

**BOARD OF PUBLIC WORKS AND SAFETY**  
**Agenda Request Form**

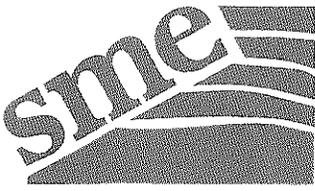
(Form B-01-2012)

*Organizations and individuals are asked to submit a request form and supporting documents to be placed on the agenda. You will be contacted by the City confirming the date of the meeting in which your request will be heard.*

*Please make sure that your contact information is accurate in case we need to get in touch with you. The Board of Works meets on the 1st and 3rd Monday of each month at 5:00 p.m. in City Hall located at 70 E. Monroe Street.*

Date Submitted:	1/30/2013	Requested Meeting Date:	2/4/2013
		Confirmed Meeting Date:	2/4/2013
Received by: Sandy Lipsius			
<b>Contact Information: Please provide all requested information in the fields below. (Print or Type)</b>			
On Behalf of Organization or Individual:		City of Franklin	
Name:	Ron Collins	Telephone:	(317) 736-3660
Title or Position:	Street Commissioner		
E-Mail:	<a href="mailto:rcollins@franklin.in.gov">rcollins@franklin.in.gov</a>		
Address:	2871 N. Morton Street		
City:	Franklin	State:	Indiana
		ZIP:	46131
<b>Who will attend the meeting and present the request?</b>			
Name:	Ron Collins	Telephone:	(317) 736-3660
Title or Position:	Street Commissioner		
E-Mail:	<a href="mailto:rcollins@franklin.in.gov">rcollins@franklin.in.gov</a>		
<b>Please describe the purpose or title of your presentation.</b>			
Request approval of contract for removal of underground storage tanks at the former Street Department (847 Hamilton Avenue).			
<b>Supporting documents: All supporting documents should be submitted with the request form.</b>			
1. Copy of contract			
2.			
3.			
4.			

Questions about this application or the process described should be directed to the Clerk Treasurer's Office at 70 E. Monroe Street, Franklin Indiana 46131 or by email at [jalexander@franklin.in.gov](mailto:jalexander@franklin.in.gov) or call 317-736-3609.



Soil and Materials Engineers, Inc.  
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October 24, 2012

Mr. Ron Collins  
Street Commissioner  
City of Franklin Street Department  
2871 N. Morton Street  
Franklin, IN 46131

*Sent via email: [rcollins@franklin-in.gov](mailto:rcollins@franklin-in.gov)*

RE: Fee Estimate for Underground Storage Tank Closure Activities  
City of Franklin Street Department  
951 Hamilton Avenue  
Franklin, Indiana  
SME Proposal No.: P02544.12

Dear Mr. Collins:

Soil and Materials Engineers, Inc, (SME) has prepared this proposal for the removal and closure of the underground storage tank (UST) system at the City of Franklin Street Department facility located at 951 Hamilton Avenue, Franklin, Indiana (Site).

For purposes of this proposal and based on our review of available information on the Indiana Department of Environmental Management (IDEM) Virtual File Cabinet (VFC) and telephone conversations with you, the UST system consists of two 6,000-gallon gasoline USTs as well as associated piping and two dispensers. In accordance with your request, the canopy will be removed from the Site as part of the UST closure operations. A chain-link fence separates the USTs from the dispenser and canopy. This proposal is based on the Franklin Street Department removing the fence from the area of the UST system prior to the day the UST closure operations are to commence. The USTs are located in a concrete and asphalt paved area on the northeast portion of the Site.

### **SCOPE OF SERVICES**

The UST closure assessment will be completed in accordance with Title 329, Article 9 of the Indiana Administrative Code (329 IAC 9), the IDEM Remediation Program Guide (RPG) the IDEM Remediation Closure Guide (RCG).

#### **Task I - UST Removal Notification**

- SME will complete the IDEM Form 45223 "Notification for Underground Storage Tanks" for submittal to the IDEM Office of Land Quality-UST Section for the two 6,000 gallon gasoline USTs 30 days prior to removal of the USTs.

