



THE COUNCIL OF THE CITY OF BINGHAMTON
STATE OF NEW YORK

Date: April 22, 2015

Sponsored by Council Members: Motsavage, Renna, Papastrat, Webb, Matzo, Berg, Mihalko

Introduced by Committee: Finance

RESOLUTION

entitled

A RESOLUTION AUTHORIZING THE MAYOR
TO ENTER INTO AN AGREEMENT WITH
KEYSTONE MATERIAL TESTING FOR
INSPECTION SERVICES FOR PARKING
GARAGE RESTORATION PROJECT

WHEREAS, the City of Binghamton wishes to enter into an agreement with Keystone Material Testing to perform special inspection services for the Parking Garage Restoration Project at a total cost not to exceed \$8,862.00; and

WHEREAS, the rate for each service to be provided is set forth in the attached fee schedule; and

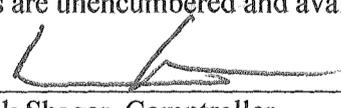
WHEREAS, funds are available in budget line H5650.525080.21815 (Parking Ramps).

NOW, THEREFORE, the Council of the City of Binghamton, duly convened in regular session, does hereby:

RESOLVE that the Mayor, or his designee, is hereby authorized to enter into an agreement, approved as to form and content by the Office of Corporation Counsel, with Keystone Material Testing to perform special inspection services for the Parking Garage Restoration Project at a total cost not to exceed \$8,862.00; and be it further

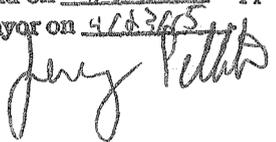
RESOLVED that funds for this purpose are available in budget line H5650.525080.21815 (Parking Ramps).

I HEREBY CERTIFY that the above described funds are unencumbered and available.



Chuck Shager, Comptroller

I hereby certify the above to be a true copy of the legislation adopted by the Council of the City of Binghamton at a meeting held on 4/22/15. Approved by the Mayor on 4/20/15



Introductory No. R15-44

Permanent No. R15-44

Sponsored by City Council Members:
Motsavage, Rennia, Papastrat, Webb, Matzo, Berg,
Mihalko

A RESOLUTION AUTHORIZING THE MAYOR TO
ENTER INTO AN AGREEMENT WITH KEYSTONE
MATERIAL TESTING FOR INSPECTION SERVICES
FOR PARKING GARAGE RESTORATION PROJECT

The within Resolution was adopted by the Council of
the City of Binghamton.

April 22, 2015
Date

[Signature]
City Clerk

April 23 2015
Date Presented to Mayor

4/23/15
Date Approved

[Signature]
Mayor

| | Ayes | Nays | Abstain | Absent |
|-----------|------|------|---------|--------|
| Motsavage | ✓ | | | |
| Mihalko | ✓ | | | |
| Rennia | ✓ | | | |
| Webb | ✓ | | | |
| Papastrat | ✓ | | | |
| Matzo | ✓ | | | |
| Berg | ✓ | | | |
| Total | 7 | 0 | 0 | 0 |

Code of the City of Binghamton

Adopted Defeated

7 Ayes 0 Nays 0 Abstain 0 Absent



March 20, 2015

Mr. Richard K. Perkins, P.E.
Assistant City Engineer
City of Binghamton
38 Hawley Street
Binghamton, NY 13901

RE: Proposal for Special Inspection Services
Collier, Water, and State Street Parking Garages
City of Binghamton
Broome County, New York

Dear Mr. Perkins:

Keystone Material Testing (hereinafter called Testing/Consultant Agency) appreciates the opportunity to submit this proposal to the City of Binghamton (hereinafter called Client) to provide Special Inspection Services for the restoration project of the Collier, Water, and State Street Parking Garages in Binghamton, NY. Our services will include, but are not necessarily limited to sampling, inspection and laboratory testing related to cast in place concrete, precast connections, masonry, structural steel, and waterproofing.

Attached to this proposal is a completed "Schedule of Fees Testing and Inspection Services Exhibit B" sheet from Client's RFP. We have also attached our Hourly Testing Rates and our Schedule A, Standard Terms and Conditions.

