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City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 8 Ordinance/Resolution# 09-10-420 Council District: All

For Meeting of March 1, 2010
 (Adoption Date)

TITLE: A RESOLUTION AWARDING AN INDEFINITE QUANTITY, INDEFINITE COST PRICE AGREEMENT FOR MATERIALS TESTING SERVICES TO SOUTHWEST ENGINEERING, INC.; TERRACON CONSULTANTS, INC.; ADVANCED TESTING AND MATERIALS, INC.; GEO-TEST, INC.; AND, AMEC EARTH AND ENVIRONMENTAL, INC., ALL OF LAS CRUCES, NM FOR ONE-(1-) YEAR WITH THE OPTION TO RENEW FOR FOUR (4) ADDITIONAL ONE-(1-) PERIODS SUBJECT TO APPROVED BUDGET APPROPRIATIONS AND ANNUAL RENEWAL.

PURPOSE OF ACTION: Award Materials Testing Pricing Agreement.

Name of Drafter: Roy Arnoldt, PE <i>[Signature]</i>		Department: Public Works <i>[Signature]</i>		Phone: 528-3168	
Department	Signature	Phone	Department	Signature	Phone
Originating Department	<i>[Signature]</i>	3333	Budget	<i>[Signature]</i>	2107
			Assistant City Manager	<i>[Signature]</i>	2271
Legal	<i>[Signature]</i>	2128	City Manager	<i>[Signature]</i>	2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The City of Las Cruces (City) Public Works Department requested proposals for Materials Testing Services in December 2009. The services to be performed include testing of soils, aggregates, bituminous paving asphalt, and Portland cement concrete installed during construction on all City projects, subdivisions, and/or permits approved by the City. These agreements provide the means to implement quality control of materials installed in roadway building, drainage, and utility projects accepted by the City. This quality-control effort will provide high-quality finished products with longer life cycles. The ability to produce a longer life cycle will allow for decreased maintenance and less inconvenience to the public in the future.

Staff will make every effort to disperse the work evenly between all five (5) firms. The City will, however, select the firm best suited for a particular type of work based on experience with similar projects, performance in similar projects, responsiveness, and ability to meet a required timeline.

Five (5) proposals were received by the City's Purchasing Section. They are Southwest Engineering, Inc.; Terracon Consultants, Inc.; Advanced Testing and Materials, Inc.; Geo-Test, Inc.; AMEC Earth and Environmental, Inc., all of Las Cruces, NM. Technical proposals were reviewed by the City Selection Advisory Committee (SAC) for qualifications and ability to perform the required work. Scoring is as follows:

Terracon Consultants, Inc.	2388.8
Geo-Test, Inc.	2273.3
Southwest Engineering, Inc.	2252.3
Advanced Testing and Materials, Inc.	2105.6
AMEC Earth and Environmental, Inc.	2016.0

Each Materials Testing laboratory was inspected for compliance with the RFP requirements.

This price agreement will be for a one- (1-) year base period with the option to renew for four additional (4) one- (1-) year periods. Renewable options will be exercised at the discretion of the City upon mutual, written consent. This price agreement can be used city wide with each using department being responsible for payment at the time services are required.

Public Works recommends the award of the indefinite quantity, indefinite cost pricing agreement for materials testing to Southwest Engineering, Inc.; Terracon Consultants, Inc.; Advanced Testing and Materials, Inc.; Geo-Test, Inc.; AMEC Earth and Environmental, Inc., all of Las Cruces, NM, to provide construction testing services for the City on an as-needed basis. These services will be limited to approved City Council budgets with funding from different accounts as projects are identified.

SUPPORT INFORMATION:

Fund Name / Account Number	Amount of Expenditure	Budget Amount
Various as projects are identified	Various	Various

1. Resolution No. 09-10-420
2. Purchasing Manager Request to Contract, Exhibit "A"
3. SAC evaluation summary, Exhibit "B"
4. Draft contract, Attachment "A"

COUNCIL OPTIONS:

1. Vote "Yes". This action will authorize the City of Las Cruces to enter into an indefinite quantity, indefinite cost price agreement for a one- (1-) year period with Southwest Engineering, Inc.; Terracon Consultants, Inc.; Advanced Testing and Materials, Inc.; Geo-Test, Inc.; AMEC Earth and Environmental, Inc., all of Las Cruces, NM. Additionally, approval will provide the flexibility to renew this agreement for four (4) additional one- (1-) year periods.
2. Vote "No". This action will reject the proposed award and instruct staff how to proceed. Without Materials Testing Services, it is not possible for the City to determine the extent of compliance with technical specifications for construction projects. Without this construction service agreement, potential users will have to explore alternative means for procuring Materials Testing services.

