

PUBLIC WORKS & UTILITIES COMMITTEE

13-0141R

RESOLUTION AUTHORIZING A FIVE-YEAR MASTER SERVICES AGREEMENT WITH AMERICAN ENGINEERING TESTING, INC., FOR PROFESSIONAL GEOTECHNICAL AND MATERIAL TESTING SERVICES FOR A TOTAL ANNUAL AMOUNT NOT TO EXCEED \$50,000, FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED \$250,000.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into a five-year master services agreement with American Engineering Testing, Inc., substantially the same as that on file in the office of the city clerk as Public Document No. \_\_\_\_\_, for professional geotechnical and material testing services required to support the construction, operation, and maintenance of city systems, in accordance with the consultant's fee schedule, for a blanket annual amount not to exceed \$50,000 in each of fiscal years 2013, 2014, 2015, 2016, 2017, and a total contract amount not to exceed \$250,000; with the blanket annual cost of said services in any fiscal year not to exceed \$50,000 and to be paid from various appropriate funds, departments, agencies, objects, Requisition 13-0220, and Project 1215.

Approved:

  
\_\_\_\_\_  
Department Director  
Purchasing Agent 

Approved for presentation to council:

  
\_\_\_\_\_  
Chief Administrative Officer

Approved as to form:

  
\_\_\_\_\_  
Attorney

Approved:

  
\_\_\_\_\_  
Auditor

STATEMENT OF PURPOSE: This resolution authorizes a five-year master services agreement with American Engineering Testing, Inc., for geotechnical and material testing services to support construction, operation, and maintenance of city systems.

This agreement will be a blanket purchase agreement, with projects ordered and billed on an hourly basis, pursuant to a city-issued, written statement of work or similar document. Entering into this agreement does not guarantee a minimum order, and the agreement can be terminated at any time.

American Engineering Testing, Inc., a local Duluth firm, has provided such testing services in the past.

Requisition No. 13-0220

# MASTER SERVICES AGREEMENT FOR PROFESSIONAL SERVICES

## AMERICAN ENGINEERING TESTING, INC.

AND

## CITY OF DULUTH

THIS MASTER SERVICES AGREEMENT, effective as of the date of attestation by the City Clerk (the "Effective Date"), is made by and between the CITY OF DULUTH, a municipal corporation under laws of the State of Minnesota, hereinafter referred to as "City," and **AMERICAN ENGINEERING TESTING, INC.**, 4431 West Michigan Street, P.O. Box 16008, Duluth, Minnesota 55816, hereinafter referred to as "Consultant," for the purpose of rendering services to the City.

WHEREAS, the City desires to utilize Consultant's **geotechnical and material testing services** on a non-exclusive, project by project basis to support the construction, operation, and maintenance of city systems for fiscal years 2013, 2014, 2015, 2016, and 2017;

WHEREAS, Consultant has represented that it is qualified and willing to perform services set forth in its proposal;

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the parties hereto agree as follows:

I. Services to be Performed.

Consultant will provide, upon written request of the city engineer in the form of a Statement of Work or similar documentation (each a "SOW"), the services identified in the City's letter to Consultant dated January 3, 2013, and list of services, dated March 15, 2013. The January 3rd letter and March 15<sup>th</sup> list are collectively attached hereto as "**Exhibit A.**" The Consultant's testing fee schedule, dated January 14, 2013, is attached hereto as "**Exhibit B.**" Provided, however, in the event of any conflict between Exhibit B or a SOW and this Agreement, or Exhibit A, the terms and conditions of this Agreement or Exhibit A, as appropriate, shall be deemed to be controlling. In the event of a conflict between the provisions of Exhibit A and this Agreement, the terms and conditions of this Agreement shall be deemed to be controlling.

II. Professional Fees and Payment.

It is agreed between the parties that Consultant's maximum annual fee for the term of this Agreement shall not exceed the sum of **\$50,000 (Fifty-Thousand and no/100)** dollars, payable from various appropriate funds, departments, agencies, and objects, Project No. 1215, and Requisition 13-0220. All bills for services rendered shall be submitted monthly to the City Engineer, or his/her designee, and shall be accompanied by such documentation as the City shall reasonable expect. Upon receipt of said request and appropriate documentation, the City shall reimburse Service Provider up to the amount

set forth above.