OFFICES  
Indiana  
Michigan  
Ohio

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consultants in the geosciences, materials, and the environment

### **Task I - UST Removal Notification (continued)**

- SME will notify the following agencies 14 days prior of the intended closure date:
  - IDEM UST Section
  - Office of the State Fire Marshal
  - City of Franklin Fire Department

### **Task II – UST Removal**

- ◆ The SME subcontractor will remove the USTs in accordance with American Petroleum Institute (API) Bulletin #1604 and National Fire Protection Association (NFPA) publication #329. The UST removal operations will include the removal of the two fuel dispensers, residual gasoline from the tanks, inerting and cleaning the tanks, removal of the USTs and associated product piping from the excavation, transportation of the tanks, piping, and dispensers to a salvage yard for disposal. The excavation will be backfilled with the stockpiled fill and imported granular fill material (pit run sand) to offset the volume of the removed USTs. The surface of the excavation will be restored with approximately six inches of #53 stone.

### **Task III – UST Removal Monitoring and Assessment Sampling**

- ◆ Observe the removal of the canopy, USTs, associated piping and dispenser, as well as the cleaning of the USTs by the SME subcontractor. The condition of the USTs will be evaluated upon removal from the excavation. SME will also document the disposal of the USTs and other materials removed from the Property.
- ◆ Field screen soil samples with a photoionization detector (PID) for the presence of volatile organic compounds (VOCs).
- ◆ The UST closure assessment sampling will consist of the collection of the following soil and excavation groundwater samples as stipulated in 329 IAC 9 (latest update of the Indiana Register-October 17, 2012):
  - A soil sample from beneath each end of the USTs (four samples).
  - A soil sample every 20 linear feet of excavation sidewall (five samples estimated).
  - A soil sample every 20 linear feet of piping run and beneath each piping run fitting (three samples estimated).
  - A soil sample from beneath the dispensers (two samples).
  - A backfill soil sample from every 50 cubic yards of backfill soil returned to the excavation (one sample estimated).
  - A groundwater sample from the excavation (if groundwater is present)
- ◆ The soil and groundwater samples will be submitted for laboratory analysis of volatile organic compounds (VOCs), naphthalenes (naphthalene, 1-methylnaphthalene, 2-methyl naphthalene), lead, and lead scavengers (ethylene dibromide and 1, 2-dichloroethane). The required analytical parameters are stipulated in the IDEM RPG dated July 9, 2012.



Note: In accordance with 329 IAC 9, if groundwater is not encountered in the excavation and evidence of a release has been substantiated (through visual staining, field screening, petroleum odors, or analytical results) a groundwater sample must be collected from a soil boring placed in the area of the release. The IDEM has taken the position that analytical results that include the detection of any compound in a soil sample collected from a UST excavation (even if the concentration is below the IDEM Remediation Guide Screening Level) requires the completion of a soil boring and collection of a groundwater sample. If evidence of a release has been substantiated as described above, SME will remobilize to the facility with a Geoprobe direct push drilling equipment to collect a groundwater sample from a soil boring to be completed near the UST excavation. The boring will extend to 30 feet or groundwater, whichever comes first. If groundwater is not encountered in the boring, a soil sample will be collected from the base of the boring for analysis. The installation of a soil boring and associated sample collection and analysis will result in additional cost.

#### **Task IV – UST Closure Assessment Reporting**

- ◆ SME will prepare an amended IDEM Form 45223 “Notification for Underground Storage Tanks” for submittal to the IDEM Office of Land Quality-UST Section indicating permanent closure of the USTs.
- ◆ SME will prepare a UST Closure Assessment report upon completion of the field activities and receipt of laboratory analysis results. The report will include descriptions of activities performed, procedures employed, a summary of assessment results, and conclusions and recommendations based on data obtained during assessment activities. The report will also include a sampling location diagram, disposal records for the USTs, piping, and tank residue, tabulated analytical results, and a copy of the laboratory analytical report(s).

#### **PROFESSIONAL SERVICES FEES**

SME’s Lump Sum Not-to-Exceed Fee for conducting the services outlined is presented below. The fee includes project management, SME field time, analytical testing with five working day turnaround turn-around-time and assessment report preparation.

Tasks I	\$ NC
Tasks II	\$ 8,500
Task III	\$ 6,250*
Task IV	<u>\$ 3,350</u>
<b>TOTAL</b>	<b>\$18,100</b>

#### **Groundwater Contingency Fees:**

\*Soil boring to collect a groundwater sample is an additional \$ 1,900

\*If groundwater is not encountered in the boring, the cost for the required soil sample and QA/QC sample analysis is an additional \$ 380



### ESTIMATING ASSUMPTIONS

Upon written authorization to proceed, SME will prepare the 30-day notification for the UST removal activities.

