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GILA COUNTY
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1400 E. Ash Street
Globe, AZ 85501

SERVICE AGREEMENT NO. 111015
GEOTECHNICAL INVESTIGATION-COPPER ADMINISTRATION BUILDING

THIS AGREEMENT, made and entered into this 16th day of November, 2015, by and between Gila County, a political subdivision of the State of Arizona hereinafter designated the County, and Speedie and Associates, of the City of Phoenix, State of Arizona, hereinafter designated the Contractor.

WITNESSETH: The Contractor, for and in consideration of the sum to be paid him by the County, in the manner and at the time hereinafter provided, and of the other covenants and agreement's herein contained, hereby agrees, for himself, his heirs, administrators, successors, and assigns as follows:

ARTICLE 1 – SCOPE OF SERVICES: The Contractor shall provide the services and products listed in the Scope of Work below and shall do so in a good, workmanlike and substantial manner, and to the satisfaction of the County, under the direction of Public Works, or designee.

All work performed by the Contractor shall be completed to local codes and regulation per Gila County and the State of Arizona and consistent with all Gila County guidelines.

Scope of Work: Refer to Speedie & Associates Proposal No. 55610R1, dated November 10, 2015, and identified as Attachment "A" to Service Agreement 111015, by mention made a binding part of this agreement as set forth herein.

Contractor Fee's: Refer to Speedie & Associates Proposal No. 55610R1, dated November 10, 2015, and identified as Attachment "A" to Service Agreement 111015, by mention made a binding part of this agreement as set forth herein. To the extent that the terms and conditions of this Service Agreement conflict with the Terms and Conditions of Attachment "A" to Service Agreement 111015, the terms and conditions of this service agreement will prevail and govern the contractual relationship between the parties.

ARTICLE 2 – TERMINATION: The County reserves the right to terminate the Contract, in whole or in part at any time, when in the best interest of the County, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work as directed in the notice. If the contract is terminated, the County shall be liable only for the services rendered under this contract and accepted material received by the County before the effective date of termination.

ARTICLE 3 - INDEMNIFICATION: Contractor shall indemnify, defend, save and hold harmless the County of Gila and its officers, officials, agents, and employees (hereinafter referred to as "Indemnatee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the County, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the County.

ARTICLE 4 - INSURANCE REQUIREMENTS: Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The County in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, his agents, representatives, employees or subcontractors and Contractor is free to purchase additional insurance as may be determined necessary.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage with limits of liability not less than those stated below.

1. **Commercial General Liability - Occurrence Form**

Policy shall include bodily injury, property damage and broad form contractual liability and XCU coverage.

- General Aggregate \$2,000,000
- Products - Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Each Occurrence \$1,000,000

a. The policy shall be endorsed to include the following additional insured language: "The County of Gila shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor".

2. **Automobile Liability**

Bodily injury and property damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

a. The policy shall be endorsed to include the following additional insured language:

The County of Gila shall be named as additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or borrowed by the Contractor”.

3. Worker's Compensation and Employers' Liability

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$100,000
Disease – Each Employee	\$100,000
Disease – Policy Limit	\$500,000

- a. Policy shall contain a waiver of subrogation against the County of Gila.

4. Professional Liability (Errors and Omissions Liability)

Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000

- a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Consultant warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.
- B. ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions:
1. On insurance policies where the County of Gila is named as an additional insured, the County of Gila shall be an additional insured to the full limits of liability purchased by the Consultant even if those limits of liability are in excess of those required by this Contract.
 2. The Consultant's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
 3. Coverage provided by the Consultant shall not be limited to the liability assumed under the indemnification provisions of this Contract.
- C. NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, reduced in coverage or endorsed to lower limits except after thirty (30) days prior written notice has been given to the County. Such notice shall be sent directly to Jeannie Sgroi, 1400 E. Ash St., Globe, AZ 85501 and shall be sent by certified mail, return receipt requested.
- D. ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed in the State of Arizona or which hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers and with an "A.M. Best" rating of not less than B+ VI. The County in no way warrants that the above-required minimum insurer rating is sufficient to protect the Lessee from potential insurer insolvency.
- E. VERIFICATION OF COVERAGE:** Consultant shall furnish the County with certificates of insurance (ACORD form or equivalent approved by the County) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the County before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract shall be sent directly to Jeannie Sgroi, 1400 E. Ash St., Globe, AZ 85501 or may be emailed to Ms. Sgroi at jsgroi@gilacountyaz.gov. The County project/contract number and project description shall be noted on the certificate of insurance.

