



December 4, 2024

City of Madison
100 Hughes Road
Madison, Alabama 35758

Attention: Ms. Gina Romine, ADEM Compliance Administrator

Reference: **Environmental Consulting Services
FY2025 Wet-Weather Monitoring**
City of Madison Municipal Separate Storm Sewer System
Madison, Madison County, Alabama
NPDES Permit ALS000014
S&ME Proposal No. 24820189

Dear Ms. Romine:

S&ME, Inc. is pleased to submit this proposal for environmental consulting services related to wet-weather monitoring for the City of Madison Municipal Separate Storm Sewer System (MS4). This proposal describes our understanding of the project, discusses the intended scope of services, outlines the project schedule, and presents the associated compensation for our services.

◆ Project Information

The individual Phase II National Pollutant Discharge Elimination System (NPDES) Permit ALS000014 (Permit) for storm water discharges from the Madison MS4 was issued to the City of Madison with an effective date of November 1, 2020. NPDES Permit ALS000014 currently covers all urbanized areas within the corporate boundaries of the City of Madison.

The Madison MS4 indirectly discharges to three waterbody segments with approved Total Maximum Daily Loads (TMDLs) and one waterbody segment identified on the 2022 303(d) list, as shown in Table 1 below.

Table 1 Portions of Impaired Watersheds within the MS4

Watershed	Impaired Segment	Type	Pollutant	City Area in Watershed (mi ²)
Indian Creek	AL06030002-0501-110	TMDL	Siltation	0.71
Indian Creek	AL06030002-0501-110	TMDL	CBOD _u , NBOD	0.71
Indian Creek	AL06030002-0501-110	TMDL	Pathogens (E. coli)	0.71



Watershed	Impaired Segment	Type	Pollutant	City Area in Watershed (mi ²)
Indian Creek	AL06030002-0505-102	TMDL	Pathogens (E. coli)	4.94
Limestone Creek	AL06030002-0703-102	TMDL	Siltation	1.44
Limestone Creek	AL06030002-0703-102	303(d)	Pathogens (E. coli)	1.44

Part III of the Permit requires that the permittee implement a monitoring program to address the identified impairments and the TMDLs. The Madison MS4 2023 Wet-Weather Monitoring Program was submitted to ADEM in May of 2023 and requires quarterly monitoring of six tributaries that discharge to the affected waterbodies. The collected monitoring data and an analysis of the data must be included in the Annual Reports, due to ADEM by January 31 each year.

S&ME understands the City of Madison is requesting that S&ME perform the required quarterly wet-weather monitoring during the 2025 fiscal year.

◆ Scope of Services

Wet-Weather Monitoring

This proposal includes the following monitoring periods:

- Quarter 4 of 2024: October 2024 to December 2024
- Quarter 1 of 2025: January 2025 to March 2025
- Quarter 2 of 2025: April 2025 to June 2025
- Quarter 3 of 2025: July 2025 to September 2025

S&ME will conduct wet-weather monitoring once per quarter at the seven locations identified below. A map showing the proposed monitoring locations is included as Figure 1.

Table 2 Monitoring Point Coordinates

Sample ID	Latitude	Longitude	Location	Tributary
Lower Indian Creek (AL06030002-0505-102)				
1	34.699018°	-86.717555°	Shelton Rd, Shelton Park Apartments	IC-UT-2
2	34.699619°	-86.711449°	Morning Vista Drive, lift station	IC-UT-3
3	34.725752°	-86.706231°	Slaughter Rd, lift station	IC-UT-6/7
4	34.749573°	-86.714513°	Slaughter Rd, Mountain View	IC-UT-8



Sample ID	Latitude	Longitude	Location	Tributary
Upper Indian Creek (AL06030002-0501-110)				
5	34.755909°	-86.728246°	Hwy 72, Madison Golf Carts	IC-UT-1
Limestone Creek (AL06030002-0703-102)				
6	34.757978°	-86.746764°	Uptown Dr, lift station	KC-UT-2
7	34.749613°	-86.760797°	Brookridge Dr, south of Hwy 72	KC-UT-1

Sample Collection

As required by the 2023 Wet-Weather Monitoring Program, wet-weather monitoring will be conducted within 48 hours of a qualifying rain event of at least 0.50 inch. A qualifying rain event will be determined based on rainfall data reported at a minimum of three locations across the Madison MS4. If a qualifying rain event is not observed during the quarter, S&ME will sample to determine dry weather concentrations for comparison to monitoring events conducted after a qualifying rain event.