This proposal assumes that the tanks are empty (less than 2 inches of residual product remaining) and that the tanks are steel and lined with fiberglass.

The UST removal activities and surface restoration services will be completed in three days during normal business hours (8am to 5pm). The UST Closure Assessment Report will be completed within two weeks of receipt of analytical results.

This proposal assumes the Franklin Street Department will remove the fence from the area of the UST system prior to the day the UST closure operations are to commence.

This proposal assumes the backfill will be placed in the excavation, compacted with the bucket of the excavator and no compaction testing will be performed.

The fee estimate does not include costs for the treatment or disposal of impacted soil or groundwater. If during the UST removal activities, contamination is encountered, SME will contact you to discuss release reporting, additional services and the fees associated with any additional services. This fee estimate does not include costs for the collection and laboratory analysis of additional samples that may be required by the IDEM.

One 55-gallon drum of residual fuel/sludge per tank is included in the base removal price

The fee estimate does not include sheeting, shoring, or excessive frost removal.

If site conditions or project specifics differ from the information and assumptions presented herein, you will be notified and additional fees may be required.

While working, SME and our subcontractor will take reasonable precautions to avoid damage or injury to subterranean structures or utilities. The City of Franklin agrees to hold SME harmless for any damages to subsurface structures, which are not identified to SME prior to initiation of assessment activities. SME is not liable for damage to subsurface utilities or features not properly marked by Indiana Underground Plant Protection Service.

SME's services will be provided in accordance with the attached General Conditions of Service (1/09) and the attached Fee Schedules. As written authorization to proceed, please sign in the space provided and return a signed copy of this proposal to SME.



If you have any questions or comments regarding this fee estimate, please contact us. We appreciate this opportunity to provide you with environmental services.

Sincerely,

**SOIL AND MATERIALS ENGINEERS, INC.**



Christopher G. Shaw, CHMM  
Project Manager



Keith Egan, CP#259  
Senior Consultant

*for:*

Attachments: Fee Schedule FS:0 (1/10)  
Fee Schedule FS:6 (1/10)  
General Conditions of Service (1/09)

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# FEE SCHEDULE PERSONNEL AND EXPENSES

## PERSONNEL

Technician I.....	Per Hour .....	40.00
Technician II .....	Per Hour .....	48.00
Technician III .....	Per Hour .....	55.00
Technician IV .....	Per Hour .....	65.00
NDT Technician.....	Per Hour .....	75.00

Minimum 4 Hours Per Day for Technicians

Field Engineer/Geologist.....	Per Hour .....	70.00
Staff Engineer/Geologist, Materials Specialist, Environmental Specialist.....	Per Hour .....	80.00
Senior Engineer/Geologist, Senior Materials Specialist, Senior Environmental Specialist .....	Per Hour .....	95.00
Project Engineer/Consultant, Materials Consultant.....	Per Hour .....	110.00
Senior Project Engineer/Consultant, Project Manager .....	Per Hour .....	135.00
Senior Consultant, Senior Project Manager, Certified Industrial Hygienist.....	Per Hour .....	155.00
Principal Consultant .....	Per Hour .....	185.00
Laboratory Technician .....	Per Hour .....	65.00
CAD .....	Per Hour .....	75.00
Drafter .....	Per Hour .....	60.00
Log Processor.....	Per Hour .....	55.00
Word Processing, Administrative Assistant .....	Per Hour .....	48.00
<b>Communication Fee (Postage, Shipping, Faxes, Cell Phones, etc).....</b>	<b>3% of Personnel Fees</b>	

Expert Testimony and Depositions (including preparation time)..... Premium of 50% added to hourly rate

Overtime rate (Applies to all work in excess of 8 hours per day, before 8:00 am or after 5:00 pm Monday through Friday or anytime Saturday, Sunday, or Holiday)..... Standard Rate x 1.5

