

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (the "Agreement") for professional services is made by and between the CITY OF MADISON, ALABAMA, a municipal corporation, located at 100 Hughes Road, Madison, Alabama 35758 (the "City"), and S&ME, Inc., a foreign corporation located at 360D Quality Circle, NW, Suite 450, Huntsville, Alabama 35806 (the "Consultant"). Each of the foregoing is individually referred to herein as "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, pursuant to its National Pollutant Discharge Elimination System (NPDES) Permit, the City of Madison, Alabama (the "City") is required to provide annual stormwater training to relevant municipal staff on the identification, reporting, and corrective action of illicit discharges; and

WHEREAS, the City has determined that its best interests, and the best interests of its residents, will be served by retaining an experienced training provider to conduct the required training for Fiscal Year 2026; and

WHEREAS, S&ME, Inc. (the "Consultant") is an experienced and qualified vendor of the services required and is capable of providing the same in a professional and timely manner; and

WHEREAS, the services to be provided by the Consultant constitute professional services under the Alabama Competitive Bid Law, codified at ALA. CODE § 41-16-50 et seq. (1975), and are therefore exempt from the competitive bidding requirements set forth therein; and

WHEREAS, the City desires to avail itself of the Consultant's unique abilities and services, and the Consultant desires to provide the same to the City.

NOW, THEREFORE, in consideration of mutual covenants and agreements herein set forth, the Parties, intending to be legally bound, hereby agree as follows:

Section 1. Scope of Work.

The Consultant agrees that it will provide stormwater training on the identification, reporting, and corrective action of illicit discharges, as more particularly described in the Consultant's proposal, attached as Exhibit A and incorporated herein by reference (the "Work"), and shall complete the Work in accordance with the terms and conditions set forth herein.

The Consultant shall thoroughly and proficiently perform all services using reasonable diligence and exercising the best judgment, care, and skill ordinarily used by similar persons providing the same or similar services under the same or similar circumstances. The Consultant shall furnish all supplies, materials, machinery, equipment, and means, except as otherwise expressly specified herein, necessary or proper to carry out the services required by this Agreement. The Consultant shall perform all services in accordance with the provisions of this Agreement and shall be solely responsible for the legality, safety, efficiency, and adequacy of the services performed hereunder.

Throughout the term of this Agreement, the Consultant shall provide the City reasonable and meaningful access via telephone and e-mail to the Consultant's principals for the purpose of fulfilling the Agreement. Any and all information provided to the Consultant by the City, of the type normally available for the proposed services, which has been prepared by or for others (including, but not limited to, the City, the State of Alabama, and various federal agencies) will be considered "best available information" and thus appropriate and sufficient for the services proposed herein. The Consultant will not develop such original information unless specifically included in Exhibit A.

Section 2. Compensation.

The total compensation for services rendered by the Consultant pursuant to this Agreement shall be an

amount not to exceed **Two Thousand Two Hundred Dollars (\$2,200.00)** per training session, payable upon rendering of such services and invoicing to the City. The Consultant is solely responsible for the submission of detailed invoices outlining the work performed and the payment due from the City, terms net thirty (30) days from the date of receipt. All fees and expenses related to the Consultant's performance are included in the total compensation set forth in this Agreement, and the Consultant shall not be compensated for any additional expenses. All taxes applicable to payments made to the Consultant under this Agreement shall be the sole responsibility, obligation, and liability of the Consultant. Payment of the compensation set forth in herein shall vest in the City complete and irrevocable ownership of all paid-for deliverables created by the Consultant, and the City shall be perpetually vested with full usage rights to the same.

Section 3. Commencement; Term.

This Agreement shall become effective as of the date it has been duly executed by the authorized representatives of each Party. Where the Parties execute this Agreement on different dates, the date of the latest signature shall constitute the effective date hereof. This Agreement shall expire upon the City's acknowledgement of the Consultant's fulfillment of the terms of the Work as described herein.

Section 4. Additional Services.

In the event that the Consultant determines that additional services are necessary, the Consultant shall notify the City with reasonable promptness and explain the facts and circumstances giving rise to the need. The Consultant shall not proceed to provide any additional services until the Consultant receives written authorization of the City. Any additional services will be performed according to the Consultant's usual and customary rates as set forth in Exhibit A, and shall be subject to the budgetary restrictions of the City's duly-adopted budget for the then-current fiscal year.