A RESOLUTION AWARDDING AN INDEFINITE QUANTITY, INDEFINITE COST PRICE AGREEMENT FOR MATERIALS TESTING SERVICES TO SOUTHWEST ENGINEERING, INC.; TERRACON CONSULTANTS, INC.; ADVANCED TESTING AND MATERIALS, INC.; GEO-TEST, INC.; AND, AMEC EARTH AND ENVIRONMENTAL, INC., ALL OF LAS CRUCES, NM FOR ONE- (1-) YEAR WITH THE OPTION TO RENEW FOR FOUR (4) ADDITIONAL ONE- (1-) PERIODS SUBJECT TO APPROVED BUDGET APPROPRIATIONS AND ANNUAL RENEWAL .

The City Council is informed that:

WHEREAS, the City of Las Cruces (City) Public Works Department requested proposals for Materials Testing Services in December 2009; and

WHEREAS, these services are required to perform specialized materials testing services that include, but are not limited to, testing materials installed during construction of any City project, subdivision, and/or permit approved by the City; and

WHEREAS, the scope of work involves the testing of soils, aggregates, bituminous paving asphalt, and Portland cement; and

WHEREAS, the Selection Advisory Committee (SAC) evaluated five (5) proposals on January 28, 2010; and

WHEREAS, the SAC recommends approval of the contract for a one (1) year period with the option to renew for four (4) additional one (1) year terms to Southwest Engineering, Inc.; Terracon Consultants, Inc.; Advanced Testing and Materials, Inc.; Geo-test, Inc.; and Amec Earth and Environmental, Inc.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the indefinite quantity, indefinite cost price agreement for Materials Testing Services is hereby awarded to Southwest Engineering, Inc.; Terracon Consultants, Inc.; Advanced Testing and Materials, Inc.; Geo-Test, Inc.; and, AMEC Earth and Environmental, Inc. all of Las Cruces, NM for a one- (1-) year period with the option to renew for four (4) additional one- (1-) year periods subject to approved budget appropriations and annual renewal.

(II)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this _____ day of _____, 2010

By _____
Mayor

ATTEST:

City Clerk

(SEAL)

VOTE:

Moved by _____

Seconded by _____

Mayor Miyagishima	_____
Councillor Silva:	_____
Councillor Connor:	_____
Councillor Pedroza:	_____
Councillor Small:	_____
Councillor Sorg:	_____
Councillor Thomas:	_____

APPROVED AS TO FORM:

Ag. (City) Lemell

City Attorney 2/16/10

CITY OF LAS CRUCES

PURCHASING MANAGER'S REQUEST TO CONTRACT

For Meeting of: March 1, 2010

Resolution No.: 09-10-420

**Contract Purchase For
Materials Testing Services Price Agreement**

The Las Cruces City Council is provided the following information concerning this request:

RFP SOLICITATION INFORMATION:

- 1. RFP No./ Due Date: **RFP No. 09-10-420/ December 29, 2009**
- 2. Description: **Materials Testing Services Price Agreement**
- 3. Using Department: **Public Works**
- 4. Number of Responses Accepted: **Five (5)**
- 5. Award Recommendation To: **AMEC Earth and Environmental, Inc.;
Advanced Testing and Materials, Inc.; Geo-Test, Inc.; Southwest Engineering, Inc.;
And Terracon Consultants, Inc.; all of Las Cruces, NM**
- 6. Total Award Amount (including any tax and contingency): **Indefinite Cost
Pending Approved Budget**
- 7. Contract Duration: **Five (5) Years Pending Approved Budget and Annual Renewals**

LOCAL PREFERENCE FACTOR

Local Preference Factor Applied Per LCMC §24-100	No		LCMC §24-100 not applicable to this solicitation
	Yes	X	Made A Difference To Awards(s)
		X	Made No Difference To Bid Award(s)

PROCUREMENT CODE COMPLIANCE:

The City of Las Cruces Procurement Code was administered in the conduct of this procurement and approval to purchase is hereby requested pursuant to **Section 24-92.**