## TRANSPORTATION AND EXPENSES

Transportation Charge, SME or Private Vehicle.....	Per Mile .....	0.65
Lodging, Subsistence, Out-of-town Travel .....	At Cost + 20%	
Subcontract Expenses, Equipment Rental .....	At Cost + 20%	
Direct Expenses (Film, Photos, Prints, Permits, Maps, etc).....	At Cost + 20%	
Extra Copies of Report (normal distribution is 3 copies).....	Per Copy .....	50.00
Blueprints .....	Per Sheet.....	2.00
Blueprint Sepia.....	Per Sheet.....	20.00
<i>Other Services including Drilling, Special Equipment use, and Special Laboratory Testing .....</i>	<i>See Appropriate Fee Schedule</i>	

Other services not listed will be provided upon request

## GENERAL NOTES

- Hourly rates will be charged for time spent in the interest of the project, in preparation of reports, as well as travel time to and from the job site. Fees for laboratory tests include reporting of routine results without comments, recommendations or conclusions. Discussion, interpretation, and consultation are charged at appropriate hourly rates.
- SME representatives may provide observation and field-testing. The scope of services does not include job or site safety, supervision, or direction of the actual work of the contractor. The presence of SME on the job site should not be construed to relieve the contractor in any way of his obligations and responsibilities under the construction contract.
- SME General Conditions govern all the work performed.



# FEE SCHEDULE ENVIRONMENTAL SERVICES

**SEE FS:0 FOR STAFF RATES**

## DRILLING/FIELD SERVICES

Drilling and Well Installation.....	See Fee Schedule FS:1
Geoprobos.....	See Fee Schedule FS:6.1
Equipment required to complete investigation, i.e. bulldozer, backhoe, subcontract drill rigs, water permits and charges, access fees, tools.....	At Cost + 20%
Environmental Health Protection Equipment	
Level C.....	Per Day/Person ..... 125.00
Level B.....	Rate Available on Request
Other services.....	At cost + 20%

## EQUIPMENT

Steam Cleaner.....	Per Day.....	110.00
Generator.....	Per Day.....	110.00
Compressor.....	Per Day.....	100.00
Explosive Gas Meter/Tri-gas Meter.....	Per Day.....	80.00
Photoionization Detector.....	Per Day.....	140.00
Peristaltic Pump.....	Per Day.....	40.00
Groundwater Bladder Pump.....	Per Day.....	165.00
Groundwater Pump (Grundfos).....	Per Day.....	80.00
5/8" OD x 3/8" ID Flex Tubing.....	Per Foot.....	2.00
1/2" OD x 3/8" ID Poly Vinyl Tubing.....	Per Foot.....	.60
3/8" OD x 1/4" ID High Density Poly Tubing.....	Per Foot.....	.10
Soil Gas Equipment.....	Per Day.....	250.00
Groundwater Sampling Filter.....	Each.....	25.00
Environmental Sampling Kit.....	Per Day.....	50.00
Disposable Bailer.....	Each.....	25.00
Interface Probe.....	Per Day.....	40.00
Drums – Steel/Poly.....	Each.....	35.00
Water Level Meter.....	Per Day.....	30.00
Survey Equipment (Level Rod).....	Per Day.....	30.00
Well Locks.....	Each.....	15.00
Well Supplies, Other Supplies and Equipment.....	At Cost + 20%	
Low Flow Sampling Equipment.....	Per Day.....	300.00
Pressure Transducer.....	Per Day.....	25.00
2-inch Absorbent Socks.....	Each.....	20.00
4-inch Absorbent Socks.....	Each.....	25.00
Locking Well Caps.....	Each.....	25.00
GPS (sub-meter).....	Per Day.....	250.00
GEM 2000.....	Per Day.....	275.00

## LABORATORY

Asbestos Analyses.....	As Quoted or At Cost + 20%
Analytical Chemistry of Water and Soil.....	As Quoted or At Cost + 20%
Calibrated Penetrometer Test.....	Each..... 4.00
Torvane Test.....	Each..... 5.00
Visual Engineering Classification: Soil.....	Per Sample..... 6.00
Visual Engineering Classification: Cores.....	Per Sample..... 20.00
Moisture Determination.....	Each..... 6.00
Unit Weight Determination.....	Each..... 10.00
Atterberg Limits (LL + PL).....	Each..... 125.00