The following observations will be documented in the field at each monitoring location:

- Monitoring point ID
- Date and time
- Person conducting the sampling
- Equipment used
- Depth of sample collection
- Weather conditions
- Waterbody conditions
- Field parameters (turbidity, pH, DO, temperature)

Laboratory Analysis

The surface water samples collected for laboratory analysis will be placed in laboratory-supplied containers, labeled, placed in an insulated container with ice if appropriate, and transported to the analytical laboratory accompanied by completed chain-of-custody documentation. Samples collected will be analyzed for the following parameters:

- Total Suspended Solids (TSS)
- E. coli

In accordance with the 2023 Wet-Weather Monitoring Program, a minimum of one field duplicate will also be submitted to the laboratory.

Monitoring Report

A report documenting the wet-weather monitoring event will be prepared each quarter upon completion of the fieldwork and laboratory analyses. Each quarterly report will include the sampling methods and locations, field



observations and measurements, the results of the laboratory analyses, and a discussion of the results. The quarterly reports will be submitted to the City for inclusion in the Annual Report submittal.

◆ Client Responsibilities

To perform the Scope of Services listed above, S&ME will require the following:

- Site access
- Notification of the public where necessary
- Vegetation clearing at the monitoring points

◆ Excluded Services

Without attempting to be a complete list or description, the following services are specifically excluded from this proposal:

- Assessment of compliance with regulations other than the NPDES Phase II Individual MS4 Permit
- Outfall inspections associated with Illicit Discharge Detection and Elimination efforts
- Storm sewer mapping and/or outfall identification
- Investigation of potential illicit discharges
- Corrective actions and/or enforcement measures
- Survey of existing storm water infrastructure or features other than outfalls
- Data entry into the City of Madison GIS

◆ Compensation

Based on the information provided to us and the activities as described under the Scope of Services outlined above, S&ME proposes the following lump-sum budgets:

Table 1 FY2025 Lump Sum Fees

Task	Unit Fee	Units	Total Annual Fee
Quarterly Monitoring (7 locations)	\$2,650	4	\$10,600
Quarterly Monitoring Report	\$1,860	4	\$7,440
Total for FY2025			\$18,040

Invoices will be prepared quarterly, following completion of the monitoring report for each event. The proposed budgets will not be exceeded without prior authorization from you. Any additional activities, required or requested, will be accomplished on a negotiated basis.



◆ Authorization

An Agreement for Services (AS-071) is attached and incorporated as a part of this proposal. Please sign and return both copies to our office in the self-addressed stamped envelope. Upon receipt of the signed agreement, we will execute both copies, return one to you, and proceed with the performance of our services. Any changes or modifications to AS-071 or the proposal are required to be acknowledged by both parties initialing acceptance of this proposal and agreement for services next to the change or modification.

If you elect to accept our proposal by issuing a purchase order, then please specifically reference this proposal number and date. Your purchase order will be an acceptance of our Agreement for Services and an authorization to proceed with the performance of our services. The terms and conditions included in any purchase order shall not apply, and are hereby specifically rejected, as our agreement is for services which are not compatible with purchase order agreements.

◆ Closing

This proposal is solely intended for the services 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 City of Madison and S&ME. Use of this proposal and corresponding final report is limited to the above-referenced project and client. No other use is authorized by S&ME.

S&ME appreciates the opportunity to offer our services to the City of Madison for this project. If you should have questions concerning this proposal, or if additional information is required, please contact us.

Sincerely,

S&ME, Inc.