 Purchasing Manager / 2/10/10
 Date

CONFIRMATION OF FUND ENCUMBRANCE:

REQUISITION or PURCHASE ORDER NUMBER:	As Per Approved Budget
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CITY OF LAS CRUCES									
RFP No.: 09-10-420									
Materials Testing Services									
Due Date/Time: December 29 2009 @ 4:00 p.m.									
PHASE I EVALUATION									
PROPOSAL SCORES									
1	RATER #1	Advanced Testing & Materials, Inc.	AMEC Earth & Environmental, Inc.	Geo-Test, Inc.	Southwest Engineering, Inc.	Terracon Consultants, Inc.			
		365	350	350	350	350			
2	RATER #2	330	340	330	360	380			
3	RATER #3	340	285	405	400	405			
4	RATER #4	335	310	335	300	325			
5	RATER #5	280	240	300	305	300			
6	RATER #6	145	400	330	480	470			
7	RATER #7	465	320	465	415	500			
8	RATER #8	355	315	415	315	345			
Rating Sheets Raw Score:		2815	2560	2930	2925	3075			
(Less high score)		465	400	465	480	500			
(Less low score)		145	240	300	300	300			
Proposal Rating Sheets Net Scores		2005	1920	2165	2145	2275			
TOP TEN PERCENT DETERMINATION									
Top ranked score		2275	2275	2275	2275	2275			
Top ranked score -10%		2047.5	2047.5	2047.5	2047.5	2047.5			
Determination to Proceed to Interview									
INTERVIEW SCORES									
Advanced Testing & Materials, Inc.									
1	RATER #1	0	0	0	0	0			
2	RATER #2	0	0	0	0	0			
3	RATER #3	0	0	0	0	0			
4	RATER #4	0	0	0	0	0			
5	RATER #5	0	0	0	0	0			
6	RATER #6	0	0	0	0	0			
7	RATER #7	0	0	0	0	0			
8	RATER #8	0	0	0	0	0			
Interview Rating Sheets Raw Score:		0	0	0	0	0			
(Less high score)		0	0	0	0	0			
(Less low score)		0	0	0	0	0			
Interview Rating Sheets Net Scores		0	0	0	0	0			
Proposal Rating Sheets Net Scores		2005	1920	2165	2145	2275			
PHASE I TOTAL SCORE									
Determination to Proceed to Phase II		2005	1920	2165	2145	2275			
Top ranked score		2275	2275	2275	2275	2275			
Top ranked score minus 10%		2047.5	2047.5	2047.5	2047.5	2047.5			
PHASE II EVALUATION									
DEDUCTION FOR JOBS IN PROGRESS									
Enter Number of Raters		8	8	8	8	8			
Jobs In Progress		0	0	0	0	0			
Total Deduction for Job in Progress		0	0	0	0	0			
LOCAL/STATE PREFERENCE		Local ? (Yes or No)	Local ? (Yes or No)	Local ? (Yes or No)	Local ? (Yes or No)	Local ? (Yes or No)			
Yes		100.3	96.0	108.3	107.3	113.8			
Total Preference Points		2105.3	2105.3	2273.3	2252.3	2388.8			
TOTAL PH. I & II SCORE WITHOUT COST FACTOR		2105.3	2105.3	2273.3	2252.3	2388.8			

TECHNICAL SERVICES AGREEMENT

THIS AGREEMENT, made and entered into on this date, _____ 2010, by and between the City of Las Cruces, New Mexico, hereinafter called "City" and Company Name _____, of Street Address, City, Town, State, Zip Code, hereinafter called "Material Tester". The contract term shall commence on date of the City's Notice to Proceed for a term of one (1) year.

1. PROJECT DESCRIPTION:

This project consists of providing materials testing services for various City construction projects on an as-needed basis.

2. SCOPE OF SERVICES:

Materials Tester shall render in a satisfactory and proper manner the services proposed in its response to the City's RFP # 09-10-420 incorporated herein by reference.

3. COMPENSATION:

The CITY shall compensate Materials Tester for the performance of services at the rates specified in the cost proposal attached hereto as Agreement Attachment A and Attachment B, excluding NMGRT.

Materials Tester agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business. Materials Tester is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this contract.