## LABORATORY (Continued)

Hydrometer Analysis.....	Each .....	125.00
Specific Gravity.....	Each .....	60.00
Loss by Wash .....	Each .....	60.00
Sieve Analysis .....	Each .....	60.00
Permeability Test of Liner Sample.....	Each .....	275.00
Permeability Test of Compacted Sample .....	Each .....	325.00
Other services .....	Rate available upon request	

## GENERAL NOTES

1. The Owner grants a right of entry from time to time to SME, its agents, staff, and contractors or subcontractors, for the purpose of performing and with the right to perform all acts, studies, and research including without limitation the making of tests and evaluations, pursuant to the agreed services. Client represents that he possesses all necessary permits and licenses required for activities at the site.
2. Generally, test samples or specimens are consumed or substantially altered during the conduct of tests and SME, at our sole discretion, will dispose of these samples or specimens upon completion of tests, subject to the following:

Non-Hazardous Samples: At Client's written request, we will maintain preservable test samples and specimens or the residue there from for 30 days after submission of our report free of storage charges. After the initial 30 days and upon written request, we will retain test specimens or samples for a mutually acceptable storage charge and period of time. Client agrees that it will not hold us responsible or liable for any loss of test specimens or samples retained in storage.

Hazardous or Potentially Hazardous Samples: In the event samples contain substances or constituents hazardous or detrimental to health, safety, or the environment as defined by federal, state or local statutes, regulations, or ordinances, we will, after completion of testing and at Client's expense, (i) return such samples to Client, or (ii) using a manifest signed by Client as generator, we will have such samples transported to a location selected by Client for final disposal. Client agrees to pay all costs associated with the storage, transport, and disposal of samples. Client recognizes and agrees that we are acting as a bailee and at no time assume title of said waste.

3. All laboratory and field equipment contaminated in performing our services and which cannot be reasonably decontaminated shall become the property and responsibility of Client. All such equipment shall be delivered to Client or disposed of in a manner similar to that indicated for hazardous samples. Client agrees to pay the fair market value of any such equipment, which cannot reasonably be decontaminated.
4. Client agrees to advise us upon execution of this Agreement of any hazardous substances including subsurface contaminants and biological pollutants (mold, spores, bacteria, fungi and other byproducts of biological organisms), environmental violations, or any condition existing in, on or near the site presenting a potential danger to human health, the environment, or equipment. Client agrees to provide continuing information as it becomes available to the attention of Client in the future. By virtue of entering into this Agreement or of providing services hereunder, we do not assume control of or responsibility for reporting to any federal, state, or local public agencies any conditions at the site that may present a potential danger to health, safety, or the environment. Client agrees to notify the appropriate federal, state or local public agencies as required by law, or otherwise to disclose, in a timely manner, any information that may be necessary to prevent any danger to health, safety, or the environment.

In connection with hazardous waste, Client/Owner agrees to the maximum extent permitted by law to defend, hold harmless and indemnify SME from and against any and all claims and liabilities resulting from: Client's/Owner's violation of any federal, state or local statute, regulation or ordinance relating to the disposal of hazardous substances or constituents; Client's/Owner's undertaking of or arrangement for the handling, removal, treatment, storage, transportation or disposal of hazardous substances or constituents found or identified at the site; changed conditions or hazardous substances or constituents introduced at the site by Client/Owner or third persons before or after the completion of services herein; allegations that SME is a



handler, generator, operator, treater or storer, transporter, or disposer under the Resource Conservation and Recovery Act of 1976 as amended or any other similar federal, state, or local regulation or law.

