-up liens against the property that are filed or recorded under federal, tribal, state or local laws?

2. Are you aware of any Activity and Use Limitations (AUL's) such as engineering controls, land use restrictions, or institutional controls that are in place at the site and/or have been filed or recorded in a registry under federal, state or local laws?

3. As the User of this ESA, do you have any specialized knowledge or experience related to the subject property or nearby properties?

4. Does the purchase price being paid for this property reasonably reflect the fair market value of the property? If not, is the lower purchase price attributable to known or suspected contamination?

5. Are you aware of information about the property that would be helpful in identifying conditions indicative of contaminant releases, such as: a) past use of the property; b) presence of specific chemicals (past or present); c) spills or chemical releases at the property; or d) environmental cleanups that have taken place at the property?

6. As the User of this Phase I ESA and based on your knowledge and experience of the property, are there any obvious indicators that point to the presence or likely presence of contamination on the property?

In addition, certain other information should be provided, although not necessarily to qualify for *LLPs*, including: contact information for past and current property owners, operators and occupants; the reason for performing this ESA; and documentation showing the property address, location and boundaries.

Signature

Date

PHASE I ENVIRONMENTAL SITE ASSESSMENT

User-Furnished Information

SITE: Kingston Hall Lot 22, Lexington, Kentucky

S&ME Proposal No: 11-1600088

The following is a list of documents and information that could be useful to S&ME, Inc. in preparing your Phase I Environmental Site Assessment (ESA). Please check the appropriate boxes below, sign, and fax or mail this form along with the signed Agreement for Services and completed User Questionnaire. This form will be attached to, and made a part of, your completed Phase I ESA.

Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	1. Environmental site assessment reports.
<input type="checkbox"/>	<input type="checkbox"/>	2. Environmental audit reports.
<input type="checkbox"/>	<input type="checkbox"/>	3. Environmental permits (i.e. solid waste disposal permits, hazardous waste disposal permits, 614 & wastewater permits, NPDES permits).
<input type="checkbox"/>	<input type="checkbox"/>	4. Registrations for underground and above-ground storage tanks.
<input type="checkbox"/>	<input type="checkbox"/>	5. Material safety data sheets (MSDS).
<input type="checkbox"/>	<input type="checkbox"/>	6. Community right-to-know plan.
<input type="checkbox"/>	<input type="checkbox"/>	7. Safety plans; preparedness and prevention plans; spill prevention, counter-measure and control plans, etc.
<input type="checkbox"/>	<input type="checkbox"/>	8. Reports regarding hydrologic conditions on the property or surrounding area.
<input type="checkbox"/>	<input type="checkbox"/>	9. Reports of any past or current environmental remediation on-site or on adjoining properties.
<input type="checkbox"/>	<input type="checkbox"/>	10. Notices or other correspondence from any government agency relating to past or existing environmental liens encumbering the property.
<input type="checkbox"/>	<input type="checkbox"/>	11. Hazardous waste generator notices or reports.
<input type="checkbox"/>	<input type="checkbox"/>	12. Geotechnical studies.
<input type="checkbox"/>	<input type="checkbox"/>	13. Report of earthwork or land filling activities on-site.
<input type="checkbox"/>	<input type="checkbox"/>	14. Information concerning any pending, threatened, or past litigation or administrative proceedings relevant to hazardous substances or petroleum products.
<input type="checkbox"/>	<input type="checkbox"/>	15. Notices from any governmental entity regarding any possible violation of petroleum environmental laws or possible liability relating to hazardous substances or products.
<input type="checkbox"/>	<input type="checkbox"/>	16. Disclosure of sumps, pits, drainage systems (i.e. the existence of and location).
<input type="checkbox"/>	<input type="checkbox"/>	17. Building plans (architectural, utility, structural).
<input type="checkbox"/>	<input type="checkbox"/>	18. Description of current site operations, including layout drawings or sketches.
<input type="checkbox"/>	<input type="checkbox"/>	19. Title report/chain-of-title.
<input type="checkbox"/>	<input type="checkbox"/>	20. Tax assessor records (previous owner and occupants).
<input type="checkbox"/>	<input type="checkbox"/>	21. Purchase price analysis (if lower than comparables).
<input type="checkbox"/>	<input type="checkbox"/>	22. Current and historical photographs of the site.
<input type="checkbox"/>	<input type="checkbox"/>	23. Current and historical topographic maps of the site.

I have reviewed the above list and checked the "Yes" box for those items that would be available to S&ME for review and/or copy.

Signature

Date

obligation to pay under this Agreement is in no way dependent upon the Client's ability to obtain financing, payment from third parties, approval of governmental or regulatory agencies, or Client's successful completion of the Project.