The County reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

- F. **SUBCONTRACTORS:** Consultants' certificate(s) shall include all subcontractors as additional insured's under its policies or Consultant shall furnish to the County separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to the minimum requirements identified above.
- G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the County Attorney, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

ARTICLE 5 - LEGAL ARIZONA WORKERS ACT COMPLIANCE: Contractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Contractor's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor shall further ensure that each subcontractor who performs any work for Contractor under this contract likewise complies with the State and Federal Immigration Laws. County shall have the right at any time to inspect the books and records of Contractor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of Contractor's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Contract subjecting Contractor to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Contractor shall be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor as soon as possible so as not to delay project completion.

Contractor shall advise each subcontractor of County's rights, and the subcontractor's obligations, under this Article by including a provision in each subcontract substantially in the following form: "Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor will be deemed to be a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."

Any additional costs attributable directly or indirectly to remedial action under this Article shall be the responsibility of Contractor. In the event that remedial action under this Article results in delay to one or more tasks on the critical path of Contractor's approved construction or critical milestones schedule, such period of delay shall be deemed excusable delay for which Contractor shall be entitled to an extension of time, but not costs.

ARTICLE 6 - WARRANTY: Contractor expressly warrants that all goods or services furnished under this agreement shall conform to all specifications and appropriate standards, will be new, and will be free from defects in material or workmanship. Contractor warrants that all such goods or services will conform to any statements made on the containers or labels or advertisements for such goods, or services, and that any goods will be adequately contained, packaged, marked and labeled. Contractor warrants that all goods or services furnished hereunder will be merchantable, and will be safe and appropriate for the purpose for which goods or services of that kind are normally used. If Contractor knows or has reason to know the particular purpose for which County intends to use the goods or services, Contractor warrants that such goods or services will be fit for such particular purpose. Contractor warrants that goods or services furnished will conform in all respects to samples. Inspection, test, acceptance of use of the goods or services furnished hereunder shall not affect the Contractor's obligation under this warranty, and such warranties shall survive inspection, test, acceptance and use. Contractor's warranty shall run to County, its successors, and assigns. Contractor agrees to replace or correct, at Contractor's sole cost and expense, defects of any goods or services not conforming to the foregoing warranty, or improperly installed, as well as guarantee to the County and to the Owner, against liability, losses or damage to any or all parts of the work arising from said installation during a period of two (2) years from date of completion. All guarantees will inure to the benefit of the County and the Owner, their successors or assigns, including equipment warranties, ordinary wear and tear and unusual abuse or neglect excepted.

In the event of failure of Contractor to correct defects in or replace nonconforming goods or services promptly, County, after reasonable notice to Contractor, may make such corrections or replace such goods and services and charge Contractor for the cost incurred by the County in doing so. Contractor recognizes that County's requirements may require immediate repairs in reworking of defective goods, without notice to the Contractor. In such event, Contractor shall reimburse County for those costs, delays, or other damages which County has incurred.

ARTICLE 7 - LAWS AND ORDINANCES: This agreement shall be enforced under the laws of the State of Arizona. Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor. The Contractor shall comply with the applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the Act.

ARTICLE 8 - CANCELLATION: This agreement is subject to cancellation pursuant to A.R.S. §38-511. If the Agreement is terminated, the county shall be liable only for payment for services rendered and accepted material received by the County before the effective date of termination.