II. General Terms and Conditions.

1. Amendments. Any alterations, variations, modifications or waivers of terms of this Agreement including contract price shall be binding upon the City and Consultant only upon being reduced to writing and signed by a duly authorized representative of each party.
2. Assignment. Consultant represents that it will utilize only its own personnel in the performance of the services set forth herein; and further agrees that it will neither assign, transfer or subcontract any rights or obligations under this Agreement without prior written consent of the City.
3. Data and Confidentiality.
  - a. The City agrees that it will make available all pertinent information, data and records under its control for Consultant to use in the performance of this Agreement, or to assist Consultant wherever possible to obtain such records, data and information.
  - b. All reports, data, information, documentation and material given to or prepared by Consultant pursuant to this Agreement will be confidential and will not be released by Consultant without prior authorization from the City.
  - c. All notes, reports, records and other data prepared under this Agreement shall become the property of the City upon completion or termination of the services of the Consultant. Any reuse of notes, reports, records or other data for anything other than its intended purpose will be at the City's sole risk without liability or legal exposure to Consultant.
4. Standard of Performance.

Consultant agrees that all services to be provided to the City pursuant to this Agreement shall be in accordance with the generally accepted standards of the profession for the provisions of services of this type.
5. Contract Period.
  - a. The term of this Agreement shall commence on the Effective Date and shall continue until December 31, 2017, unless terminated earlier as provided for herein.
  - b. The City may, by giving written notice, specifying the effective date thereof, terminate this Agreement in whole or in part without cause. In the event of termination, all property and finished or unfinished documents and other writings prepared by Consultant under this Agreement shall become the property of the City and Consultant shall promptly deliver the same to the City. Consultant shall be entitled to compensation for services properly performed by it to the date of termination of this Agreement. In the event of termination due to breach by Consultant, the City shall retain all other

remedies available to it, and the City shall be relieved of payment of any fees with respect to the services of Consultant which gave rise to such breach.

6. Independent Contractor.

- a. It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of copartners between the parties hereto or as constituting Consultant as an agent, representative or employee of the City for any purpose or in any manner whatsoever. Consultant and its employees shall not be considered employees of the City, and any and all claims that may or might arise under the Worker's Compensation Act of the State of Minnesota on behalf of Consultant's employees while so engaged, and any and all claims whatsoever on behalf of Consultant's employees arising out of employment shall in no way be the responsibility of City. Except for compensation provided in Section II of this Agreement, Consultant's employees shall not be entitled to any compensation or rights or benefits of any kind whatsoever from City, including without limitation, tenure rights, medical and hospital care, sick and vacation leave, Worker's Compensation, Unemployment Insurance, disability or severance pay and P.E.R.A. (Public Employee Retirement Association). Further, City shall in no way be responsible to defend, indemnify or save harmless Consultant from liability or judgments arising out of Consultant's intentional or negligent acts or omissions of Consultant or its employees while performing the work specified by this Agreement.
- b. The parties do not intend by this Agreement to create a joint venture or joint enterprise, and expressly waive any right to claim such status in any dispute arising out of this Agreement.
- c. Consultant expressly waives any right to claim any immunity provided for in Minnesota Statutes Chapter 466 or pursuant to the official immunity doctrine.

7. Indemnity.

Consultant agrees to defend, save harmless, and indemnify the City of Duluth, its agents, and employees from any loss, cost, or damage by reason of Personal Injury or property damage of whatsoever nature or kind arising out of, or as a result of, the performance of the work by the Consultant, its employees, agents, or subcontractors.

8. Insurance.

- a. Consultant shall provide the following minimum amounts of insurance from insurance companies authorized to do business in the state of Minnesota.
  - (1) Workers' compensation insurance in accordance with the laws of the State of Minnesota.
  - (2) Public Liability and Automobile Liability Insurance with limits not less than **\$1,500,000** Single Limit, and twice the limits provided when

a claim arises out of the release or threatened release of a hazardous substance; shall be in a company approved by the city of Duluth; and shall provide for the following: Liability for Premises, Operations, Completed Operations, Independent Contractors, and Contractual Liability.