4. CHANGES AND EXTRA SERVICES:

The City may make changes within the scope of this Agreement. If the Materials Tester believes that the proposed change by the City causes an increase or decrease in the cost and/or time required to perform this Agreement, the Materials Tester shall notify the City of that fact and an agreed upon written change order, signed by the parties hereto will be made to modify this Agreement accordingly. Materials Tester may initiate such notification upon identifying a condition also, which may change the Services agreed to, but only after the effective date of this Agreement.

The Materials Tester's written response to a proposed change by the City in the scope must be received within five (5) days from the date of receipt. In the event that the parties hereto cannot reach agreement on the proposed change, the issue shall be resolved pursuant to Article 17.

The City shall not be liable for payment of any extra services nor shall the Materials Tester be obligated to perform any extra services unless stated in a written and executed amendment to this agreement.

5. SCHEDULE:

Materials Tester shall perform the Services in accordance with the time set forth as agreed upon by the City and Materials Tester in the Scope of the RFP. Following City Council acceptance of the proposal and with approval of Project Manager, project assignments will be issued on an as needed basis

6. DELAYS:

Materials Tester shall perform its Services with due diligence upon receipt of notification to Proceed from the City. The City cannot authorize costs to be incurred prior to such Notification to Proceed. In the event that performance of its Services is delayed by causes beyond reasonable control of Materials Tester, and without the fault or negligence of Materials Tester, the time and total compensation for the performance of the Services shall be equitably adjusted by written amendment to reflect the extent of such delay. Materials Tester shall provide the City with written notice of delay, including therein a description of the delay and the steps contemplated or actually taken by Materials Tester to mitigate the effect of such delay. The City will make the final determination as to reasonableness of delays.

7. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES:

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the City will be kept confidential and Materials Tester will not disclose to any other party, directly or indirectly, without the City's prior written consent or unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the Materials Tester contained shall be the sole property of the City and shall be delivered to the City when requested and at the end of each project.

8. SCOPE OF AGREEMENT:

This Agreement incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof and that all such covenants, agreements, and understandings have been merged into this written agreement. No prior agreement or understanding verbal or otherwise of the parties or their agents shall be valid or enforceable unless embodied in this agreement.

9. INDEPENDENT CONTRACTOR:

Materials Tester represents that it has, or will secure, at its own expense, all personnel required in performing the Services under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the City. Materials Tester, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the City by reason of this Agreement.

To the extent that Materials Tester's employs any employees, Materials Tester shall be solely responsible for providing its own form of insurance for its employees and in no event shall the Materials Tester's employees be covered under any policy of the City.

Materials Tester's retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) Materials Tester is able, during the Term hereof, to perform services for other parties; and (ii) Materials Tester may perform for its own account other professional services outside the scope of this Agreement.

Materials Tester is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, Materials Tester will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the City.

Without limitation upon the foregoing, Materials Tester shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the City. Materials Tester will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the City, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which Materials Tester accomplishes and performs its services. Nevertheless, Materials Tester shall be bound to fulfill the duties and responsibilities contained in the Agreement.

10. DEVOTION OF ADEQUATE TIME:

Materials Tester will devote the necessary hours for the performance of such projects that are required by the City and it will serve the City diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the City.

11. INSURANCE:

Throughout the term of this Agreement, the selected materials tester shall maintain in force the following listed insurances at its sole expense and notify the City if it is canceled or not renewed

A. **General Liability:**

\$1 million – Per Occurrence

\$2 million – Aggregate (The general aggregate must apply separately to each project)

Must include the following:

1. Premises/Operations: Covers liability arising out of the day-to-day operations of the business.
2. Products/Completed Operations: Covers liability after the job has been completed. This coverage must be maintained for then (10) years after the work is completed (or length of statute/statute of repose)
3. The City must be named as additional insured: This coverage must be as broad as the coverage provided to the insured; Coverage must be primary and non-contributory coverage before any other insurance or self-insurance. A copy of endorsement for this coverage must be attached to the Certificate of Insurance.
4. Coverage shall remain in force for the duration of the contract;
5. Must be Occurrence form coverage: Will cover the liability perpetually as long as coverage was in effect at time of occurrence.

B. **Auto Liability:**

\$1 million – Each Accident

Must include the following:

1. Covers all owned, leased, hired and non-owned autos or "any auto"
2. The City must be named as additional insured: This coverage must be as broad as the coverage provided to the insured; Coverage must be primary before any other insurance or self-insurance. A copy of endorsement for this coverage must be attached to the Certificate of Insurance.

