

## REQUEST FOR BOARD ACTION

ITEM NO. 16

**DATE OF MEETING:** April 5, 2010

**REQUESTED BY:** David Smith, Pender County Schools

**SHORT TITLE:** Resolution Authorizing a Contract with and Purchase Order to S&ME, in the amount of \$26,000 for Construction Materials Testing Services for C. Heide Trask High School Auditorium & Auxiliary Gym Addition

**BACKGROUND:** Of the \$56 million school bond referendum approved by voters on May 3, 2005, \$2.2 million was originally allocated for the construction of a Performing Arts Center at C. Heide Trask High School. On November 2, 2009, the Board Authorized the Schools (following public meetings to obtain the communities' input) to proceed to construct a \$4,399,960 project that would be a combination school auditorium and an auxiliary gym addition. The Board has already approved \$3,701,910 in expenditures for this project.

At this time the school is recommending approval of the attached contract and award of a purchase order in the amount of \$26,000 to S&ME to conduct materials testing during construction.

The County and Schools have entered into the appropriate agreements to permit the County to pay the bills associated with construction in order to recapture the sales taxes paid and realize a substantial savings

**SPECIFIC ACTION REQUESTED:** To consider a resolution to authorize contract with and purchase order to S&ME as indicated above.

**COUNTY MANAGER'S RECOMMENDATION**

Respectfully recommend approval.

  
\_\_\_\_\_  
Initial

**RESOLUTION**

**NOW, THEREFORE BE IT RESOLVED** by the Pender County Board of Commissioners that:

a contract with and purchase order to S&ME, is hereby authorized for materials testing during construction of the auditorium and auxiliary gymnasium addition at C. Heide Trask High School in the amount of \$26,000. The County Manager/Chairman shall have the authority to execute any/all documents necessary to implement this resolution.

Account #: 63-406465      Heide Trask Auditorium

**AMENDMENTS:**

MOVED \_\_\_\_\_ SECONDED \_\_\_\_\_

APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ UNANIMOUS

YEA VOTES: Tate \_\_\_ Blanchard \_\_\_ Brown \_\_\_ Rivenbark \_\_\_ Williams \_\_\_

\_\_\_\_\_  
Jimmy T. Tate, Chairman      04/05/2010  
Date

\_\_\_\_\_  
ATTEST      04/05/2010  
Date



March 3, 2010

Pender County Schools  
925 Penderlea Highway  
Burgaw, North Carolina 28425

RECEIVED  
MAR 17 2010  
PENDER FINANCE

Attention: Mr. David Smith

Reference: **Proposal for Construction Materials Testing Services**  
Heidi Trask High School Addition  
Rocky Point, North Carolina  
S&ME Proposal No. 027-10

Dear Mr. Smith:

S&ME, Inc. is pleased to have the opportunity to submit this proposal for the above-referenced project. This proposal describes our understanding of the project, discusses the intended scope of our services, and presents the associated compensation. Our Agreement for Services (Form AS-071) is attached to this proposal and is incorporated as part of the proposal.

#### PROJECT INFORMATION

This proposal is based on a January 13, 2010 visit to the LS3P Associates LTD office to view the project specifications and plans, in addition to conversations between Mr. Andy Aretakis of LS3P and Mr. Nathan Buffum of S&ME. A geotechnical exploration was also performed by S&ME with our recommendations presented in a report (1061-00-078B) dated October 5, 2009.

We understand that a new building addition will be constructed at the existing Heidi Trask High School located in Rocky Point, North Carolina. The building addition will include a new auditorium and gymnasium. The single story structure will be supported on shallow foundations with soil improvements to a depth of 4 feet below footing bottoms consisting of No. 57 stone. The addition will have a concrete slab-on-grade floor with load bearing walls constructed of masonry block units. Fill depths within the building footprint will be on the order of 1 to 2 feet to reach finished grades. A reinforced concrete, below-grade, earth-retaining wall about 4 feet high will provide interior grade separation between the stage floor and the seating floor. Structural steel columns, joists, girders, and metal decking will be placed for support of the roof system.