Please note that prior to mobilizing to the project site we will need a copy of any drawings that pertain to the material testing portions of this project.

We propose to complete your Scope of Basic Services for an estimated fee of \$8,862.00

Please execute this proposal along with initialing the attached Schedule A and return it to our office acknowledging receipt and acceptance of the terms and conditions of this agreement.

Thank you again for the opportunity to provide Special Inspection Services on the above project.

If you have any questions, please do not hesitate to contact our office.

Very Truly Yours,

KEYSTONE MATERIAL TESTING, LLC

Tyler R. Lozzi, E.I.T.
Engineering Technician

KDE/trl
Enclosure

Offered By:

Kenneth D. Ellsworth

(Signature)

Kenneth D. Ellsworth, P.E.

Managing Member

(Printed Name & Title)

03/20/15

(Date)

Accepted by:

(Signature)

(Printed Name & Title)

(Date)

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**SCHEDULE OF FEES
TESTING AND INSPECTION SERVICES
Exhibit "B"**

Scope: Concrete, Precast, Grouting, Masonry, Steel, & Waterproofing Testing & Inspections

| Description | Cost | Total |
|---|--------------------|------------|
| Reinforcement Inspection – (15,000 LF estimated) Assume 40 hours | \$ 55.00 /hr. | \$2,200.00 |
| P/T Tendon Inspection – (10 locations estimated) Assume 4 hours | \$ 140.00 /hr. | \$560.00 |
| Concrete Testing: Slump, Air, Temp, Weight, Cylinders – (10 tests each/garage estimated) Assume 30 total | \$ 45.00 /hr. | \$1,350.00 |
| Lab compression testing of concrete cylinders – (10 sets of cylinders/garage estimated) Assume 30 total | \$ 11.00 /cylinder | \$1,320.00 |
| Grout compression testing 2"x2"x2" cubes – (4 sets of cubes/garage estimated) Assume 74 total | \$ 6.00 /cube | \$432.00 |
| Visual Weld Inspections (Steel and/or Precast) – (200LF estimated) Assume 8 hours | \$ 75.00 /hr. | \$600.00 |
| Magnetic Particle Inspection of Welds (Steel and/or Precast) – (100LF estimated) OR Ultrasonic Weld Inspection (Steel and/or Precast) – (100LF estimated) Assume 8 hours | \$ 135.00 /hr. | \$1,080.00 |
| Waterproofing (Sealants) – (1,000 LF estimated) Assume 24 hours | \$ 55.00 /hr. | \$1,320.00 |
| Total | \$ 8,862.00 | |

STANDARD TERMS AND CONDITIONS

Schedule A

This offer of services, including these terms and conditions and any attachment hereto, contains the complete and final agreement between Keystone Material Testing, LLC dba Keystone Environmental Services (TESTING/CONSULTANT AGENCY) and CLIENT.

GENERAL TERMS & CONDITIONS

Standard Day

If applicable and/or used on the attached Hourly Testing Proposal, a standard day is defined as time on-site during a 4- to 8-hour period and a half-day is defined as time on-site up to a 4-hour period, Monday through Friday, within the hours of 6:00 a.m. and 6:00 p.m. The overtime rate applies to time in excess of 8 hours per day or to time outside the hours of 6:00 a.m. to 6:00 p.m.

Right of Entry

The CLIENT shall provide for the TESTING/CONSULTANT AGENCY's right to enter the property owned by the CLIENT and/or others in order for the TESTING/CONSULTANT AGENCY to fulfill the Scope of Services included hereunder. Although the TESTING/CONSULTANT AGENCY will exercise reasonable care in performing its services, the CLIENT understands that use of testing or other equipment may unavoidably cause some damage, the correction of which is not part of this Agreement. The CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless the TESTING/CONSULTANT AGENCY, its officers, directors, employees, and professional associates (collectively, TESTING/CONSULTANT AGENCY) against any damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising or allegedly arising from procedures associated with testing or investigative activities or connected in any way with the discovery of hazardous materials or suspected hazardous materials on the property.