- (3) Professional Liability Insurance in an amount not less than **\$1,500,000** Single Limit; provided further that in the event the professional malpractice insurance is in the form of "claims made," insurance, 60 days' notice prior to any cancellation or modification shall be required; and in such event, Consultant agrees to provide the City with either evidence of new insurance coverage conforming to the provisions of this paragraph which will provide unbroken protection to the City, or, in the alternative, to purchase at its cost, extended coverage under the old policy for the period the state of repose runs; the protection to be provided by said "claims made" insurance shall remain in place until the running of the statute of repose for claims related to this Agreement.
- (4) **City of Duluth shall be named as Additional Insured** under the Public Liability and Automobile Liability, or as an alternate, Contractor may provide Owners-Contractors Protective policy, naming himself and City of Duluth. Consultant shall also provide evidence of Statutory Minnesota Workers' Compensation Insurance. Consultant is to provide Certificate of Insurance evidencing such coverage with 30-days notice of cancellation, non-renewal or material change provisions included. The City of Duluth does not represent or guarantee that these types or limits of coverage are adequate to protect the Contractor's interests and liabilities.
- (5) If a certificate of insurance is provided, the form of the certificate shall contain an unconditional requirement that the insurer notify the City without fail not less than 30 days prior to any cancellation, non-renewal or modification of the policy or coverages evidenced by said certificate and shall further provide that failure to give such notice to City will render any such change or changes in said policy or coverages ineffective as against the City.
- (6) **The use of an "Accord" form as a certificate of insurance shall be accompanied by two forms - 1) ISO Additional Insured Endorsement (CG-2010 pre-2004) and 2) Notice of Cancellation Endorsement (IL 7002) or equivalent, as approved by the Duluth City Attorney's Office.**

- b. The insurance required herein shall be maintained in full force and effect during the life of this Agreement and shall protect Consultant, its employees, agents and representatives from claims and damages including but not limited to personal injury and death and any act or failure to act by Consultant, its employees, agents and representatives in the negligent performance of work covered by this Agreement.
- c. Certificates showing that Consultant is carrying the above described insurance in the specified amounts shall be furnished to the City prior to the execution of this Agreement and a certificate showing continued maintenance of such insurance shall be on file with the City during the term of this Agreement.
- d. The City shall be named as an additional insured on each liability policy other than the professional liability and the workers' compensation policies of the Consultant.
- e. The certificates shall provide that the policies shall not be changed or canceled during the life of this Agreement without at least 30 days advanced notice being given to the City.

9. Notices.

Notice to the City or Service provided for herein shall be sufficient if sent by the regular United States mail, postage prepaid, addressed to the parties at the addresses hereinafter set forth or to such other respective persons or addresses as the parties may designate to each other in writing from time to time.

<u>City</u>	<u>Consultant</u>
City of Duluth Engineering	American Engineering Testing, Inc.
City Hall, Room 211	4431 West Michigan Street
411 West First Street	PO Box 16008
Duluth, MN 55802	Duluth, MN 55816
Attention: City Engineer	Attention: Project Engineer

10. Laws, Rules and Regulations.

Consultant agrees to observe and comply with all laws, ordinances, rules and regulations of the United States of America, the State of Minnesota and the City with respect to their respective agencies which are applicable to its activities under this Agreement.

11. Applicable Law.

This Agreement, together with all of its paragraphs, terms and provisions is made in the state of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and date first above shown.