#### SCOPE OF SERVICES

Based on our understanding of the project, review of the Schedule for Special Inspections prepared by Woods Engineering (Sheet S-103), and our experience with similar projects, S&ME proposes to offer the following services as part of this proposal:

- **Proofroll Observations:** Our personnel can visually evaluate subgrade soil conditions in the building area prior to fill placement to help identify areas which pump, rut, or deflect under passage of construction equipment.
- **Density Testing for the Building Area Soils:** Our personnel can perform density testing in the building area during fill placement operations. This testing will be performed by either the Sand Cone Method or Nuclear Density Method.
- **Laboratory Testing:** After obtaining representative soil samples from the site or borrow areas, our laboratory personnel can perform standard or modified Proctor testing to obtain the material's optimum moisture content and maximum dry density. In addition, grain size analysis can be performed. If the soils contain a considerable amount of fines (silts and clays), Atterberg limits testing may be performed for plasticity.
- **Foundation Soil Testing:** After excavation of the foundation areas to the planned depths and dimensions, our personnel observe and evaluate the excavations to help identify soft or loose soil areas. In addition, our personnel can observe the placement of the No. 57 stone as recommended by S&ME in our geotechnical report dated October 5, 2009 for support of the 2,000 pounds per square foot design bearing pressure.
- **Reinforcing Steel Evaluations:** Our personnel can evaluate reinforcing steel placed within concrete for footings, walls, and slabs prior to each concrete pour for compliance with project plans and details.
- **Concrete Compressive Strength Testing:** Our personnel can perform air and concrete temperature, slump, and air content testing during placement of fresh concrete. Also, for each scheduled placement, representative cylinders will be cast for compressive strength testing. After the initial curing on site, the cylinders will be transported to our facility for additional laboratory curing and compressive strength testing. The data will then be reviewed by an S&ME project manager and forwarded to you.
- **Masonry Wall Construction, Grout, and Mortar Sampling and Testing:** During masonry wall construction, our personnel can be present to evaluate reinforcing steel placed within the walls and observe typical wall construction by the contractor. In addition, during grout and mortar placement within masonry walls, our personnel can sample and cast representative samples. After the initial curing on site, the samples will be transported to our laboratory for additional curing and compressive strength testing.
- **Visual Welding and Bolt Torque Evaluations:** Our metals technicians can visually evaluate welded, structural connections for size and length as indicated on the structural drawings and the visual requirements of AWS D-1.1. In addition, bolted connections can be evaluated for the correct number of bolts and torque,

when applicable. For torque evaluation, we request that the appropriate subcontractor have a calibrated Skidmore-Wilhelm at the site. As part of our visual welding evaluations, and as a requirement of AWS D-1.1, our personnel will review current welder qualifications for each welder. Further, current welding procedures should be on site for each type of welding required on the project.

- **Waterproofing and Drainage Evaluations:** Our personnel can evaluate waterproofing and/or drainage placed along the walls located at the stage area for compliance with project plans and details. Our evaluations will be limited to observations only and will not include testing of proper waterproofing materials or application techniques.
- **Reporting:** Our personnel can leave a copy of a field report at the project site. This report will summarize our field personnel's preliminary observations and testing results. This information will be delivered to our office, reviewed by an S&ME project manager, and issued in a typed format, when applicable.

### EXCLUDED 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:

1. "Special Inspection" testing and observations as defined in the North Carolina Building Code. We understand that Woods Engineering will be providing this service and S&ME will be acting as their agent.
2. Documentation of curing measures, particularly during ACI defined "Hot Weather" and/or "Cold Weather" conditions.
3. Fabrication Shop inspections for precast concrete or structural steel components.
4. Non-destructive testing of welds other than visual inspections.

S&ME can perform these services upon request. If any of the above excluded services are required, please contact us so that we can modify this proposal, or provide an additional proposal, for these services.

### CLIENT RESPONSIBILITIES

We ask that you be responsible for the following:

1. **Scheduling:** Provide us with the name of the individual who will be responsible for scheduling and directing our testing services. Provide, or instruct your appointed representative to provide, a minimum 24-hour notice for our services. A minimum 48-hour notification is required for visual welding and bolt torque evaluations, if needed.

When our services will be needed on weekends and/or holidays (New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving, Christmas Eve, and Christmas Day), we require a minimum 72-hour notification.