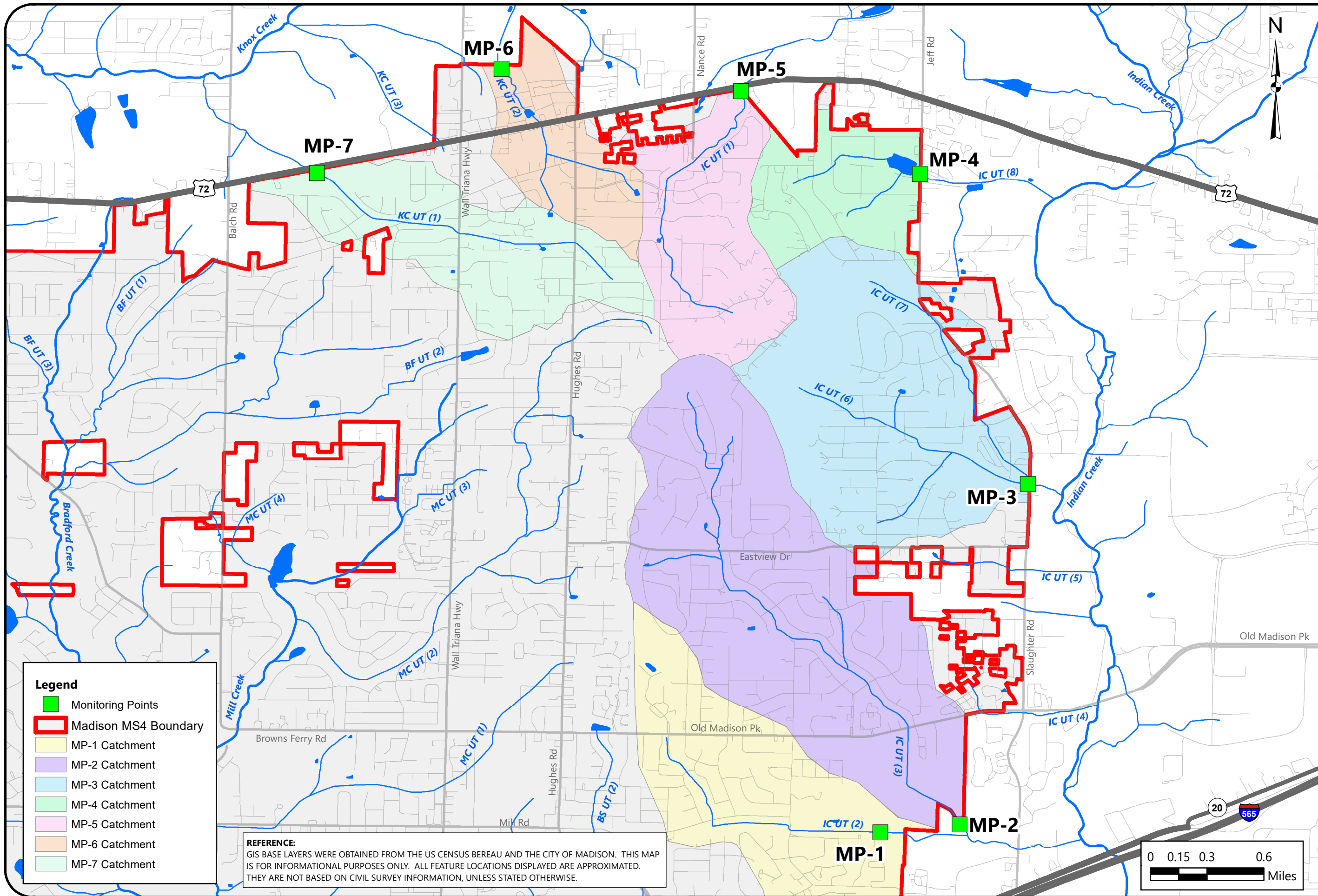
Handwritten signature of Sarah L. Yeldell in blue ink.

Sarah L. Yeldell, P.E.
Project Engineer

Handwritten signature of Deborah J. Jones in blue ink.