Health and Safety

The OWNER, or CLIENT, as the OWNER's Representative, is responsible for providing safe access to and on the project site in accordance with all applicable federal and state safety laws and regulations, including, but not limited to, relevant provisions of the OSHA standards. The more stringent of those or any site specific health and safety programs and procedures shall prevail. In addition to the laws, standards, and regulations above, the OWNER, or CLIENT, as the OWNER's representative, and any agents thereof, including contractors and subcontractors, shall adhere to TESTING/CONSULTANT AGENCY safety requirements while within the exclusion zone work area established by the TESTING/CONSULTANT AGENCY.

Ownership and Reuse of Documents

All data compilation, reports, photographs, and/or drawings produced by Consultant as instruments of service, in accordance with this AGREEMENT, shall not be used or reused for unrelated extrinsic purposes by either CLIENT or TESTING/CONSULTANT AGENCY, without the prior written consent of the other party. CLIENT agrees to compensate TESTING/CONSULTANT AGENCY, in accordance with the terms of the agreement, for all documents and other work produced by TESTING/CONSULTANT AGENCY as instruments of service. Failure to compensate TESTING/CONSULTANT AGENCY for services rendered under this AGREEMENT forfeits CLIENT's right to ownership and use of TESTING/CONSULTANT AGENCY's instruments of service for any purpose. TESTING/CONSULTANT AGENCY will retain all pertinent records relating to the services performed in accordance with TESTING/CONSULTANT AGENCY's record retention policy.

The records will be made available to CLIENT at all reasonable times upon request and for the cost of retrieval and reproduction.

Standard of Care

Services provided by TESTING/CONSULTANT AGENCY under this AGREEMENT will be performed in a manner consistent with the level of care and skill ordinarily exercised by members of the industry performing similar services using recognized methodologies in the same or comparable locality. In accepting reports of observations, tests, photographs, and opinions provided pursuant to this AGREEMENT, CLIENT acknowledges that the extent of TESTING/CONSULTANT AGENCY's obligation with respect thereto is limited to furnishing of such data, which shall not be solely used by others to determine acceptance of any construction work, nor shall it relieve the contractor in any way from his obligations and responsibilities to conduct the work in conformance with the project plans and specifications.

PAYMENT AND TERMINATION

Payment Due

Invoices shall be submitted by the TESTING/CONSULTANT AGENCY are due upon presentation and shall be considered past due if not paid within thirty (30) calendar days of the invoice date.

Interest

If payment in full is not received by the TESTING/CONSULTANT AGENCY within thirty (30) calendar days of the invoice date, invoices shall bear interest at one-and-one-half (1.5) percent (or the maximum rate allowable by law, whichever is less) of the PAST DUE amount per month, which shall be calculated from the invoice due date. Payment thereafter shall first be applied to accrued interest and then to the unpaid principal.

Collection Costs

If the CLIENT fails to make payments when due and the TESTING/CONSULTANT AGENCY incurs any costs in order to collect overdue sums from the CLIENT, the CLIENT agrees that all such collection costs incurred shall immediately become due and payable to the TESTING/CONSULTANT AGENCY. Collection costs shall include, without limitation, legal fees, collection agency fees and expenses, court costs, collection bonds, and reasonable TESTING/CONSULTANT AGENCY staff costs at standard billing rates for the TESTING/CONSULTANT AGENCY's time spent in efforts to collect. This obligation of the CLIENT to pay the TESTING/CONSULTANT AGENCY's collection costs shall survive the term of this Agreement or any earlier termination by either party.

Suspension of Services

If the CLIENT fails to make payments when due or otherwise is in breach of this Agreement, the TESTING/CONSULTANT AGENCY may suspend performance of services upon seven (7) calendar days' notice to the CLIENT. The TESTING/CONSULTANT AGENCY shall have no liability whatsoever to the CLIENT for any costs or damages as a result of such suspension caused by any breach of this Agreement by the CLIENT. Upon payment in full by the CLIENT,

Client Initials: _____

Suspension of Services Continued

the TESTING/CONSULTANT AGENCY shall resume services under this Agreement, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension plus any other reasonable time and expense necessary for the TESTING/CONSULTANT AGENCY to resume performance.