ARTICLE 9 - RELATIONSHIP OF THE PARTIES: Contractor is an independent contractor of the County. Contractor represents that he has or will secure, at his own expense, all personnel required in performing the services under this contract. Such personnel shall not be employees of or have any contractual relationship with the County. All personnel engaged in work under this contract shall be fully qualified and shall be authorized or permitted under State and local law to perform such services. Contractor warrants that he has obtained or will obtain Worker's Compensation Insurance for his employees working on this contract and that any subcontractors will likewise obtain Worker's Compensation Insurance for of their employees working on this contract. It is further agreed by Contractor that he shall obey all state and federal statutes, rules, and regulations which are applicable to provisions of the services called for herein. Neither Contractor nor any employee of the Contractor shall be deemed an officer, employee, or agent of the County.

ARTICLE 10 - NON-APPROPRIATIONS CLAUSE: Contractor acknowledges that the County is a governmental entity, and the contract validity is based upon the availability of public funding under its authority. In the event that public funds are unavailable and not appropriated for the performance of County's obligations under this contract, then this contract shall automatically expire without penalty to County after written notice to Contractor of the unavailability and non-appropriation of public funds. It is expressly agreed that the County shall only activate this non-appropriation provision as an emergency fiscal measure. The County shall not activate this non-appropriation provision for its convenience, to circumvent the requirements of this contract, or to enable the County to contract with another Contractor for the same supplies or services covered under this Addendum.

ARTICLE 11 - ENTIRE CONTRACT CLAUSE: The Contractor and the County have read this Contract and agree to be bound by all of its terms, and further agree that it constitutes the entire contract between the two parties and may only be modified by a written mutual contract signed by the parties. No oral agreement or oral provision outside this Contract shall have any force or effect.

ARTICLE 12 - NON-WAIVER OF ENFORCEABILITY: Failure of the County to enforce, at any time, any of the provisions of this Contract, or to request at any time performance by Contractor of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions, nor in any way affect the validity of this contract or any part thereof, or the right of the County to enforce each and every provision

ARTICLE 13 - GOVERNING LAW: Both parties agree that this Contract shall be governed by the laws of the state of Arizona. The parties further agree that the jurisdiction for any legal disputes arising out of this Contract shall be the Superior Court of the State of Arizona. The parties agree that even if this Contract does not specifically reference any provision required by state or federal law, those state and federally required provisions are incorporated into this Contract by this reference as though they were specifically listed herein.

ARTICLE 14- TERM: The Contract commences on the date signed by the County Manager and remains in effect for a period of thirty days from the Notice to Proceed, which shall be issued by the Gila County Public Works Department, unless terminated earlier pursuant to this contract.

ARTICLE 15 - PAYMENT/BILLING: The Scope of Services as outlined on Attachment "A" to Service Agreement No. 111015, Speedie and Associates Proposal No. 55610R1 to Provide a Geotechnical Investigation, dated November 10, 2015, will be performed on a lump sum basis, with a not to exceed without written authorization amount of **\$4,950.00**. Any additional services or tests, if required, will be performed on a Time and Materials basis per the mutually agreed upon fee schedule, which is a part of Attachment "A" to Service Agreement No. 111015.

All invoices shall be submitted to Gila County Accounts Payable, 1400 E. Ash St, Globe, Arizona and include the following information:

- Purchase Order Number
- Contract Number
- Invoice Number
- Service Location
- Vendor Name and Address
- Description of Service

Any alterations to the scope of work resulting in a change in cost must have prior written approval by the County. Any unauthorized work may result in non-payment to the vendor.

Gila County employs a "Net 15" payment term for services meaning the payment will be issued fifteen (15) days from the date the County receives the invoice from the Contractor. Purchase orders sent to the Contractor reflect these terms and conditions.

The Contractor shall have a current I.R.S. W-9 form on file with the County unless not required by law. The County shall not remit payment if the Contractor does not have a current W-9.