C. **Worker's Compensation:** Per New Mexico Statute (3 or more employees)

\$1 million – Bodily Injury: By Accident – Each Accident

\$1 million – By Disease: Policy Limit

\$1 million – By Disease: Each Employee

This coverage required for non-construction contractor with three (3) or more employees.

Exception:

Not applicable to out-of-state companies unless they are hiring in NM.

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D. Excess Liability:

This coverage is **not required** but may be provided by the contractor for supporting other required coverages that are less than the required limits.

\$5 million Per Occurrence

\$10 million Aggregate

Must include the following:

1. The City must be named as additional insured: This coverage must be as broad as the coverage provided to the insured; Coverage must be primary and non-contributory coverage before any other insurance or self-insurance. A copy of endorsement for this coverage must be attached to the Certificate of Insurance.
2. Must be Occurrence form coverage: Will cover the liability perpetually as long as coverage was in effect at time of occurrence.

E. Waiver of Subrogation

This must be stated on the certificate as it eliminates the right of the contractor's insurance carrier from recovering any damages from the City that were paid by the carrier under the contractor's general liability, commercial umbrella liability (Excess Liability), auto, or worker's compensation coverages and employers liability insurance maintained by contract requirements.

F. Notification Requirement

The certificate must state that coverage afforded under the policies will not be canceled or allowed to expire until at least thirty (30) days prior written notice has been given to the City. Terms such as "endeavors to" are not acceptable.

12. INDEMNITY AND LIMITATION:

Materials Tester shall indemnify, defend, and hold harmless the City from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused solely by, resulting solely from, or arising solely out of the negligent acts, errors, or omissions of Materials Tester, its officers, employees, agents, or representatives in the performance of Services under this agreement.

13. NO JOINT VENTURE OR PARTNERSHIP:

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between Materials Tester and City. Except as otherwise specifically set forth herein, neither Materials Tester nor City shall be authorized or empowered to make any representation or commitment or to perform any act that shall be binding on the other unless expressly authorized or empowered in writing.

14. EXTENSIONS, CHANGES, AND AMENDMENTS:

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by both parties to this Agreement.

15. TERMINATION:

This Agreement may be terminated by either party hereto upon thirty (30) calendar days written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the City for its convenience or because the project has been permanently abandoned, but only upon thirty (30) calendar days written notice to Materials Tester.

In the event of termination, Materials Tester shall be compensated for all Services performed and costs incurred up to the effective date of termination for which Materials Tester has not been previously compensated.

Upon receipt of notice of termination from the City, Materials Tester shall discontinue the Services unless otherwise directed and upon final payment from the City, deliver to the City the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by Materials Tester in the performance of this Agreement, whether completed or in process.

16. BREACH:

In the event Materials Tester breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the City shall give Materials Tester written notice of such breach. In the event Materials Tester fails to remedy the breach within five (5) working days of receiving such written notice, the City, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy Materials Tester's breach and recover any and all costs and expenses in so doing from Materials Tester.

17. DISPUTE RESOLUTION:

In the event that a dispute arises between City and Materials Tester under this Agreement, or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

18. ASSIGNMENT:

Materials Tester shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the City.

19. RECORDS AND AUDITS:

Materials Tester will maintain records indicating dates, length of time, and services rendered. The City has the right to audit billings both before and after payment, and contest any billing or portion thereof. Payment under this Agreement does not foreclose the City's right to recover excessive or illegal payments.

25. PROJECT ASSIGNMENTS:

This Agreement does not constitute any right to ¹⁰³handle specific testing or any specific number of tests. The City may, at its sole discretion, assign or reassign material testing, as it deems expedient. The City will make work assignments on an as-needed basis. The City, when making material testing work assignments, will take into account the type of work the Material Testers are capable of providing to the City as stated in their Technical Proposal, the jobs the Material Testers have already performed or are currently performing for the City, the location of the proposed work as related to past work performed by the Material Testers, attached hereto as Attachment B and Attachment C, and whether the Material Testers can meet the project demands including the required response time. Project assignments will attempt to be equitably distributed among all Material Testers based on the approximate dollar value of previous work assigned within current work season. In the event that the lowest material tester to be assigned a project is unable to respond to the City's request, the next higher material tester will be contacted. This process is based upon the City's need to obtain timely delivery of material testing services for the City's ongoing construction and the City's concern is that a single source may not always be able to supply timely services to meet their needs.