Deborah J. Jones, P.E.
Senior Engineer

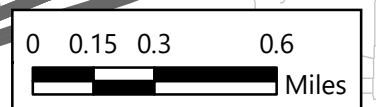
Attachment: Figure 1 Monitoring Locations
Agreement for Services (AS-071)



Legend

- Monitoring Points
- Madison MS4 Boundary
- MP-1 Catchment
- MP-2 Catchment
- MP-3 Catchment
- MP-4 Catchment
- MP-5 Catchment
- MP-6 Catchment
- MP-7 Catchment

REFERENCE:
 GIS BASE LAYERS WERE OBTAINED FROM THE US CENSUS BUREAU AND THE CITY OF MADISON. THIS MAP IS FOR INFORMATIONAL PURPOSES ONLY. ALL FEATURE LOCATIONS DISPLAYED ARE APPROXIMATED. THEY ARE NOT BASED ON CIVIL SURVEY INFORMATION, UNLESS STATED OTHERWISE.



WET-WEATHER MONITORING POINTS

CITY OF MADISON, ALABAMA MUNICIPAL SEPARATE STORM SEWER SYSTEM
 NPDES PERMIT NO. ALS000014

SCALE:
1:30,000

DATE:
5/15/2023

PROJECT NUMBER
23820121

FIGURE NO.

1

parties without Consultant's specific written consent. Any acceptance by Client is limited to acceptance of the express terms set forth in this Agreement for Services.

3. **SCOPE OF SERVICES:** Unless otherwise stated in writing, Client assumes sole responsibility for determining whether the quantity and the nature of the services included in Consultant's proposal received by Client are adequate and sufficient for Client's intended purpose. Client shall communicate the provisions of this Agreement for Services to each and every third party to whom Client transmits any part of Consultant's work. Consultant shall have no duty or obligation to any third party except as specifically set forth in Consultant's proposal.

Consultant has provided Client with the Proposal identified under "Services to be Rendered." By signing below, Client agrees that Client or the Client's representative has examined Consultant's proposal, which includes a scope of work to be performed by Consultant, an opinion on the cost to perform Consultant's scope of work, and an opinion on the amount of time required to perform Consultant's scope of work along with any other documents, opinions, or advice prepared or provided by Consultant and Client agrees that Client is fully satisfied with Consultant's Proposal and Client obtained the advice of any other consultant(s) as the Client deems necessary to protect the Client's interests. Client also agrees by signing below it is responsible for requesting additional services not included in Consultant's proposal and if necessary, Client agrees it is responsible (even if delegated to a third party) for notifying and scheduling Consultant so Consultant can perform the Services. Consultant shall not be responsible for damages caused by services not performed due to any failure to request or schedule Consultant's Services. If project conditions change materially from those described to Consultant at the time of proposal, Consultant is entitled to a change order equitably adjusting its Services and fee.

Consultant shall not supervise, direct or have control over the Client's work nor have any responsibility for the construction means, methods, techniques, sequences or procedures selected by the Client's contractor and/or agents. These rights and responsibilities are solely those of the contractor or agent in accordance with its agreement with Client. Only Client has the right to reject or stop work of its contractor or agents. Consultant's presence on site does not in any way guarantee the completion, quality or performance of the work by any other party retained by Client. Consultant does not guarantee the performance of any contractor or agent of Client and shall not be responsible for such party's failure to perform its work in accordance with any applicable documents, including but not limited to, the plans and specifications or any applicable laws, codes, rules or regulations.

Any evaluations of the Client's budget for the project, and any preliminary or updated estimates of the cost of the work prepared by Consultant represent Consultant's judgment as a design professional familiar with the construction industry. It is recognized, however, that neither Consultant nor Client has control over the cost of the labor, materials or equipment, over the contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, Consultant does not warrant or represent that bids or negotiated prices will not vary from Client's budget for the project, or from any estimate of the cost of the work evaluation prepared or agreed to by Consultant.