IN WITNESS WHEREOF, Service Agreement No. 111015 has been duly executed by the parties hereinabove named, on the date and year first above written.

GILA COUNTY



Don E. McDaniel Jr., County Manager

Date: 11/14/15

SPEEDIE AND ASSOCIATES



Signature

JUSTIN MANCHESTER
Print Name



www.speedie.net

November 10, 2015

Gila County Public Works Department
745 North Rose Mofford Way
Globe, Arizona 85501

Attention: Mr. Mark Guereña, P.E., R.L.S.
County Engineer

RE: Proposal to Provide a Geotechnical Investigation
Gila County Copper Administration Building
745 North Rose Mofford Way
Globe, Arizona
Proposal No. 55610R1

Dear Mr. Guereña:

Speedie & Associates, Inc. (S&A) looks forward to assisting you with the Gila County Copper Administration Building project in Globe, Arizona. S&A prepared a proposal dated November 9, 2015, in response to a request by Ms. Shannon Coons to provide Geotechnical Engineering services to include a subsurface soil investigation at the above-referenced site. This revised proposal is in response to our telephone conversation with you on November 9, 2015. The purpose for the evaluation would be to address the geotechnical aspects of the Department of Fire, Building and Life Safety (DFBLS) Checklist for Factory Building Installation Plans, and provide geotechnical design recommendations for the project.

S&A understands that an approximately 20,000-square-foot factory built modular building has been erected on a site formerly occupied by a different building structure. The building is founded on steel piers on treated pads resting partially on the former building's concrete floor slab and partially on a compacted fill pad. The DFBLS's checklist requirements include a soil classification determination and an estimate of the soil bearing pressure.

The project will also include constructing a 6-foot high masonry block screen wall along the top edge of the descending slope on the southern margin of the project, constructing a concrete stairway on the slope near the northeast corner of the project, installing erosion control on the existing slope face along the northern margin of the site, and constructing asphaltic concrete (AC) pavements for vehicle access and parking. We understand that concrete pavements will not be constructed and that shot-crete is proposed as the erosion control for the existing slope face.

A. QUALIFICATIONS

Incorporated as an Arizona Corporation in 1980, Speedie & Associates, Inc. personnel have 35 years of experience throughout Arizona. We have provided engineering services on thousands of projects in Southern Arizona including numerous of similar type in the area of this project. Our current staff level is



on the order of 120 people in three Arizona offices. *We share a philosophy of providing our clients with cost efficient designs that add value to their projects.* This allows us to provide you with the benefits and cost savings of that working relationship. Our complete company profile is available on request.

Work on this project will be completed by our forces located in Tucson under the overall supervision of Gregg A. Creaser, P.E., President of the firm and a registered Professional Engineer in the state of Arizona. The only outside services will be contract drilling by a qualified Phoenix-based auger drilling subcontractor. The drilling operations will be monitored by our Arizona Registered Geologist. The following is a list of the primary personnel that will be assigned to work on or support this project:

Geotechnical Engineering Services

Gregg A. Creaser, P.E. – Principal in Charge – Geotechnical Services
Lyle M. Tweet, P.E. – Regional Geotechnical Manager
Ken Karaba, R.G. – Project Management and Field Logging

Resumes are available on request. All personnel will be made available on an as-needed basis to complete this project on time and respond to questions throughout the design.

B. SCOPE OF SERVICES

The following Tasks are anticipated to meet the design needs of this project:

TASK 1 – Project Preparation

The site is located on a developed parcel in Globe, Arizona. Upon receiving your notice to proceed, we would notify Arizona Bluestake to clear potential conflicts with public underground utility lines and schedule the drill rig. **We assume that either knowledgeable Gila County personnel will be available to mark any private underground utilities, or that a private locating service will be retained at no cost to S&A.** This proposal also assumes that the client will provide/obtain rights-of-entry for our field personnel and drilling equipment.