This project will be staffed on an on-call basis, as directed by you or your appointed representative. When performing these services on an on-call basis, S&ME will perform only those services specifically requested by your on-site personnel, as outlined in this proposal, and will not be responsible for work performed by the contractor without our presence.

2. **Report Distribution:** Provide us with all applicable names and addresses for report distribution.

## COMPENSATION

Billing for this project will be on a unit price basis in accordance with the rates shown on the attached Fee Schedule. However, for budgetary purposes and as requested by you, we have provided an estimated cost for the proposed services. We estimate our fees to be approximately \$26,000.00.

We have attached a copy of our estimated cost breakdown for your review. With each invoice, we can update you with services provided for that invoice, as well as the total fees to date, if requested.

Please note that the total cost of construction materials testing services is highly dependent on the contractor's schedule and ability to meet that schedule. If the contractor is unable to meet the proposed schedule(s), if the contractor's means and methods are unable to meet the project specifications (e.g., failing tests), if we are requested/required to be on site more manhours than assumed in this proposal, or if services not specifically proposed are requested, our fee estimate and total fees billed will be adjusted accordingly. We will notify you if any of these conditions develop prior to performing additional services which would result in a fee increase.

## AUTHORIZATION

Our Agreement for Services, Form 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 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 forwarded to you via e-mail, and if you choose to accept this proposal by e-mail, your reply e-mail 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.

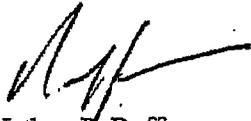
### CLOSING REMARKS

This proposal is solely intended for the basic 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. Use of this proposal and resulting documents is limited to above-referenced project and client. No other use is authorized by S&ME, Inc.

S&ME appreciates the opportunity to propose our services to you. If you have any questions after reviewing this proposal, please do not hesitate to contact us at your convenience.

Sincerely,

S&ME, Inc.



Nathan P. Buffum  
Construction Services Manager



Tom Schipporeit, P.E.  
Branch Manager

Attachments:

Fee Schedule  
AS-071

Email:

Andy Aretakis, AIA, LEED AP - LS3P Associates LTD. - [andyaretakis@ls3p.com](mailto:andyaretakis@ls3p.com)  
Ernie Langston - LS3P Associates LTD. - [ernielangston@ls3p.com](mailto:ernielangston@ls3p.com)  
David Smith - Pender County Schools - [david\\_smith@pender.k12.nc.us](mailto:david_smith@pender.k12.nc.us)  
Don Woods - Woods Engineering - [donwoods@woodseng.com](mailto:donwoods@woodseng.com)





**AGREEMENT FOR SERVICES**

Form AS-071

Date: March 3, 2010	Job Number:
S&ME, Inc. (hereafter Consultant)	Client Name: Pender County Schools (hereafter Client)
Address: 3006 Hall Waters Drive, Suite 100 City: Wilmington State: North Carolina Zip: 28405-8786	Address: 925 Penderlea Highway City: Burgaw State: NC Zip: 28425
Telephone: (910) 799-9945 Fax: (910) 799-9958	Telephone: (910) 663-3572 Fax:
<b>PROJECT</b>	
Project Name: Construction Materials Testing Services	
Project location: (Street Address) Heidi Trask High School Addition	
City: Rocky Point	State: NC Zip:
<b>SERVICES TO BE RENDERED</b>	
Proposal Number: 027-10 dated: March 3, 2010 is incorporated into this Agreement For Services. This Agreement For Services is incorporated into the above Proposal.	

Client desires to contract with Consultant for the Services to be Rendered (Services) on Client's Project, as contained in Consultant's Proposal. The Proposal and Client's Project are referenced immediately above.