4. **CHANGE ORDERS:** Client may request changes to the scope of Services by altering or adding to the Services to be performed. If Client so requests, Consultant will provide a change order proposal including Client's requested changes to the scope of Services for Client's review and approval. Following Client's approval, Client shall provide written acceptance and such Change Order Proposal shall become part of the Contract Documents and shall supersede any prior conflicting terms. If Client does not follow these procedures, but instead directs Consultant to perform changed or additional work without an executed change order, (1) the Services are changed according to Consultant's understanding of Client's direction; and (2) and Consultant will be paid for this work according to the current fee schedule plus fifteen percent (15%).
5. **PAYMENT:** Client will pay Consultant for Services and expenses in accordance with the Contract Documents. If prices for Services are not specified in the Contract Documents, Consultant's current fee schedule in effect for the type of services performed shall control. Unless otherwise agreed prior to the start of the Services, Consultant will submit invoices to Client monthly and a final invoice upon completion of Services. Payment is due upon receipt of the invoice unless otherwise agreed to in writing prior to the submittal of the invoice.

Invoices are past due 30 calendar days after the date of the invoice. Past due amounts are subject to a late fee of one and one-half percent per month (18 percent per annum) or the highest amount allowed by applicable law on the outstanding balance, whichever is less. Attorney's fees and other costs incurred in collecting past due amounts shall be paid by Client. The Client's 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. In addition, CONSULTANT reserves the right to suspend the performance of all services in any case where invoices remain unpaid more than sixty (60) days from the invoice date.

To verify the CLIENT's requirements for appropriate invoicing, the following information is requested.

CLIENT Accounts Payable contact name:

CLIENT Accounts Payable contact phone number:

CLIENT Accounts Payable email address:

Upon execution of this document, CONSULTANT will reach out to the contact provided to gather CLIENT's required information such as purchase order number, client project number, email address or website for invoice submission, monthly deadline for invoice submission, CLIENT legal entity name for invoicing, CLIENT address for invoicing, etc.

6. **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. **NOTWITHSTANDING ANY TERMS IN OR APPLICABLE TO THIS AGREEMENT, CONSULTANT MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO CONSULTANT'S SERVICES OR WORK PRODUCT, AND CONSULTANT DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
7. **LIMITATION OF LIABILITY**: Client and Consultant have evaluated the risks and rewards associated with this project, including Consultant's fee relative to the risks assumed, and agree to allocate certain of the associated risks. To the fullest extent permitted by law, Consultant's aggregate liability to Client, including that of Consultant's officers, directors, employees and agents, is cumulatively 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 Consultant's 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.
8. **NO 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.
9. **INSTRUMENTS OF SERVICE**: In connection with the performance of the Services, Consultant may deliver to Client reports, drawings, specifications, computer files, field data, notes, and other documents and instruments prepared by the Consultant reflecting Services provided and the results of such Services ("Instruments of

Service"). Statements made in Consultant's Instruments of Service are opinions based upon engineering judgment and are not to be construed as representations of fact. 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. Files shall be maintained in general accordance with Consultant's document retention policies and practices. Client shall indemnify, defend, and hold Consultant harmless from any and all claims, damages, or losses arising from any unauthorized reuse or modification of the Instruments of Service.

10. **SAFETY**: Consultant has no authority and no 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.
11. **SAMPLES**: Samples are consumed in testing or disposed of upon completion of tests (unless stated otherwise in the Services).
12. **HAZARDOUS MATERIALS**: Nothing contained within this agreement shall be construed or interpreted as requiring Consultant to assume the status of an owner, operator, generator, storer, transporter, treater or disposal facility as those terms appear within RCRA or within any Federal or State statute or regulation governing the generation, transportation, treatment, storage and disposal of pollutants. Client retains full responsibility for compliance with the provisions of RCRA and any other Federal or State statute or regulation governing the handling, treatment, storage and disposal of pollutants.
13. **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 (or obtain from the Owner should the Client not be the Owner) 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) 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 and Client shall arrange for the repair of any alteration and damage.
 - (d) Client agrees to disclose the identity of all utilities serving the Project Site, the presence and accurate location of hidden or obscured man-made objects known to Client that may be in Consultant's work area and the nature and location of any known or suspected hazardous materials that may exist on the property.
 - (e) The Client shall furnish, at the Client's expense, all information, requirements, reports, data, surveys and instructions required by this Agreement. The Consultant may use such information, requirements, reports, data, surveys and instructions in performing its services and is entitled to rely upon the accuracy and completeness thereof.
 - (f) In order to make informed decisions based on the Instruments of Service, Client's review and study of the Instruments of Service is vital to take full advantage of the consulting process. Client shall review in detail all Instruments of Service, including attachments and references therein, and in the event of questions or concerns, shall contact the project manager. Consultant provides information in the Instruments of Service which assists the Client and/or user in understanding and using the deliverable. The information includes direction on the extent to which the information can be relied on and applied to Client's decision-making process.
 - (g) Provide prompt written notice to CONSULTANT if CLIENT becomes aware of any fault or problem in the PROJECT, including any errors or omissions in CONSULTANT'S work.