TASK 2 – Field Investigation

S&A proposes to obtain information about the subsurface conditions and provide samples for laboratory testing by drilling and sampling 9 soil borings. We anticipate drilling the borings to depths of approximately 10 to 20 feet below the existing ground surface, or until auger refusal is reached, whichever occurs first. Four (4) of the borings would be placed at the building corners to address the DFBLS checklist requirements. Three (3) borings would be placed along the proposed perimeter screen wall alignment, one (1) boring would be placed at the top of the slope at the proposed stairway location, and one (1) boring would be placed in the proposed western parking lot area. The soils encountered by the borings would be continuously logged by our Tucson-based Registered Geologist who would collect samples for laboratory testing. Upon completion of the fieldwork, the holes would be backfilled using the drill cuttings.



TASK 3 – Laboratory Testing

Laboratory tests would be conducted on selected samples to classify the soils and provide data for engineering analyses. The tests would include:

- a. Grain Size Analysis,
- b. Plasticity Index,
- c. Atterburg Limits,
- d. In-Situ Dry Density and Moisture Content,
- e. Maximum Dry Density and Optimum Moisture Content, and
- f. Remolded Swell.

TASK 4 – Report

We would analyze the data obtained from field and laboratory testing and prepare a report presenting all data obtained, together with our conclusions and recommendations regarding the items requested including:

1. Description of Subsurface Soil Conditions.
2. Classification of the site soil using the Unified Soil Classification System.
3. Recommended soil bearing pressure.
4. Design data for screen wall shallow spread footings.
5. Lateral soil pressures.
6. Swell potential compacted soils.
7. Suitability of site soils for use as compacted fill and preferred earthwork methods, including clearing, stripping, excavation and construction of engineered fill.
8. Recommended minimum pavement section for on-site pavements.

C. FEE

The intent of this evaluation is to provide the best possible information within the constraints of a competitive budget. Charges for our services have been determined on the basis of our standard Fee and Rate Schedule, a copy of which is attached and made a part hereof for any additional design work requested. We propose to provide the services described above according to the attached terms and conditions for a lump sum fee of \$4,950.00 which includes all testing, engineering, reimbursable expenses and a written report as an electronic pdf format file which will be emailed.

The lump sum fee presented above does not include delays in the field not caused by Speedie and Associates or the drilling contractor. The fee amount does not include client meetings, additional consultation or other services not specifically stated in this proposal and assumes that private underground utilities can be identified and located at no cost to S&A. If the services of an underground utility line locating service are required, S&A is prepared to provide this service for an additional fee of \$675.00. Should our studies encounter conditions, which warrant additional investigation and/or testing, such conditions will be reviewed with you prior to undertaking any additional work.



We have the staff available to begin work immediately upon notice to proceed. Approximately 5 working days are typically required to obtain utility clearances and complete the fieldwork. Laboratory testing generally requires approximately 5 to 7 days to complete. The report would be issued within five days of completion of the laboratory testing. As always, we stand ready to make reasonable adjustments to this schedule to meet our clients' needs.

Speedie & Associates is committed to providing a high level of quality service to its clients, according to their needs. If some portion of this proposal does not meet your current needs or desires, S&A is willing to consider appropriate modifications, subject to the standards of care which we adhere to as professionals. Modifications in the scope, methodology, or other terms and conditions may result in changes in the estimated fees, and changes in the level of risk which the client will necessarily assume.

We appreciate the opportunity to submit this proposal for your consideration. If the terms set forth are satisfactory, please sign the attached copy and return it for our records, or attach this scope of work to your standard agreement for professional engineering services.