THEREFORE, in consideration of the Mutual Covenants and Promises included herein, Client and Consultant agree as follows:

- ACCEPTANCE:** Client hereby accepts this offer by Consultant to provide the Services as contained in Consultant's Proposal and agrees that such Services and any additional Services authorized by Client shall be governed by the terms of this Agreement. If Client directs that Services commence prior to execution of this Agreement, Client agrees that commencement of Services by Consultant is in reliance on Client having accepted the terms of this Agreement and acknowledgment that Client will execute this Agreement, forthwith. Client may accept this Agreement for Services through the use of Client's Purchase Order, however all preprinted terms and conditions on Client's purchase order are inapplicable and the terms of this Agreement shall govern. Unless this offer is previously accepted, it will be withdrawn automatically at 5:00 pm EST, ninety (90) days from the date of issue.
- CONTRACT DOCUMENTS:** "Contract Documents" shall mean this Agreement for Services, the Proposal identified under "SERVICES TO BE RENDERED," and any modifications, extensions, and additions to the "Services to be Rendered" that Consultant has performed or may perform for Client.
- 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 location providing the Services shall control. Consultant will submit progress 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.

Consultant shall be paid in full for all Services rendered under this Agreement, including any additional Services authorized by Client. However, if Client objects to all or any portion of any invoice, Client shall so notify Consultant in writing of the objection within fifteen (15) days from date of invoice, give reasons for the objection, and pay that portion of the invoice not subject to Client's objection. Client and Consultant will informally discuss Client's objections to the invoice and attempt to reach a resolution mutually acceptable to Client and Consultant. If Client or Consultant determine that an informal resolution is not possible, then that party shall so state in writing to the other party and initiate a

final resolution pursuant to the Dispute Resolution provisions of this Agreement for Services. If the Client does not object in writing to all or a portion of the invoice within fifteen (15) calendar days from date of invoice, then the full amount of the invoice is due and payable and all objections are waived.

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.

Any invoices that remain unpaid thirty (30) calendar days after Client's receipt of letter from Consultant demanding payment of the invoices or notification of a collection action by an attorney or collection agency shall constitute a release of Consultant by Client from any and all claims whatsoever, including, but not limited to, tort or contractual claims which Client may have against Consultant for Services performed under said invoice(s).

4. **STANDARD OF CARE AND WARRANTY DISCLAIMER:** 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. **THE REMEDIES SET FORTH HEREIN ARE EXCLUSIVE AND NO WARRANTY OR GUARANTEE, EITHER EXPRESS OR IMPLIED IS MADE OR INTENDED BY THIS AGREEMENT or by any report, opinion, or other Instrument of Service provided pursuant to this Agreement.**
5. **LIMITATION OF REMEDIES: CONSULTANT'S AGGREGATE LIABILITY RESPONSIBILITY TO CLIENT, INCLUDING THAT OF OUR OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, IS LIMITED TO \$50,000 OR THE AMOUNT OF CONSULTANT'S TOTAL FEE UNDER THIS AGREEMENT, WHICHEVER IS GREATER, HEREINAFTER REFERRED TO AS LIMITATION OF REMEDY. THIS LIMITATION OF REMEDY APPLIES TO ALL LAWSUITS, CLAIMS OR ACTIONS, WHETHER IDENTIFIED AS ARISING IN TORT, CONTRACT, INCLUDING NEGLIGENCE (WHETHER SOLE OR CONCURRENT), PROFESSIONAL ERROR OR OMISSIONS, BREACH OF WARRANTY (EXPRESS OR IMPLIED), NEGLIGENT MISREPRESENTATION, AND STRICT LIABILITY, 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.**

IF CLIENT DESIRES A HIGHER LIMITATION OF REMEDY, CONSULTANT MAY AGREE, AT CLIENT'S REQUEST, TO INCREASE THE LIMITATION OF REMEDY TO A GREATER SUM IN EXCHANGE FOR A NEGOTIATED INCREASE IN FEE. ANY ADDITIONAL CHARGE FOR A HIGHER LIMITATION OF REMEDY IS CONSIDERATION FOR THE GREATER RISK ASSUMED BY CONSULTANT AND IS NOT A CHARGE FOR ADDITIONAL PROFESSIONAL LIABILITY INSURANCE. ANY AGREEMENT TO INCREASE THE LIMITATION OF REMEDY MUST BE MADE IN WRITING AND SIGNED BY BOTH PARTIES IN ADVANCE OF THE PROVISION OF SERVICES UNDER THIS AGREEMENT.

BY ENTERING INTO THIS AGREEMENT, CLIENT ACKNOWLEDGES THAT THIS LIMITATION OF REMEDIES 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. Data stored in electronic format can deteriorate or be modified inadvertently or otherwise. Consultant shall not be responsible to maintain documents stored in electronic media. When transferring documents in electronic media format, Consultant makes no representations as to long-term compatibility, usability, or readability of such media format.