26. SUBCONTRACTOR(s):

The Materials Tester shall not subcontract any portion of the services to be performed under this Agreement without the City's prior written consent.

27. CONFLICT OF INTEREST:

The Materials Tester warrants that he/she will not undertake any testing services under this Agreement, with regard to any project as to which they will or might have an interest, direct or indirect, which would conflict in any manner or degree with the performance or service under this Agreement.

28. MATERIALS TESTER PERSONNEL AT A CONSTRUCTION SITE:

Neither the activities of the Materials Tester, nor the presence of the Materials Tester or its employees and sub consultants at a construction/project site, shall relieve the Materials Tester of its obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending and coordinating the work in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. The Materials Tester and its personnel have no authority to exercise any control over any construction contractor or its employees in connection with their work or any health or safety programs or procedures

29. STANDARD OF CARE:

The standard of care applicable to Materials Tester services will be the degree of skill and diligence normally employed by Materials Tester or consultants performing the same or similar services at the time said services are performed. The Materials Tester will re-perform any services not meeting this standard without additional compensation.

30. FORCE MAJEURE:

The Materials Tester is not responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents or other events beyond the control of the Materials Tester. In any such event, the Materials Tester contract price and schedule shall be equitably adjusted

31. SPECIAL REQUIREMENTS:

- a. Verifiable evidence of the qualification, equipment necessary to perform the service, and experience of the Materials Tester’s testing lab and its technicians may be required when the technicians arrive on site to perform testing.
- b. To verify a drug and alcohol free workplace in compliance with the *Drug-Free Workplace Act of 1988, 41 USC 701* and in accordance with U.S. Department of Transportation (DOT) regulations set forth in *49 CFR* and State laws, the material tester shall have a drug and alcohol testing program which requires the periodic random testing of its employees. The results of all tests shall be shared with the City Risk Manager through the contract administrator.
- c. The Materials Tester further agrees that should the City determine that an employee of the Materials Tester who is working on the project and has not met the requirements of the Materials Tester’s program, or the above regulations, Materials Tester will immediately prevent such employee from performing safety sensitive work until such time as the employee meets the requirements.
- d. All Materials Tester overtime shall be approved by the City prior to use. Overtime approvals shall be contained within written documents signed by both the Materials Tester and the City and list specific Materials Tester’s employees, date(s), and hours for the work. All overtime required by the City shall be documented in writing and signed by both the Materials Tester and the City.
- e. Other public governmental agencies (hereafter, OPGA) may purchase from any Request for Bid (RFB) issued to the City unless otherwise stated. It shall be further understood that when the terms “City of Las Cruces” or “The City” are used, that OPGA also applies, unless otherwise stated. It shall be the responsibility of the vendor to verify whether the purchasing entity is legitimate.

Company

THE CITY OF LAS CRUCES

By: _____
Principal

By: _____
Purchasing Manager

Date: _____

Date: _____

APPROVED AS TO FORM:

City Attorney

TESTING OF SOILS

ITEM	TEST PROCEDURE	TEST METHOD ASTM OR AASHTO Current Designation	UNIT COST \$/EA
S1	Sampling (Soils)	D-75	
S2	Atterberg Limits (Liquid Limit, Plastic Limit, And Plasticity Index Of Soils)	D-4318 / T-89/T-90	
S3	Permeability Of Fine Grained Soils (Constant Head Method)	D-2434	
S4	Particle Size Analysis Of Soils (Washed)	D-422 / T-88	
S5	Specific Gravity Of Soils	D-854 / T-100	
S6	Moisture Content Of Soils	D-2216	
S7	Moisture Density Relationship Of Soils. (Proctor)	D-698; D1557 / T99; T180	
S8	Density Of Soil In Place By The Rubber Balloon Method	D-2167 / T 205	
S9	Density Of Soil In Place By The Sand Cone Method	D-1556 / T 191	
S10	Density Of Soil In Place By Nuclear Methods	D-3017; D-2922 / T238	
S11	Percolation Test	N.M.E.D.	
S12	Soil Classification (To Include Sampling, Sieve Analysis And Atterberg Limits)	D-422, 2487, & 4318/T-88, 89, & 90	
S13	Unit Weight Of Undisturbed Soil	---	
S14	Dry Preparation of Disturbed Soil and Soil Aggregate	T87	
S15	Wet Preparation of Disturbed Soil Samples for Test	T146	