Section 5. Indemnification.

To the fullest extent permitted by law, the Consultant shall defend, indemnify, and hold harmless the City, its officials, employees, agents, and representatives from and against any and all claims, suits, injuries, deaths, damages, losses, liabilities, judgments, costs, and expenses (including reasonable attorneys' fees) arising out of or resulting from the negligent acts, errors, omissions, willful misconduct, or bad faith of the Consultant, its employees, agents, subcontractors, or representatives in connection with the performance of this Agreement.

To the fullest extent permitted by law, the City shall indemnify and hold harmless the Consultant, its employees, agents, and representatives from and against any and all claims, suits, injuries, deaths, damages, losses, liabilities, judgments, costs, and expenses (including reasonable attorneys' fees) arising out of or resulting from the willful malfeasance, bad faith, or gross negligence on the part of the City or its individual officials, employees, agents, or representatives in connection with the performance of this Agreement.

Section 6. Insurance.

The Consultant shall maintain and keep in full force and effect, at all times during the term of this Agreement and any extensions thereof, the following insurance coverage. All insurance policies required of the Consultant under this Agreement shall be written by a company or companies authorized and qualified to do business in the State of Alabama. The Consultant shall name the City, and its officials, employees, agents, and representatives, as additional insureds under all policies described below, except workers' compensation and professional liability insurance, and shall provide endorsements evidencing such coverage upon the City's request.

- A. Commercial General Liability Insurance, including coverage for the Consultant's officers, agents, and employees, with limits of not less than:
 - i. Two million dollars (\$2,000,000.00) per occurrence and in the aggregate for bodily injury

- and property damage;
- ii. Two million dollars (\$2,000,000.00) Products/Completed Operations Aggregate; and
- iii. One million dollars (\$1,000,000.00) Personal and Advertising Injury, combined single limit or equivalent;
- B. Automobile Liability Insurance, covering owned and rented vehicles operated by the Consultant, with limits of not less than one million dollars (\$1,000,000.00) combined single limit and aggregate for bodily injury and property damage;
- C. Workers' Compensation Insurance, with limits of not less than one million dollars (\$1,000,000.00);
- D. Umbrella/Excess Liability Insurance, with limits of not less than one million dollars (\$1,000,000.00); and
- E. Professional Liability Insurance, covering the Consultant's negligent acts, errors, and omissions in the performance of professional services, with limits of not less than one million dollars (\$1,000,000.00) per claim and two million dollars (\$2,000,000.00) in the aggregate.

The Consultant shall promptly file certificates evidencing all coverage required hereunder with the City within ten (10) days of the effective date of this Agreement. Each insurance policy and certificate shall provide that the policy may not be cancelled or non-renewed by the insurer until at least thirty (30) days after the insurer has given written notice to the City in accordance with the notice provision in this Agreement. The insurance required under this Section shall be primary to, and shall not require contribution from, any insurance or self-insurance maintained by the City. Any insurance or self-insurance maintained by the City shall be in excess of the Consultant's insurance and shall not contribute to it. The Consultant shall require its insurance carriers, with respect to all insurance policies required under this Section, to waive all rights of subrogation against the City, its officials, employees, agents, and representatives.

Section 7. Termination.

This Agreement may be terminated by either Party, with or without cause, upon the provision of thirty (30) days' written notice to the other Party in accordance with this Agreement. In the event of termination, the Consultant shall be entitled to payment only for services rendered as of the date of termination, and the City shall be entitled to receive only that work product created by the Consultant as of the date of termination.

Section 8. Force Majeure.

If performance of any term or provision of this Agreement is delayed or prevented due to compliance with any law, decree, or order of any governmental agency or authority (whether federal, state, or local), or due to riots, war, public disturbances, strikes, lockouts, labor disputes, fires, floods, acts of God, or any other cause beyond the reasonable control of the affected Party that such Party is unable to prevent through the exercise of reasonable diligence, the affected Party may, at its option and without liability, suspend performance of its obligations under this Agreement for the duration of such event.

Section 9. Independent Contractor Relationship.

The Parties mutually understand, agree, and intend that this Agreement establishes an independent contractor relationship. Employees of the Consultant shall not be deemed employees of the City, and employees of the City shall not be deemed employees of the Consultant.

Section 10. Entire Agreement; Waiver.