**CITY OF DULUTH**

**AMERICAN ENGINEERING TESTING, INC.**

By

By

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Company Representative

Attest:

City Clerk

Its

Date: \_\_\_\_\_

•

\_\_\_\_\_  
Title of Representative

Approved as to form:

Date:

\_\_\_\_\_  
City Attorney

Countersigned:

\_\_\_\_\_  
City Auditor

\_\_\_\_\_  
Department Director

\_\_\_\_\_  
Purchasing Agent

**EXHIBIT A**

**City's Letter to Consultant, January 3, 2013**  
**City's List of Services, March 15, 2013**



## City of Duluth

DEPARTMENT OF PUBLIC WORKS/UTILITIES  
Engineering Division  
211 City Hall • Duluth MN 55802  
(218) 730-5200 Fax: (218) 730-5907

January 3, 2013

American Engineering and Testing  
4431 West Michigan Street  
P.O. Box 16008  
Duluth, MN 55816

RE: Geotechnical and Materials Testing Services for 2013, City Project No. 1215

Dear Consultant,

The City of Duluth will be entering into new contracts for geotechnical and materials testing services in 2013. As has been done under previous contracts, this will be a one year base contract with annual options to extend, with agreement from both parties. Each year, a new schedule of prices and an updated certificate of insurance will be incorporated into the extension.

If you are interested, please forward your fee schedule for 2013 and a current certificate of insurance to my attention by January 25, 2013. Thank you, and please let me know if you have any questions.

Sincerely,

Caroline Pedersen, PE  
Chief Engineer of Transportation

Requisitions 13-0219, 13-0220, and 13-0221

Potential Scope of Services:

March 15, 2013

To provide the following examples of geotechnical and material testing services:

1. Laboratory tests of soils;
2. Grain size analysis;
3. Strength and compressibility testing;
4. Construction testing and observations:
  - a. Earthwork (excavation, observation, compaction control testing, special foundation installation)
  - b. Concrete
  - c. Petrographic
  - d. Bituminous

This is not intended to be a comprehensive list.

**EXHIBIT B**

**Consultant's Fee Schedule, January 14, 2013**

## 2013 GEOTECHNICAL FEE SCHEDULE

### I. Engineering/Technical Personnel Rates

A.	Administrative Assistant	58.00/hr
B.	Engineering Intern	62.00/hr
C.	Engineering Technician I	64.00/hr
D.	Draftsperson	72.00/hr
E.	Engineering Technician II	75.00/hr
F.	Drill Crew/Engineering Technician III	84.00/hr
G.	Engineering Assistant	100.00/hr
H.	Engineer I/Geologist I/Scientist I	107.00/hr
I.	Engineer II/Geologist II/Scientist II	122.00/hr
J.	Senior Engineer	144.00/hr
K.	Principal Engineer	172.00/hr

### II. Vehicle Mileage

A.	Personal Automobile/Truck	0.70/mile
B.	¾-ton Truck/Van	0.95/mile
C.	1-ton to 2-ton Auxiliary Truck	1.10/mile
D.	1-ton Truck with Drill Rig	1.15/mile
E.	1½-ton to 2½-ton Truck with Drill Rig	1.30/mile
F.	Tractor/Lowboy Trailer	1.75/mile

### III. Site Exploration Equipment Rental

A.	Drill Rig Rental	
1.	Rotary Drill on 4WD 1-ton Truck	63.00/hr
2.	Rotary Drill on 2WD 1½ to 2½-ton Truck	73.00/hr
3.	Rotary Drill on 4WD 1½ to 2½-ton Truck	75.00/hr
4.	Rotary Drill on All-Terrain Vehicle	103.00/hr
5.	Portable, Non-Rotary Rig	73.00/hr
B.	Rig Auxiliary Vehicle Rental	
1.	¾-ton Truck	15.75/hr
2.	1-ton or 2-ton Truck	20.00/hr
C.	Cone (CPT) Rig/Equipment Rental	
1.	20-ton CPT Truck Rig	130.00/hr
2.	All-Terrain Rig (10-ton capability)	103.00/hr
3.	Electronic Cone or Piezocone with Computer	38.00/hr
4.	Soil Sampler	3.00/hr
5.	Water Sampler	20.00/hr
D.	Geotechnical Equipment Rental	
1.	Field Vane Shear	300.00/day
2.	Inclinometer Reading Equipment	300.00/day
3.	Pneumatic Transducer Reading Equipment (pore pressure, settlement, or earth pressure)	150.00/day
4.	Bore Hole Permeability	
a.	Open End Casing Method	120.00/day
b.	HQ Wireline Packer	300.00/day
5.	Borehole Pressuremeter	57.00/hr
6.	Iowa Borehole Shear Tester	310.00/day
7.	Double Ring Infiltrometer	240.00/day
8.	GPS Mapping System Equipment	13.00/hr
9.	Pile Driving Analyzer (PDA)	680.00/day
10.	Auxiliary PDA Equipment	
a.	Generator	50.00/day
b.	Calibrated SPT Rod	175.00/day
c.	Portable Welder	50.00/day
11.	GPR Antenna	
a.	400 megahertz	350.00/day
b.	1000 megahertz	350.00/day
E.	Geotechnical Software Rental	
1.	Finite Element (seepage or soil deformation)	55.00/hr