5. Client recognizes that it is impossible for SME to know the exact composition of a site's subsurface even after employing a comprehensive exploratory program. As a result, there is a risk that sampling may result in contamination of certain subsurface areas, as when a probe or boring device moves through a contaminated area, linking it to an aquifer, underground stream, or other hydrous body not previously contaminated and capable of spreading hazardous materials off-site. Because such sampling is a necessary aspect of the work which SME will perform for Client's/Owner's benefit, Client/Owner waives any claim against SME, and agrees to defend, indemnify and save SME harmless from any claim or liability for injury or loss which may arise as a result of cross-contamination caused by sampling, except to the extent of SME's sole negligence.
6. Client recognizes that it is Client's responsibility to inform the property owner of the discovery of unanticipated hazardous materials or suspected hazardous materials. Client also recognizes that any such discovery may result in a significant reduction of the property's value, and this may spur the property's owner to institute action against SME. Accordingly, in such situations, Client waives any claim against SME, and agrees to defend, indemnify and save SME harmless from any claim or liability for injury or loss of any type arising from SME's discovery of unanticipated hazardous materials or suspected hazardous materials on a site not owned by Client.
7. It is possible this assessment may fail to reveal the presence of contaminants (including subsurface contaminants, hazardous materials and biological pollutants [mold, spores, bacteria, fungi and other byproducts of biological organisms] and all other types of environmental contamination collectively referred to as "Contaminants") at sites where contaminants are assumed, or expected to exist or contaminants are inaccessible or unobservable. Client understands that SME's failure to discover contaminants does not guarantee that contaminants do not exist at the site. Similarly, a site which in fact is unaffected by contaminants at the time of SME's study, may later, due to natural phenomena or human intervention, become contaminated. Client agrees that it would be unfair to hold SME liable for failing to discover contaminants whose exact location is impossible to foretell due to the site or building conditions, or for failing to discover contaminants, which, in fact, did not exist at specific sampling locations at the time such samples were taken. Accordingly, Client waives any claim against SME, and agrees to defend, indemnify and save SME harmless from any claims or liability for injury or loss arising from SME's failure to detect the presence of contaminants through techniques commonly employed for the purpose, except to the extent caused by SME's sole negligence.
8. If during the performance of services, unforeseen hazardous substances or constituents, biological pollutants or other unforeseen conditions or occurrences are encountered which, in our sole judgment significantly affect or may affect the services, the risk involved in providing the services, or the recommended scope of services, we will notify Client thereof. Subsequent to the notification, SME may: if practicable, in our sole judgment, complete the original scope of services in accordance with the procedures originally intended in the proposal; agree with Client to modify the Scope of Services and the estimate of charges to include study of the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the parties and incorporated herein; or terminate the services effective on the date specified by SME in writing.
9. Client also agrees to compensate SME for any time spent and expenses incurred by SME in defense of any claims (related to Items 4, 5, 6, and 7 above), with such compensation to be based upon SME's prevailing fee schedule and expense reimbursement policy.
10. While working SME will take reasonable precautions to avoid damage or injury to subterranean structures or utilities. The Client and Owner agree to hold SME harmless for any damages to subterranean structures, which are not called to SME's attention and/or not correctly shown on the plans furnished.