This Agreement constitutes the entire Agreement between the Parties with respect to the provision of the services outlined herein, and there are no other or further written or oral understandings or agreements with respect thereto. This Agreement supersedes all other agreements between the Parties. No variation or modification of this Agreement, and no waiver of its provisions, shall be valid unless in writing and signed

by duly authorized representatives of the Consultant and the City. The failure of either Party to enforce any provision of this Agreement shall not be construed as a waiver of that provision or of the right of such Party to subsequently enforce and compel strict compliance with every provision of this Agreement. No waiver by either Party of any breach of this Agreement shall be deemed a waiver of any subsequent breach of the same or any other provision.

Section 11. Notices.

All notices, requests, and communications required or permitted under this Agreement shall be in writing and delivered by hand or by certified mail (return receipt requested) to the addresses below:

If to the City:

City of Madison, Alabama
Attn: Director of Engineering
100 Hughes Road
Madison, Alabama 35758

With a copy to:

City of Madison, Alabama
Attn: City Attorney
100 Hughes Road
Madison, Alabama 35758

If to the Consultant:

S&ME, Inc.
360D Quality Circle NW, Suite 450
Huntsville, AL 35806

Section 12. Alabama Immigration Law Compliance.

The Parties agree to comply with the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, codified at Sections 31-13-1 through 31-13-36 of the *Code of Alabama* (1975). By signing this Agreement, the Parties affirm, for the duration hereof, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a Party found to be in violation of this provision shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.

Section 13. Miscellaneous Provisions.

A. *Order of Precedence.* In the event the terms set forth in the body of this Agreement conflict with the terms set forth in any attachment hereto, the terms set forth in the body of this Agreement shall prevail.

B. *Governing Law.* This Agreement shall be governed by the laws of the State of Alabama. Any action or proceeding arising out of or relating to this Agreement shall be brought exclusively in the state or federal courts located in Madison, Alabama, and the Parties consent to the personal jurisdiction of such courts.

C. *Compliance with Laws.* The Consultant agrees to comply with all applicable federal, state, and local laws, ordinances, rules, and regulations, including, but not limited to those governing environmental protection, permitting, workplace safety, and labor standards. The Consultant shall obtain, at its own expense, all permits, licenses, and approvals required to perform the services described herein, unless otherwise expressly provided in this Agreement.

D. *Assignment.* Neither Party may assign or transfer this Agreement or any part thereof

without the express, written consent of the other Party.

E. *Third Party Beneficiaries.* Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any third party.

F. *Counterparts.* This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

G. *Headings/Captions.* The headings of each section are inserted for reference purposes only. Any conflict between a descriptive heading and the content of the section shall be resolved in favor of the language contained in the section.

H. *Severability.* If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of the Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed and enforced as so limited.

IN WITNESS WHEREOF, the Parties hereto affirm that they have the authority to execute this Agreement on behalf of their respective entities for the entire term and have hereunto set their hands and seals on the day and year respectively noted.

FOR THE CITY:
THE CITY OF MADISON, ALABAMA
A municipal corporation.

Ranae Bartlett, Mayor

ATTEST:

Lisa D. Thomas, City Clerk-Treasurer

Date: _____

NOTARY CERTIFICATION

STATE OF ALABAMA)
COUNTY OF MADISON)

I, _____, the undersigned Notary Public, in and for said County, in said State, hereby certify that Ranae Bartlett and Lisa D. Thomas, whose names as Mayor and the City Clerk-Treasurer, respectively, of the City of Madison, Alabama, are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day, that being informed of the contents of the instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of the City of Madison, Alabama, a municipal corporation, on the day the same bears date.

Given under my hand and official seal this ____ day of _____, 2026.

Notary Public

My Commission Expires: _____

FOR THE CONSULTANT:

S&ME, INC.,

A foreign corporation.

By: _____

Printed: _____

Its: _____

Date: _____

NOTARY CERTIFICATION

STATE OF _____)

COUNTY OF _____)

I, _____, the undersigned Notary Public, in and for said County, in said State, hereby certify that _____, whose name as _____, of _____, is signed to the foregoing instrument, and is known to me, acknowledged before me on this day, that being informed of the contents of the instrument, he or she, as such officer and with full authority, executed the same voluntarily for and as the act of said company, on the day the same bears date.

Given under my hand and official seal this ___ day of _____, 2026.

Notary Public

My Commission Expires: _____

EXHIBIT A