Without incurring any liability to the Client, Consultant may either suspend or terminate this Agreement if Client fails to pay any undisputed invoice amounts within 60 calendar days of the invoice date, or if Client states its intention not to pay forthcoming invoices. Such suspension or termination will not waive any other claim Consultant may have against Client. Following such suspension or termination, Consultant may resume work by mutual agreement with Client after payment by Client of all outstanding invoiced amounts and collection expenses. Client waives all claims for damages or delay as a result of such suspension or termination.

4. **STANDARD OF CARE:** Consultant and its agents, employees and subcontractors shall endeavor to perform the Services for Client with that degree of care and skill ordinarily exercised, under similar circumstances, by consultants practicing in the same discipline at the same time and location. In the event any portion of the Services fails to substantially comply with this standard of care obligation and Consultant is promptly notified in writing prior to one year after completion of such portion of the Services, Consultant will re-perform such portion of the Services, or if re-performance is impractical, Consultant will refund the amount of compensation paid to Consultant for such portion of the Services.
5. **LIMITATION OF LIABILITY:** Consultant's aggregate liability responsibility to Client, including that of our officers, directors, employees and agents, is limited to \$100,000, hereinafter referred to as **LIMITATION OF LIABILITY**. This limitation of **LIABILITY** applies to all lawsuits, claims or actions, whether identified as arising in tort, **INCLUDING NEGLIGENCE (WHETHER SOLE OR CONCURRENT), PROFESSIONAL ERROR OR OMISSIONS, BREACH OF WARRANTY (EXPRESS OR IMPLIED), NEGLIGENT MISREPRESENTATION, AND STRICT LIABILITY**, contract, or other legal theory, including without limitation, Consultant's indemnity obligations to Client related to the Services provided in this Agreement and any continuation or extension of our Services.

By entering into this Agreement, Client acknowledges that this Limitation of LIABILITY provision has been reviewed, understood and is a material part of this Agreement, and that Client has had an opportunity to seek legal advice regarding this provision.

6. **DISCLAIMER OF CONSEQUENTIAL DAMAGES:** In no event shall Consultant or Client be liable to the other for any special, indirect, incidental or consequential loss or damages, including, but not limited to, lost profits, damages for delay, or loss of use arising from or related to Services provided by Consultant.
7. **REPORTS:** In connection with the performance of the Services, Consultant shall deliver to Client one or more reports or other written documents reflecting Services provided and the results of such Services. All reports and written documents delivered to Client are instruments reflecting the Services provided by Consultant pursuant to this Agreement and are made available for Client's use subject to the limitations of this Agreement. Instruments of Service provided by Consultant to Client pursuant to this Agreement are provided for the exclusive use of Client, and Client's agents and employees for the Project and are not to be used or relied upon by third parties or in connection with other projects. Subject to the authorized use of Client, and Client's agents, and employees, all Instruments of Service, other written documents, all original data gathered by Consultant and work papers produced by Consultant in the performance of or intrinsic to the Services included in the Services are, and shall remain, the sole and exclusive property of Consultant.

Documents that may be relied upon by Client are limited to the printed copies (also known as hardcopies) that are signed or sealed by Consultant. Files in electronic media format of text, data, graphics, or of other types that are furnished by Consultant to Client are only for the convenience of Consultant and Client. Any reliance on information obtained or derived from such electronic files will be at the Client's or other user's sole risk.

8. **SAFETY:** Consultant is solely responsible for the safety and health of Consultant's employees and lower tier subcontractors. Consultant shall take necessary precautions for the safety of its employees. Consultant specifically disclaims any authority or responsibility for general job safety and for the safety of persons who are

not employed by Consultant. Should Client, or third parties, be conducting activities on the Site, then each shall have responsibility for their own safety and compliance with applicable safety requirements.

9. **SAMPLES:** Unless otherwise requested, test specimens or samples will be disposed of immediately upon completion of tests and analysis. Upon written request, Consultant will retain samples for an agreed to duration and for a mutually acceptable storage charge. In the event that samples contain or may contain hazardous materials, Consultant shall, after completion of testing and at Client's expense, return such samples to Client or make samples available for disposal by Client's agent. Client recognizes and agrees that Consultant is acting as a bailee and at no time assumes title to said samples.

10. **CLIENT OBLIGATIONS:**

(a) Client warrants that all information provided to Consultant regarding the Project and Project location are complete and accurate to the best of Client's knowledge.

(b) Client agrees to furnish Consultant, its agents, employees, and subcontractors a right-of-entry and any authorizations needed for Consultant to enter onto the project site to perform the Services included in this Agreement.