Respectfully submitted,
SPEEDIE & ASSOCIATES

Kenneth Karaba, R.G.
Geotechnical Project Manager

APPROVED AND ACCEPTED
Gila County

By:

Print Name: DON E. MCDANIEL, COUNTY MANAGER

Date: 11/16/15



ENGINEERING SERVICES
2014 Fee and Rate Schedule

Fees for services will be based upon the time worked on the project at the following rates:

Title	Rate Per Hour
Principal	\$ 130.00
Project Manager	100.00
Sr. Geologist/Engineer	100.00
Project Engineer/Geologist	90.00
Environmental Specialist	85.00
Architectural Special Inspector	85.00
Structural Special Inspector	75.00
Staff Engineer/Geologist	70.00
Sr. Engineering Technician	55.00
Draftsman	50.00
Materials Testing Technician	45.00
Clerical/Administrative	40.00

REIMBURSABLE EXPENSES

Light Truck Mileage Rate: \$0.50 per mile

The following items are reimbursable to the extent of actual expenses plus 25%:

1. Transportation, lodging and subsistence for out of town travel
2. Special mailings and shipping charges
3. Special materials and equipment unique to the project
4. Duplication or reprinting/copying reports

TEST BORINGS AND FIELD INVESTIGATIONS

On projects requiring test borings, test pits, or other explorations, the services of reputable contractors to perform such work shall be obtained.

SUBCONTRACTORS/SUBCONSULTANTS CHARGES

Any charges for subcontractors/subconsultants are subject to a 25% handling fee if invoiced by Speedie & Associates or such charges can be directly paid by the CLIENT.

SPECIAL RATES

The following rates may be subject to a 35% increase:

- Overtime – time over 8 hours per weekday and on Saturday
- Sunday and Holidays
- Rush orders

EXPERT WITNESS

Deposition and testimony; 4-hour minimum, \$250.00 per hour.

The following Terms and Conditions are included and hereto made a part of this agreement.



TERMS AND CONDITIONS

1. **STANDARD OF CARE**

In performing our professional engineering services, Speedie & Associates, Inc. (S&A) will use the degree of care and skill ordinarily exercised by members of our profession currently practicing in the same locality under similar conditions. No warranty, expressed or implied, is made or intended by our proposal for consulting services, our contract, oral or written reports, or services.
2. **SCOPE OF SERVICES**
 - 2.1 **"ON-CALL" SERVICES**

Unless otherwise agreed by both parties in writing, all construction materials testing will be performed on an "on-call" basis. Both parties agree that test results for "on-call" testing, where the CLIENT does not request S&A's continuous construction and field observation, will be based only on the representative sample or limited location tested.
 - 2.2 **CONSTRUCTION/FIELD OBSERVATION OR REMEDIATION OBSERVATION**

If the CLIENT desires more extensive or full-time project observation to help reduce the risk of problems arising during construction, the CLIENT shall request such services as "Additional Services" in accordance with the terms of this agreement. Should the CLIENT for any reason choose not to have S&A provide construction or field observation during the implementation of S&A's specifications or recommendations, or should the CLIENT unduly restrict S&A's assignment of observation personnel, CLIENT shall, to the fullest extent permitted by law, waive any claim against S&A, and indemnify, defend, and hold S&A harmless from any claim or liability for injury or loss arising from field problems allegedly caused by findings, conclusions, recommendations, plans or specifications developed by S&A. CLIENT also shall compensate S&A for any time spent or expenses incurred by S&A in defense of any such claim. Such compensation shall be based upon S&A's prevailing fee and rate schedule.
3. **OWNERSHIP OF DOCUMENTS**

All reports, plans, specifications, field data, notes and other documents prepared by S&A shall remain the property of S&A. Any reuse of such documents for other purposes must be with the written consent of S&A.
4. **SAFETY**

While on a CLIENT'S jobsite, S&A's personnel have no authority to exercise any control over any construction contractor, any other entity, or their employees in connection with their work, health or safety precautions. The CLIENT agrees that the General Contractor is solely responsible for jobsite safety and warrants that this intent shall be made evident in the CLIENT'S agreement with the General Contractor. The CLIENT may be charged for additional work for interruption, downtime required, or safety measures required by hazardous job conditions.
5. **INSURANCE**