Consultant shall not be responsible for any alterations, modifications, or additions made in the electronic data by the Client or any reuse of the electronic data by the Client or any other party for this Project or any other project without Consultant's written consent.

Client shall indemnify, and hold Consultant harmless against any claims, damages or losses arising out the reuse of the electronic data without Consultant's consent or arising out of alterations, modifications, or additions to the electronic data made by anyone other than Consultant.

Any Instruments of Service, including reports, generated as part of this Agreement are intended solely for use by Client and shall not be provided to any other person or entity without Consultant's written authorization. To the fullest extent permitted by law, Client shall indemnify and hold harmless Consultant from and against any action or claim brought by any person or entity claiming to rely on the information or opinions contained in the Instrument of Service without Consultant's written authorization.

8. **SAFETY:** Consultant will maintain a safety program for 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.

**Field Personnel:** The presence of Consultant's field personnel, either full-time or part-time, may be for the purpose of providing project administration, assessment, observation or field testing of specific aspects of the Project as authorized by Client. Should Client retain the Services of a Contractor(s) for the Project, Consultant is not responsible in any way whatsoever for the supervision or direction of the work of the Contractor(s), its employees or agents. The presence of Consultant's field personnel for project administration, assessment, observation or testing shall not relieve the Contractor(s) of his responsibility for performing work in accordance with the project plans and specifications.

If a Contractor (not a subcontractor of Consultant) is involved in the Project, Client agrees, in accordance with generally accepted construction practices, that the Contractor will be solely responsible for working conditions on the jobsite, including safety of all persons and property during performance of the work, and compliance with OSHA regulations. These requirements will apply continuously and will not be limited to normal working hours. It is agreed that Consultant does not have the duty or right to stop the work of the Contractor.

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. **INVENTIONS:** Any and all inventions or discoveries relating to the Services, including improvements and modifications to existing products or processes made or conceived by Consultant or its employees during the term of this Agreement are and shall remain the sole and exclusive property of Consultant.
11. **REPRESENTATIONS OF CLIENT:** Client warrants and covenants that sufficient funds are available or will be available upon receipt of Consultant's invoice to make payment in full for the Services rendered by Consultant. 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.
12. **CLIENT OBLIGATIONS:** 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. 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 and to indemnify, and hold harmless Consultant against any claims and claims related costs including attorney's fees by the owner or persons having possession of the site through the owner which are related to such alteration or damage.
13. **UTILITIES:** 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. Client agrees to indemnify and hold harmless Consultant from all claims, suits, losses, personal injuries, death, and property liability including costs and attorney's fees resulting from damage or injury to utilities or subterranean structures (pipes, tanks, etc.) arising from the performance of Consultant's Services when the existence of such are not called to Consultant's attention or the location not correctly identified in information furnished Consultant.
14. **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.
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. **SCOPE OF SERVICES AND EXCLUDED SERVICES:** Consultant's engagement under this Agreement includes only those Services specified in the Scope of Services. Client agrees it will not seek to hold Consultant responsible and expressly waives any claim against Consultant for not performing additional services that Client instructed Consultant not to perform, not performing additional services that were not specifically requested by Client and agreed to by both parties, and not performing recommended additional services that Client has not authorized Consultant to perform.

17. **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 ten (10) 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 ten (10) 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.

18. **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.

19. **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.

20. **INSURANCE:** Consultant shall maintain at its own expense the following insurance subject to normal industry exclusions: (1) Worker's Compensation Insurance and Employer's Liability Insurance; (2) Commercial Automobile Liability Insurance with limits of \$1,000,000.00; (3) Commercial General Liability Insurance with limits of \$1,000,000.00; and (4) Professional Liability Insurance. Certificates can be issued upon request identifying details and limits of coverage.

21. **INDEMNITY:** Client agrees to indemnify, and save harmless 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.

Subject to Article 5, Consultant agrees to indemnify, and save harmless 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.

Subject to Article 5, Client and Consultant shall, in the event of liability arising out of their joint negligence or willful misconduct indemnify, and save harmless each other in proportion to their relative degree of fault.