(c) Consultant will take reasonable precautions to minimize damage to the Project Site from Consultant's activities and from the use of equipment. Client recognizes that the performance of the Services included in this Agreement may cause alteration or damage to the Site. Client acknowledges that some site disturbance is inherent in the work for which Consultant will not be responsible. Should Client not be owner of the property, then Client agrees to notify the owner of the aforementioned possibility of unavoidable alteration and damage.

(d) Client agrees to disclose the identity of all utilities serving the Project Site and the presence and accurate location of hidden or obscured man-made objects known to Client that may be in Consultant's work area.

To the fullest extent permitted by law, Client shall indemnify Consultant from all claims, suits, losses, personal injuries, death and property liability, including costs and attorneys' fees, arising from Client's breach of any of the obligations set forth in this paragraph.

11. **CERTIFICATIONS:** Client agrees not to require that Consultant execute any certification with regard to work performed, tested or observed under this Agreement unless: 1) Consultant believes that it has performed sufficient work to provide a sufficient basis to issue the certification; 2) Consultant believes that the work performed, tested or observed meets the criteria of the certification; and 3) Consultant has reviewed and approved in writing the exact form of such certification prior to execution of this Agreement. Any certification by Consultant is limited to an expression of professional opinion based upon the Services performed by the Consultant, and does not constitute a warranty or guarantee, either expressed or implied.

12. **FAILURE TO FOLLOW RECOMMENDATIONS:** The Client agrees that it would be unfair to hold the Consultant liable for problems that may occur if the Consultant's recommendations are not followed. Accordingly, the Client waives any claim against the Consultant, and agrees to indemnify, and hold harmless the Consultant from any claim or liability for injury or loss that results from failure to implement the Consultant's recommendations or from implementation of the Consultant's recommendations in a manner that is not in strict accordance with them.

13. **TERMINATION:**

For Convenience - Upon written notice, Client or Consultant may terminate the performance of any further Services included in this Agreement if the terminating party determines termination is in the terminating party's interest. Upon receipt of a termination notice by either party, Consultant shall stop work on all Services included in this Agreement and deliver any Instruments of Service complete at that time to Client and Client shall pay Consultant within thirty (30) days for all Services performed up to the dispatch or

receipt of the termination notice. Upon Termination for Convenience, Consultant and Client shall have no further rights or remedies other than those included in this paragraph.

For Cause –In the event of material breach of this Agreement, the party not breaching the Agreement may terminate it upon five (5) business days written notice delivered or mailed to the other party, which notice must identify the material breach. The Agreement may not be terminated for cause if the breaching party cures the breach within five (5) business days of receipt of the written notice. Upon Termination for Cause, Consultant shall stop work on all Services included in this Agreement and deliver any instruments of service complete at that time to Client and Client shall pay Consultant within thirty (30) days for all Services performed up to the termination. Upon Termination for Cause, Consultant and Client shall have no further rights or remedies other than those included in this paragraph.