Upon request, S&A will furnish certificates of insurance for Workers Compensation, General and Auto insurance, and Professional Errors or Omissions insurance. S&A is not responsible for damage of any cause beyond the coverage of its insurance.
6. **INDEMNIFICATION**
 - 6.1 **ENVIRONMENTAL SERVICES**

It is understood and agreed that should the CLIENT hire S&A in matters involving the actual or potential presence of hazardous substances, the CLIENT will indemnify S&A, and its employees and representatives, from and against claims that are the result of negligent acts or omissions on the part of the CLIENT, its employees or representatives. S&A will indemnify the CLIENT from and against claims that are solely the result of negligent acts or omissions on the part of S&A, its employees or representatives.



6.2 NON-ENVIRONMENTAL SERVICES

Both parties agree that S&A's scope of services will not include asbestos, hazardous or toxic materials. Should it become known in any way that such materials may be present at the jobsite or adjacent area that may affect the performance of S&A's services, S&A may suspend its services without any liability until the CLIENT retains appropriate consultation to identify, abate, and/or remove the asbestos, hazardous or toxic materials and warrants that the jobsite is in compliance with applicable laws and regulations. The CLIENT will indemnify S&A and his employees and representatives from and against claims that are the result of negligent acts or omissions on the part of the CLIENT, his employees and representatives. S&A shall indemnify the CLIENT from and against claims, which are solely the result of negligent acts or omissions on the part of S&A, its employees and representatives.

7. LIMITS OF LIABILITY

The CLIENT agrees that S&A shall not be liable for losses caused by or arising from any acts of the CLIENT, his employees or subcontractors. Should any of S&A's employees be found to have been negligent in the performance of professional services rendered, the CLIENT agrees that the maximum aggregate amount of S&A's liability shall be limited to \$50,000.00 or the amount of the fee paid to S&A for professional services, whichever amount is greater.

8. WAIVER OF LIMITATION OF PROFESSIONAL LIABILITY

In the event the CLIENT is unwilling or unable to limit liability in accordance with the paragraph above, then CLIENT shall agree to pay S&A a sum equivalent to an additional 20% of the total fee to be charged for the professional services. Said sum is to be called "Waiver of Limitation of Liability Charge." This charge will in no way be construed as being a charge for insurance of any type, but will be increased consideration for the greater risk involved in performing the work up to the limit of proceeds available from S&A's professional insurance coverage.

9. SAMPLE DISPOSAL

9.1 NON-HAZARDOUS SAMPLES

Test samples are substantially altered during testing and are disposed of immediately upon completion of tests. Drilling samples are disposed of thirty (30) days after submission of our report. If requested in writing, samples can be held after thirty (30) days for an additional storage fee, or returned to the CLIENT.

9.2 HAZARDOUS SAMPLES

If toxic or hazardous substances are involved, S&A will return such samples to the CLIENT. Or using a manifest signed by the CLIENT, S&A will have such samples transported to a location selected by the CLIENT for final disposal. The CLIENT agrees to pay all costs for storage, transport and disposal of samples. The CLIENT recognizes and agrees that S&A is acting as a bailee and at no time assumes title to samples involving hazardous or toxic materials.

10. PAYMENT

Progress invoices will be submitted to the CLIENT monthly with a final billing at completion of services. Invoices are due and payable upon receipt. The CLIENT agrees to pay a finance charge of 1.5 % per month on all past due accounts over thirty (30) days. The CLIENT'S obligation to pay for all work contracted is in no way dependent upon the CLIENT'S ability to obtain financing, zoning approval, or the CLIENT'S successful completion of the project. S&A reserves the right to suspend work under its agreement if the CLIENT fails to pay invoices as due. The CLIENT agrees to pay all costs for collection of payment, including attorney's fees.

11. LITIGATION

In the event of litigation between parties to this agreement, if S&A is the prevailing party, S&A shall be entitled to recover all related costs, expenses, and reasonable attorney fees.