## SME GENERAL CONDITIONS

1. In this Agreement, the party agreeing to have the services performed is the "Client." The Client's client shall be referred to as the "Owner." Unless expressly stated otherwise, Soil and Materials Engineers, Inc., its employees, agents, subconsultants and subcontractors, are collectively referred to as "SME."
2. SME will submit invoices to Client monthly and a final bill upon completion of services. Payment is due upon presentation of invoice to the Client and is past due 30 days from date of the invoice. Client agrees to pay a service charge of 1-1/2% per month, or the maximum rate allowed by law, whichever is greater, on past due accounts.
3. All reports, field data, field notes, laboratory test data, calculations, estimates, and other documents prepared by SME in connection with this Project shall be considered instruments of service, and shall remain the property of SME. SME grants Client and Owner a limited license to use such instruments of service for the purpose of designing, constructing, maintaining or repairing work that is part of this Project. Any reuse of SME's instruments of service for any purpose other than the limited license granted herein is prohibited and SME shall have no responsibility to Client, Owner or third parties for unauthorized use of its instruments of services.
4. SME will retain pertinent records relating to the services performed for Client for a period of time consistent with SME's File Management Plan, a copy of which will be provided to Client upon request. During that period, the records will be made available to the Client at reasonable times. At the end of the retention period indicated in SME's File Management Plan, SME may, in its sole discretion, dispose of all such records.
5. **SME MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH REGARDS TO ITS SERVICES.**
6. Either party may terminate this Agreement upon at least 7 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof. Such termination will not be effective if that substantial failure is remedied before expiration of the period specified in the written notice. This Agreement shall also be automatically terminated upon a suspension of the project for more than 3 months. In the event of termination, Client will pay SME for services performed to the termination notice date plus reasonable termination expenses. In the event of termination, or suspension, prior to completion of all reports contemplated by this Agreement, SME may complete such analyses and records as are necessary to complete the files and may also complete a report on the services performed to the date of notice of termination or suspension. The expenses of termination or suspension include all direct costs of completing such analyses, records, and reports.
7. If any dispute arising out of or relating to this Agreement, or its breach, is not settled through direct discussions, the parties agree that as a condition precedent to litigation, they will endeavor for 30 days following written notice by one party to the other of a dispute or breach, to settle the dispute by mediation with the assistance of a neutral mediator. In any litigation or arbitration, if applicable, the parties agree that the prevailing party is entitled to recover all reasonable costs incurred in defense or prosecution of the claim, including its staff time, court costs, attorney's fees, and other claim-related expenses. Notwithstanding, SME has no obligation to mediate with Client prior to litigation when collecting fees legally owed by Client.
8. If Client gives SME other-than-written authorization to proceed with services after receiving SME's written proposal, Client agrees to accept the proposal, including these General Conditions, as the Agreement governing SME's services and the relationship between the parties. Such acceptance based on other-than-written authorization is effective except for those provisions that Client objects to in writing within 7 days following the other-than-written authorization.
9. SME and its staff are protected by worker's compensation insurance and SME has coverage under General Liability and Professional Liability insurance policies. SME will provide Client with evidence of such policies upon written request. SME is not responsible for any loss, damage or liability arising from acts of Client, its agents, staff, and other consultants employed by Client.
10. In consideration for SME's undertaking to perform services at the rates set forth on the Fee Schedule attached to SME's proposal or the lump sum fee provided, Client agrees to limit all potential liability of SME to Client, its employees, agents, successors and assigns, for any and all claims, losses, breaches, damages or expenses arising from, or relating to SME's performance of services on this Project, such that SME's total aggregate liability to Client, its employees, agents, successors and assigns shall not exceed \$50,000 or SME's total fee for the services rendered on the project, whichever is greater. The Client understands that it may negotiate a higher limit of liability in exchange for an appropriate increase in SME's fee.
  - a) Client further agrees that it will require all of its contractors and consultants on this project and their respective subcontractors and subconsultants, be bound by an identical limitation of SME's aggregate liability in their agreements for work on this project.
  - b) Client further agrees that it will require all of its contractors and subcontractors defend and indemnify Client and SME from any and all loss or damage, including bodily injury or death, arising from contractor or subcontractors performance of work on this project, regardless of whether or not such claim, damage, loss or expense is caused in part by SME provided however, that this obligation shall not apply to claims, damage, loss or expense caused by the sole negligence or fault of SME.
11. To the fullest extent permitted by law, Client shall defend and indemnify SME from and against all claims, damages, losses and expense, including reasonable attorney fees, arising out of the performance of SME's services or the materials of others in connection with the project regardless of whether or not such claim, damage, loss or expense is caused in part by SME; provided however, that this obligation shall not apply to claims, damage, loss or expense caused by the sole negligence of SME.
12. Notwithstanding any period of limitations that might otherwise apply, the parties agree that no action, claim or proceeding of any kind, whether in tort, contract or equity arising out of SME's services may be brought against SME more than two years after the first to occur of the following events: (i) the date of Client's acceptance, use or occupancy of the Project that is the subject of this engagement, or (ii) the date of SME's last service in connection with this Project.
13. If SME provides services at the request of Client, in addition to those described in the scope of work contained in SME's proposal, Client agrees that these general conditions including the general notes on the fee schedules shall apply to all such additional services.
14. In the event any provision of this Agreement is held invalid or unenforceable, the other provisions will remain in full force and effect, and binding upon the parties. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between Client and SME will survive the completion of the services and the termination of this Agreement. This Agreement cannot be assigned by either party without the written consent of the other party. This Agreement includes SME's Fee Schedule(s), and any notes thereon, these General Conditions and other documents incorporated herein. This Agreement constitutes the entire Agreement between the parties and cannot be changed except by a written instrument signed by both parties. All preprinted Terms and Conditions on Client's Purchase Order(s) or acknowledgement forms are inapplicable to this Agreement. The parties agree that this Agreement shall be governed in all respects by the laws of the State of Michigan.

PROPOSAL ACCEPTED BY:		BILLING ADDRESS	
Signature _____	Date _____	Street _____	
Printed Name _____	Title _____	City / State _____	
Company _____		Zip Code _____	