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TESTING OF AGGREGATES

ITEM	TEST PROCEDURE	TEST METHOD ASTM OR ASHTO Current Designation	UNIT COST \$/EA
A1	Sampling (Aggregates)	D-75 / T-2	
A2	Depth Tests (Subgrade And/Or Base course)		
A3	Sieve Analysis Of Fine And Course Aggregates	C-136; C-117 / T27; T-11	
A4	Specific Gravity And Absorption Of Fine Aggregate	C-128 / T84	
A5	Specific Gravity And Absorption Of Course Aggregate	C-127 / T85	
A6	Organic Impurities In Fine Aggregate	C-40 / T21	
A7	Surface Moisture In Fine Aggregate	C-70 / T142	
A8	Total Moisture Content Of Aggregate By Drying	C-566	
A9	Unit Weight And Voids In Aggregate	C-29 / T19	
A10	Sand Equivalent Value Of Soils And Fine Aggregate	D-2419; T-176	
A11	Soundness Of Aggregate By Use Of Magnesium Sulfate	C-88 / T103	
A12	Soundness Of Aggregate By Use Of Sodium Sulfate	C-88 / T104	
A13	Clay Lumps And Friable Particles In Aggregates	C-142 / T112	
A14	Potential Reactivity Of Aggregate (Chemical Method)	C-289	
A15	Los Angeles Abrasion For Small And Large Aggregate	C-131; C-535 / T96	
A16	Complete Battery Of Tests For Base Course Materials To Include: Sampling And Depth Tests And Sieve Analysis Of Fine And Course Aggregates.	AS INDICATED UNDER ITEMS (A1 THRU A3) ABOVE	
A17	Reducing Field Samples of Aggregate to Testing Size	C702/T248	
A18	Uncompacted Void Content of Fine Aggregate	T304	
A19	Flat and Elongated Particles in course aggregate	D4791	

TESTING OF BITUMINOUS MATERIALS

ITEM	TEST PROCEDURE	TEST METHOD ASTM OR AASHTO Current Designation	UNIT COST \$/EA
B1	Sampling (Bituminous Paving Mixtures)	D-979 / T168	
B2	% Air Voids In Compacted Dense And Open Paving Mixtures	D-3203 / T269	
B3	Specific Gravity And Absorption Of Course Aggregate	C-127 / T85	
B4	Specific Gravity And Absorption Of Fine Aggregate	C-128 / T84	
B5	Resist. To Plastic Flow Of Bituminous Mix Using Marshall	D-1559 / T245	
B6	Briquette Molding And Unit Weight Only (Min 3 Briquettes)	D-2726 / T166	
B7	Density Of Bituminous Pvmt. In Place By Nuclear Methods	D-2950 / T230	
B8	Bulk Specific Gravity Of Compacted Mix Using SSD Specimens	D-2726 / T166	
B9	Complete Asphalt Mix Design By Marshall Method	D1559; MX-2 / T245	
B10	Fractured Face Count Of Aggregate	CITY SPECS.	
B11	Quantitative Extraction Of Bitumen By Nuclear Method	T-287 / D-4125	
B12	Quantitative Extraction Of Bitumen	D-2172 / T164	
B13	Mechanical Analysis Of Extracted Aggregate	T-30	
B14	Asphalt Coring 4" Dia./Per Depth (Sawcut Edges)		/ IN.
B15	Asphalt Coring 6" Dia./Per Depth (Sawcut Edges)		/ IN.
B16	Asphalt Coring 8" Dia./Per Depth (Sawcut Edges)		/ IN.
B17	Asphalt Coring 10" Dia./Per Depth (Sawcut Edges)		/ IN.
B18	Asphalt Coring 12" Dia./Per Depth (Sawcut Edges)		/ IN.
B19	Unit Weight Of Cored Specimens		
B20	Complete Pvmt. Design Given ESAL. Includes (3) Borings To A Depth Of 3 Feet To Determine Existing Soil R-Value		

TESTING OF BITUMINOUS MATERIALS (continued)