14. **UNFORESEEN CONDITIONS OR OCCURRENCES:** If, during the performance of Services, any unforeseen hazardous substance, material, element or constituent or other unforeseen conditions or occurrences are encountered which, in Consultant's judgment, significantly affects or may affect the Services, the risk involved in providing the Services, or the recommended Scope of Services, Consultant will promptly notify Client. Subsequent to that notification, Consultant may: (a) If practicable, in Consultant's judgment and with approval of Client, complete the original Scope of Services in accordance with the procedures originally intended in the Proposal; (b) Agree with Client to modify the Scope of Services and the estimate of charges to include the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the parties and incorporated into this Agreement; or (c) Terminate the Services effective on the date of notification pursuant to the terms of TERMINATION FOR CONVENIENCE. Client is responsible for reporting any releases of hazardous substances to appropriate government agencies as required by law. Client acknowledges that Consultant also may have reporting obligations under controlling law and regulations. Client waives any claim against Consultant and will indemnify and hold Consultant harmless from any claim, injury or loss arising from the discovery of unforeseen hazardous substances.
15. **FORCE MAJEURE:** Consultant shall not be deemed to be in default of this Agreement to the extent that any delay or failure in the performance of the Scope of Work results from any causes beyond its reasonable control. For this purpose, such acts or events shall include, but are not limited to, storms, floods, unusually severe weather, epidemics, civil disturbances, war, riot, strikes, lockouts or other industrial disturbances, and the inability within reasonable diligence to supply personnel, equipment, information or material to the Project. In the event that such acts or events occur, it is agreed that Consultant shall attempt to overcome all difficulties arising and to resume as soon as reasonably possible the normal pursuit of the Services covered by this Agreement.
16. **INSURANCE:** Consultant shall maintain at its own expense, during the term of this Agreement, the following insurance: (1) Workers' Compensation providing statutory coverages required by the state where services are provided, (2) Employer's Liability with limits of \$1,000,000 each accident, (3) Commercial General Liability with limits of \$1,000,000 each occurrence / \$2,000,000 aggregate, (4) Commercial Automobile with limits of \$1,000,000 each accident, (5) Umbrella Excess Liability with limits of \$5,000,000 each occurrence and (6) Professional Liability with limits of \$5,000,000 each claim. Upon receipt of written request, Client shall be included as an additional insured under the General Liability and Automobile Liability policies on a primary and non-contributory basis.
17. **INDEMNITY:** Client agrees to indemnify Consultant, its agents, employees, and subcontractors from and against any and all losses, liabilities, and costs and expenses of every kind (including cost of defense, investigation, settlement, and reasonable attorney's fees), which Consultant, its agents, employees, and subcontractors may incur, become responsible for, or pay out as a result of bodily injuries (including death) to any person, damage to any property, or both, to the extent caused by Client's negligence or willful misconduct. Consultant agrees to indemnify Client from and against any and all losses, liabilities, and costs and expenses of every kind (including cost of defense, investigation, settlement, and reasonable attorney's fees) which Client may incur, become responsible for, or pay out as a result of bodily injuries (including death) to any person, damage to any property, or both, to the extent caused by Consultant's negligence or willful misconduct. Client and Consultant shall, in the event of liability arising out of their joint negligence or willful misconduct indemnify each other in proportion to their relative degree of fault.

18. **DISPUTE RESOLUTION:** Consultant may, in Consultant's sole discretion, pursue collection of past due invoices by litigation in a court of competent jurisdiction. Other than Consultant's collection of past due invoices, in the event of a dispute between Consultant and Client with regard to any matter arising out of or related to this Agreement, the Parties will use their best efforts to resolve the dispute amicably within fifteen (15) calendar days. If the dispute cannot be settled amicably, the Parties agree that the dispute shall be subject to mediation in accordance with the mediation rules of the American Arbitration Association or similar dispute resolution organization if the parties expressly agree. Except for collection actions by Consultant, mediation in good faith shall be a condition precedent to the institution of litigation by either party. Once a party files a request for mediation with the other party and with the American Arbitration Association, or similar dispute resolution organization, the parties agree to commence such mediation within thirty (30) days of the filing of the request. The costs of such mediation shall be borne equally by both Parties. If the dispute is not resolved after such mediation, then the dispute shall be resolved by litigation in a court of competent jurisdiction within the State where project is located.
19. **ASSIGNMENT AND SUBCONTRACTS:** Neither party may assign this Agreement, in whole or in part, without the prior written consent of the other party, except for an assignment of proceeds for financing purposes. Consultant may subcontract for the Services of others without obtaining Client's consent if Consultant deems it necessary or desirable to have others perform Services.
20. **NO WAIVER:** No waiver by either party of any default by the other party in the performance of any provision of this Agreement shall operate as or be construed as a waiver of any future default, whether like or different in character.
21. **MISCELLANEOUS:** The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the laws of the state where project is located. This Agreement represents the entire understanding and agreement between the parties hereto relating to the Services and supersedes any and all prior negotiations, discussions, and Agreements, whether written or oral, between the parties regarding same. No amendment or modification to this Agreement or any waiver of any provisions hereof shall be effective unless in writing, signed by both Parties. If any part of this subcontract is found to be unenforceable, then the parties' intent is to have such part rewritten to attain as close as possible the original intent of the unenforceable provision.
22. **TIME BAR:** Notwithstanding any applicable state statute of repose or statute of limitation, the Parties agree that all legal actions by either party against the other concerning this Agreement or the work performed in relation to this Agreement, will become barred two (2) years from the time the party knew or should have known of the claim, or two (2) years after completion of Consultant's services, whichever occurs earlier.

CONSULTANT HEREBY ADVISES CLIENT THAT ITS PERFORMANCE OF THIS AGREEMENT IS EXPRESSLY CONDITIONED ON CLIENT'S ASSENT TO THE TERMS AND CONDITIONS DETAILED HEREIN.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representative.

CLIENT: _____

S&ME, Inc.

BY: _____

BY: _____

(Signature)

(Signature)

(Print Name / Title)

(Print Name / Title)

DATE: _____

DATE: _____

PROPOSAL NUMBER : _____

Client's FAXED or DIGITAL signature to be treated as original signature