22. **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





Fee Schedule - 2010  
S&ME Proposal No. 027-10

I. Field Services (Portal to Portal)

A. Engineering technician (T1) services for on-site compaction and concrete testing regular time, per hour .....	\$	35.00
B. Engineering technician services for asphalt placement observations, asphalt and concrete coring, pile installation observations, and foundation excavation evaluations, regular time, per hour .....	\$\$	50.00
C. Floor flatness and levelness profiler, per hour .....	\$\$\$	65.00
D. Metals and fireproofing technician (MT-1), per hour .....	\$\$\$	60.00
E. Staff professional or project manager (P-1, P-2, and T-5), per hour .....	\$\$\$	70.00
F. Project professional (P-3), per hour .....	\$\$\$	75.00
G. Senior project professional (P-4 and P-5), per hour .....	\$\$\$	90.00
H. Mileage, per <del>mile</del> <sup>trip</sup> .....	\$	<del>0.50</del> 50.00 (10)

Notes: 1. Overtime for all technician services is 1.5 x rate for hours in excess of 8 hours per day, Saturdays, Sundays, and Holidays

II. Laboratory Services

A. Moisture content, each .....	\$\$	10.00
B. Grain size, wash 200 (soil), each .....	\$\$	50.00
C. Grain size with hydrometer (soil), each .....	\$\$\$	150.00
D. Atterberg limits test, each .....	\$\$\$	50.00
E. Aggregate gradation test, each .....	\$	100.00
F. Standard laboratory compaction test (ASTM D-698), Soils and aggregate, each .....	\$	120.00
G. Modified laboratory compaction test (ASTM D-1557), Soils and aggregate, each .....	\$\$	150.00
H. Compressive strength of concrete cylinders, per set .....	\$\$\$	50.00
I. Compressive strength of concrete cylinders, Contractor made, each .....	\$\$\$	55.00
J. Compressive strength of mortar and grout samples, per set .....	\$\$\$	50.00
K. Compressive strength of concrete core samples, each .....	\$\$\$	45.00
L. Asphalt cores for density verification, each .....	\$\$\$	25.00
M. Spray-on fireproofing density and adhesion/cohesion test, each .....	\$\$\$	50.00
N. Floor profiling equipment rental, per day .....	\$\$\$	400.00
O. Coring equipment rental, per day .....	\$\$\$	200.00
P. Nuclear gauge rental, per day .....	\$\$\$	45.00

III. Administrative Services

A. Senior project professional (P-4 and P-5), per hour .....	\$	100.00
B. Project professional (P-3), per hour .....	\$\$	75.00
C. Staff professional or project manager (P-1, P-2, and T-5), per hour .....	\$	70.00
D. Laboratory technician (L-2), per hour .....	\$\$	50.00
E. Drafting services (C-1); per hour .....	\$\$\$	32.00
F. Secretarial (S-1, S-2, and S-3), per hour .....	\$	32.00
G. Miscellaneous supplies and equipment rental .....		Cost +15%



**Fee Estimate**  
**Heide Trask High School Addition**  
**Rocky Point, North Carolina**  
**S&ME Proposal Number 027-10**

**Proposal Preparation and Assumptions**

Fee Estimate prepared from review of the bid set of project plans, geotechnical report, specifications, but without a detailed construction schedule.

We understand that Woods Engineering will be acting as the Special Inspector on this project and S&ME will be working as their agent to perform the required testing and evaluations during construction.

**1 Field Soil Density Testing Within Building Pad and Laboratory Testing Services**

- Assume 10 trips for compaction testing (part-time), 3 hours on-site per trip

A Senior Technician:	30	hours @	\$35.00	/hour	\$	1,050.00
B Soil Proctor (Standard D698):	2	samples @	\$120.00	/each	\$	240.00
C Soil Grain Size Analysis:	2	samples @	\$50.00	/each	\$	100.00
D Secretarial/Drafting Services:	2	hours @	\$32.00	/hour	\$	64.00
E Project Manager (soil review/letters):	4	hours @	\$75.00	/hour	\$	300.00
F Trip Charge	10	trips @	\$50.00	/trip	\$	500.00
					<b>Subtotal \$</b>	<b>2,254.00</b>