(h) 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.

14. **CERTIFICATIONS**: Client understands and agrees that Consultant's Instruments of Services are limited to an expression of professional opinion based upon the Services performed by the Consultant and does not constitute a warranty or guarantee, either express or implied. In addition, Client agrees that Consultant will not be required to execute any document that would result in certifying, guaranteeing or warranting the existence of conditions whose existence the Consultant cannot reasonably ascertain.

15. **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.

16. **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.

17. **UNFORESEEN CONDITIONS OR OCCURRENCES**: If, during the performance of Services ,any unforeseen hazardous substance, material, element or constituent or other unforeseen or changed 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.

18. **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, pandemics, quarantines, acts of government, 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 resume performance of the Services covered by this Agreement as soon as

reasonably possible. If the force majeure event adversely affects the scope or schedule, Client agrees to modify the Scope of Services and the estimate of charges, such revision to be in writing and signed by the parties and incorporated into this Agreement.

19. **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 \$1,000,000 each claim.
20. **INDEMNITY**: Consultant shall indemnify Client from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent caused by the negligent acts, errors, or omissions of Consultant in the performance of services under this Agreement. Notwithstanding any terms in or applicable to this Agreement, it is understood and agreed that Consultant shall have no affirmative defense obligations.
21. **DISPUTE RESOLUTION**: 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 using negotiation and mediation within fifteen (15) calendar days. If the dispute cannot be settled amicably, the Parties agree that the dispute shall be resolved by litigation in a court of competent jurisdiction within the State where project is located.
22. **ASSIGNMENT**: Neither party may assign this Agreement, in whole or in part, without the prior written consent of the other party.
23. **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.
24. **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 without regard to choice of law provisions. 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 Agreement 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, and all remaining provisions shall continue in full force and effect.
25. **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.
26. **NO DISCRIMINATION**: To the extent applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a) and the posting requirement under 29 CFR Part 471, appendix A to subpart A. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.
27. **NO THIRD PARTY LIABILITY**: Nothing in this Agreement or as a consequence of any of the Services provided gives any rights or benefits to anyone other than Client and Consultant. All duties and responsibilities

undertaken pursuant to this Agreement are for the sole and exclusive benefit of Client and Consultant and not for the benefit of any other party. No third party shall have the right to rely on the Instruments of Service without Consultant's prior written consent and the third party's agreement to be bound to the same terms and conditions as the Client.

28. **INDIVIDUAL LIABILITY:** CLIENT AGREES THAT CONSULTANT'S SERVICES WILL NOT SUBJECT CONSULTANT'S INDIVIDUAL EMPLOYEES, OFFICERS OR DIRECTORS TO ANY PERSONAL LIABILITY, AND THAT NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, CLIENT AGREES THAT ITS SOLE AND EXCLUSIVE REMEDY SHALL BE TO DIRECT OR ASSERT ANY CLAIM, DEMAND, OR SUIT ONLY AGAINST CONSULTANT.

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: City of Madison

S&ME, Inc.

BY: _____
(Signature)

BY: _____
(Signature)

(Print Name / Title)

(Print Name / Title)

DATE: _____

DATE: _____

PROPOSAL NUMBER: 24820189

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