ITEM	TEST PROCEDURE	TEST METHOD ASTM OR AASHTO Current Designation	UNIT COST \$/EA
B21	Additional Borings To Determine Soil R-Value (Cost Per Ft.)		
B22	Theoretical Maximum Specific Gravity And Density	D-2041 / T209	
B23	Complete Battery Of Tests For Asphalt Concrete Surface Course Materials To Include: Sampling And Transportation Of Bituminous Materials, Briquette Molding (3 min.), Unit Weight Determination, Air Voids, Maximum Specific Gravity, (1) Quantitative Analysis Of Bitumen, (1) Mechanical Sieve Analysis Of Extracted Aggregate, Stability & Flow Determination, to include a min. of 3 and a max. of 6 in-Place Densities Of Bituminous Concrete By Nuclear Method--(Complete)	AS INDICATED UNDER ITEMS (B1 THRU B13) ABOVE	
B24	Determination of Asphalt Content of Hot Mix Asphalt (HMA) by Bidder Ignition	D630/T308	
B25	Density of Hot Mix Asphalt (HMA) Specimens by Means of the SHRP Gyratory Compactor	D6925/T312	

TESTING OF CONCRETE MATERIALS

ITEM	TEST PROCEDURE	TEST METHOD ASTM OR AASHTO	UNIT COST \$/EA
C1	Compressive Strength Of Concrete Cylinders Complete Including: Sampling, Temperature, One (1) Slump Test, One (1) Air Entrainment Test, Preparation Of (4) Cylinders Retrieving Cylinders And Laboratory Curing, And Breaking And Reporting The Cylinders 1 @ 7 And 3 @ 28 Days As Per City Of Las Cruces Specifications	C-31, 39, 172, 1064	
C2	Air Entrainment Test	C-231	
C3	Additional Slump Test	C-143	
C4	Unit Weight	C-138	
C5	Additional Cylinders 6" X 12"		
	Same As C1 With 4" X 8" Cylinders		
C7	Additional Cylinders 4" X 8"		

TESTING OF CONCRETE INSTALLATIONS			
ITEM	TEST PROCEDURE	TEST METHOD ASTM OR AASHTO	UNIT COST \$/EA
CC1	Field Coring Concrete 2" Dia. W/Sawcut Edges	C-42	
CC2	Field Coring Concrete 4" Dia. W/Sawcut Edges	C-42	
CC3	Field Coring Concrete 6" Dia. W/Sawcut Edges	C-42	
CC4	Field Coring Concrete 8" Dia. W/Sawcut Edges	C-42	
CC5	Field Coring Concrete 12" Dia. W/Sawcut Edges	C-42	
CC6	Curing, Preparation, And Breaking 2 Inch Cores	C-42	
CC7	Curing, Preparation, And Breaking 4 Inch Cores	C-42	
CC8	Curing, Preparation, And Breaking 8 Inch Cores	C-42	
CC9	Curing, Preparation, And Breaking 12 Inch Cores	C-42	

TESTING OF CONCRETE AGGREGATES			
ITEM	TEST PROCEDURE	TEST METHOD ASTM OR AASHTO	UNIT COST \$/EA
CM1	Concrete Mix Design ACI 211.1	D-75, C-127, 128, 136	
CM2	Additional Mix Design Using Same Aggregate Samples	C-192, 231	

TESTING OF MORTAR INSTALLATIONS

ITEM	TEST PROCEDURE	TEST METHOD ASTM OR AASHTO	UNIT COST \$/EA
MCI	Sampling And Making 6- 2" Cubes Complete	C-109 / T106	
MC2	Compressive Strength Of 6- 2" Mortar Cubes (Cure And Break). 2 For 7, 3 For 28 Day	C-109 / T106	
MCI	Sampling And Making 4- 4"X8" Cylinders Complete	C-780	
MC2	Compressive Strength Of 4- 4"X8" Cylinders (Cure And Break). 1 For 7, 3 For 28 Day	C-780	

EXHIBIT B**TRAVEL RATES**

ITEM			UNIT COST \$/EA
M1	Mileage Rates For Travel Outside City Limits Rate/Mile		

PROFESSIONAL RATES

ITEM	TYPE OF PROFESSION	HOURLY \$/EA	OVERTIME \$/EA
H1	Professional Engineer		
H2	Expert Testimony		
H3	Engineering Technologist		
H4	Engineering Technician		
H5	Administration		