**2 Foundation Evaluations of Shallow Footings and Footing Concrete Testing Services**

- Assume 4 weeks of footing excavations and concrete placements in footings, 5 trips per week (full-time), 8 hours on-site per trip

A Senior Technician (ACI Level I):	160	hours @	\$35.00	/hour	\$	5,600.00
B Footing Concrete Cylinders:	10	sets @	\$50.00	/set	\$	500.00
C Senior Engineer (recommendations):	4	hours @	\$100.00	/hour	\$	400.00
D Secretarial/Drafting Services:	5	hours @	\$32.00	/hour	\$	160.00
E Project Manager (review/letters):	4	hours @	\$75.00	/hour	\$	300.00
F Trip Charge:	20	trips @	\$50.00	/trip	\$	1,000.00
					<b>Subtotal \$</b>	<b>7,960.00</b>

**3 Slab Concrete Sampling and Testing Services**

- Assume 4 trips for slab pours within addition (part-time), 6 hours on-site per trip

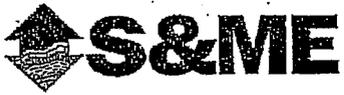
A Senior Technician (ACI Level I):	24	hours @	\$35.00	/hour	\$	840.00
B Slab Concrete Cylinders:	8	sets @	\$50.00	/set	\$	400.00
C Secretarial/Drafting Services:	2	hours @	\$32.00	/hour	\$	64.00
D Project Manager (soil review/letters):	2	hours @	\$75.00	/hour	\$	150.00
E Trip Charge:	4	trips @	\$50.00	/trip	\$	200.00
					<b>Subtotal \$</b>	<b>1,654.00</b>

**4 Reinforcing Steel Evaluations for Footings and Slabs**

- Assume 10 trips for footing reinforcing steel evaluations, 2 hours on-site per trip

- Assume 4 trips for slab reinforcing steel evaluations, 4 hours on-site per trip

A Staff Professional (ICC reinforced concrete):	36	hours @	\$75.00	/hour	\$	2,700.00
B Trip Charge	14	trips @	\$50.00	/trip	\$	700.00
					<b>Subtotal \$</b>	<b>3,400.00</b>



**Fee Estimate**  
**Heide Trask High School Addition**  
**Rocky Point, North Carolina**  
**S&ME Proposal Number 027-10**

**5 Structural Steel Construction**

- Assume 4 trips for bolted and visual welded connection evaluations, 4 hours on-site per trip
- Assume no visits to the fabrication shop or for non-destructive testing

A Metals Inspector (CWI):	16	hours @	\$60.00	/hour		\$ 960.00
B Trip Charge	4	trips @	\$50.00	/trip		\$ 200.00
						<b>Subtotal \$ 1,160.00</b>

**6 Masonry Wall Evaluations, Mortar and Grout Sampling, and Laboratory Testing**

- Assume 4 weeks for masonry work, 5 trips per week (full-time); 8 hours on-site per trip

A Masonry Technician (ICC/ACI Level 1):	160	hours @	\$35.00	/hour		\$ 5,600.00
B Grout Prisms:	20	sets @	\$50.00	/set		\$ 1,000.00
C Mortar Samples:	20	sets @	\$50.00	/set		\$ 1,000.00
D Project Manager (break review):	4	hours @	\$75.00	/hour		\$ 300.00
E Secretarial/Drafting Services:	4	hours @	\$32.00	/hour		\$ 128.00
F Trip Charge	20	trips @	\$50.00	/trip		\$ 1,000.00
						<b>Subtotal \$ 9,028.00</b>

**7 Waterproofing/Drainage Evaluations**

- Assume 2 trips for evaluations of waterproofing and drainage for stage wall, 2 hours on-site per trip
- Our evaluations will be visual only and will consist of comparing to plans for location. Proper applications will be the responsibility of the contractor and tests will not be performed by S&ME during placement.

A Staff Professional:	4	hours @	\$75.00	/hour		\$ 300.00
B Trip Charge	2	trips @	\$50.00	/trip		\$ 100.00
						<b>Subtotal \$ 400.00</b>

**Total Estimated Fees \$ 25,856.00**  
**Total Recommended Budget \$ 26,000.00**