2.	CAPWAP	30.00/hr
3.	Wave Equation	15.00/hr
4.	L-Pile	15.00/hr
5.	Slope Stability (ReSSA)	15.00/hr
6.	Stabilized Earth Slopes & Walls	15.00/hr
F.	Bit Wear	
1.	Diamond Bit – Sedimentary Rock	
a.	B, NQ	10.00/ft
b.	HQ	12.00/ft
2.	Diamond Bit – Metamorphic & Igneous	
a.	B, NQ	17.00/ft
b.	HQ	20.00/ft

### IV. Laboratory Tests of Soil

*\*Quoted Per Job*

A.	Water Content	13.00/test
B.	Dry Density (includes water content)	52.00/test
C.	Atterberg Limits (ASTM:D4318)	
1.	Plasticity Index	105.00/test
2.	Liquid Limit or Plastic Limit Separately	80.00/test
D.	Shrinkage Limit (ASTM:D427)	*
E.	Sieve Analysis (includes - #200)	93.00/test
F.	Hydrometer Analysis (sieve included)	190.00/test
G.	Specific Gravity (ASTM:D854)	
1.	Mineral Soil	130.00/test
2.	Organic Soil	140.00/test
H.	Hand Penetrometer/Torvane	10.00/test
I.	Unconfined Compression	85.00/test
J.	Consolidation – Primary consolidation Curve up to 32 tsf (ASTM:D2435)	*
K.	Direct Shear Test	*
L.	Triaxial Compression Test	*
M.	Permeability Tests	*
N.	Tests of Expansive Soils	*
O.	Electrical Resistivity	90.00/test
P.	Organic Content of Soil	60.00/test
Q.	Topsoil Borrow Test (MnDOT 3877)	310.00/test
R.	R-Value (Hveem Stabilometer)	370.00/test
S.	California Bearing Ratio	
1.	Granular	575.00/test
2.	Cohesive	650.00/test
T.	Miscellaneous	
1.	Thin-wall Samples (extrusion only)	35.00/test

### V. Expenses

A.	Direct Project Expenses: includes out-of-town per diem; plowing & towing; special materials & supplies; special travel, transportation & freight; subcontract services, and miscellaneous costs	Cost + 15%
B.	Equipment Replacement (when abandonment is more feasible than recovery)	Cost
C.	Equipment Recovery (when required by regulatory agencies or project specifications)	Cost + 15%

The rates presented are portal-to-portal with vehicle mileage, expenses and equipment rentals being additional.

Overtime for personnel charged at above cost plus 25% for over 8 hours per day or Saturday; and at above cost plus 50% for Sundays or Holidays. Hazardous work charged at an additional 25%. Night time shift work will include a premium charge of \$30.00 per person per shift.



## 2013 MATERIALS FEE SCHEDULE

### I. Engineering/Technical Personnel Rates

A.	Administrative Assistant	58.00/hr
B.	Engineering Technician	64.00/hr
C.	Engineering Technician II	75.00/hr
D.	ICC/CWI Tech/Engr Tech III	85.00/hr
E.	Engineering Assistant	100.00/hr
F.	Engineer I	107.00/hr
G.	Engineer II	122.00/hr
H.	Senior Engineer/Specialist	144.00/hr
I.	Principal Engineer	172.00/hr

### II. Vehicle Mileage

A.	Vehicle Mileage	.70/mile
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### III. Soils/Earthwork

A.	Excavation Observations	See I & II
B.	Nuclear Density Tests	18.00/test
C.	Nuclear gauge use fee during full time observation	50.00/day
D.	CP/DCP Non-MnDOT	25.00/test
E.	MnDOT DCP	50.00/test
F.	Standard Proctor	135.00/test
G.	Modified Proctor	145.00/test
H.	Wet preparation for Proctor	65.00/sample
I.	Sieve Analysis	93.00/test
J.	Atterberg Limits	105.00/test
K.	Hydrometer	190.00/test
L.	Specific Gravity	130.00/test
M.	Topsoil analysis	
	1. Method A	280.00/test
	2. Method B (nutrient content)	315.00/test
N.	Organic Content	70.00/test
O.	CBR (excludes proctor)	
	1. Granular Soil	585.00/test
	2. Cohesive Soil	660.00/test

### IV. Concrete

A.	Plastic Concrete	
	1. Field Tests/Samples	See I & II
	2. Cylinder Molds	3.00/mold
	3. Mix Design	See I & II
B.	Hardened Concrete	
	1. Cylinder Compression	25.00/test
	2. Curing/Handling Spares	25.00/cyl
	3. Saw Trimming Ends	10.00/end
	4. Beam Flexure	53.00/test
	5. Beam Mold Prep	47.00/mold
	6. Equipment Rental (beyond personnel)	
	a. Schmidt Hammer	65.00/day
	b. Rebar Locator	125.00/day
	c. Generator	50.00/day
	7. Coring	
	a. Coring Crew	135.00/hr
	b. Bit Wear	5.00/inch
	c. Patch	10.00/core

### 8. Density & Compressions of Cores

a.	Density & Absorption	60.00/test
b.	Compression	70.00/test
c.	Saw Trimming Ends	16.00/core
9.	Shotcrete	
	a. Panel Coring (6 cores)	165.00/panel
	b. Compression Test	40.00/test
10.	Floor Flatness (ASTM:E1155)	Per Quote
	a. Profilograph Rental	160.00/day
11.	Air Content ASTM:C457	495.00/test
12.	Petrographic ASTM:C856	1500.00/test

### V. Masonry

A.	Sampling/ICC Inspection	See I & II
B.	Compression Mortar/Grout	
	1. Cylinders or Cubes	60.00/set
	2. Grout Prisms	55.00/test
	3. Molds	
	a. Cylinders & Cubes	3.00/mold
	b. Prisms	5.00/mold

### VI. Bituminous

A.	Field Sampling	See I & II
B.	Laboratory Tests	
	1. Marshall Air Voids	167.00/test
	2. Superpave Gyrotory Air Voids	210.00/test
	3. Stability & Flow	57.00/test
	4. Density & Thickness	42.00/core
	5. Chemical Extraction	170.00/test
	6. Extraction & Gradation	210.00/test
	7. Fabricate TSR Specimen	
	a. Marshall	57.00/test
	b. Gyrotory	78.00/test
	8. TSR Test	17.00/test
	9. Saw Trimming Lifts	20.00/core

### VII. Equipment

A.	Seismograph	55.00/day
	1. Engineering Services	See I & II
B.	Ground Penetrating Radar (GPR)	350.00/day
	1. Engineering Services	See I & II

### VIII. Expenses

A.	Direct Project Expenses: includes out-of-town per diem; special materials & supplies; subcontracted services, and miscellaneous costs	Cost + 15%
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The rates presented are portal-to-portal with vehicle mileage, expenses and equipment rentals being additional.

Overtime for personnel charged at above cost plus 25% for over 8 hours per day or Saturday; and at above cost plus 50% for Sundays or Holidays. Hazardous work charged at an additional 25%. Night time shift work will include a premium charge of \$25.00 per person per shift.

A minimum charge of \$100.00 per job may be assessed to cover administrative costs.