Termination of Services

This Agreement may be terminated by either party upon not less than seven (7) days' written notice should the other party fail substantially to perform in accordance with the terms of this agreement through no fault of the party initiating the termination.

This Agreement may be terminated by the CLIENT upon not less than seven (7) days' written notice to the TESTING/CONSULTANT AGENCY for the CLIENT's convenience and without cause.

If the CLIENT fails to make payment to the TESTING/CONSULTANT AGENCY in accordance with the payment terms herein, this shall constitute a material breach of this Agreement and shall be cause for termination of this Agreement by the TESTING/CONSULTANT AGENCY.

Set-offs, Backcharges, Discounts

Payment of invoices shall not be subject to any discounts or set-offs by the CLIENT, unless agreed to in writing by the TESTING/CONSULTANT AGENCY. Payment to the TESTING/CONSULTANT AGENCY for the services rendered and expenses incurred shall be due and payable regardless of any subsequent suspension or termination of this Agreement by either party.

Satisfaction with Services

Payment of any invoice by the CLIENT to the TESTING/CONSULTANT AGENCY shall be taken to mean that the CLIENT is satisfied with the TESTING/CONSULTANT AGENCY's services to the date of payment and is not aware of any deficiencies in those services.

Disputed Invoices

If the CLIENT objects to any portion of an invoice, the CLIENT shall so notify the TESTING/CONSULTANT AGENCY in writing within seven (7) calendar days of receipt of the invoice. The CLIENT shall identify in writing the specific cause of the disagreement and the amount in dispute and shall pay that portion of the invoice not in dispute in accordance with the other payment terms of this Agreement. Any dispute over invoiced amounts due which cannot be resolved within ten (10) calendar days after presentation of invoice by direct negotiation between the parties shall be resolved by means which the TESTING/CONSULTANT AGENCY deems appropriate. If such matter relates to or is the subject of a lien arising out of the TESTING/CONSULTANT AGENCY's services, the TESTING/CONSULTANT AGENCY may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to the resolution of the matter. Interest as stated above shall be paid by the CLIENT on all disputed invoice amounts that are subsequently resolved in the TESTING/CONSULTANT AGENCY's favor and shall be calculated on the unpaid balance from the due date of the invoice.

ALLOCATION OF RISK

Limitation of TESTING/CONSULTANT AGENCY's Liability

To the fullest extent permitted by law, total liability to CLIENT for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to the project or this Agreement from any cause or causes included but not limited to TESTING/CONSULTANT AGENCY's negligence, errors, omissions, strict liability, breach of contract, or breach of warranty shall not exceed the total reimbursement received by TESTING/CONSULTANT AGENCY from CLIENT on this Project of five thousand dollars (\$5,000), whichever is less.

TESTING/CONSULTANT AGENCY will be responsible only for the instruments of service furnished by it, but shall not be responsible for the interpretation and/or misuse by others of the information developed. CLIENT agrees to indemnify and hold TESTING/CONSULTANT AGENCY harmless from and against all claims, damages, losses, and expenses arising from the interpretation and/or misuse by others of instruments of service provided by TESTING/CONSULTANT AGENCY.

Consequential Damages

Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the CLIENT nor the TESTING/CONSULTANT AGENCY, their respective officers, directors, partners, employees, contractors, or professional associates shall be liable to the other or shall make any claim for any incidental, indirect, or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation, or any other consequential damages that either party may have incurred from any cause or action including negligence, strict liability, breach of contract, and breach of strict or implied warranty. Both the CLIENT and the TESTING/CONSULTANT AGENCY shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

Third Party Beneficiaries

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the CLIENT or the TESTING/CONSULTANT AGENCY. The TESTING/CONSULTANT AGENCY's services under this Agreement are being performed solely for the CLIENT's benefit, and no other party or entity shall have any claim against the TESTING/CONSULTANT AGENCY because of this Agreement or the performance or nonperformance of services hereunder. The CLIENT and the TESTING/CONSULTANT AGENCY agree to require a similar provision in all contracts with contractors, subcontractors, professional associates, vendors, and other entities involved in this Project to carry out intent of this provision.

Information Provided by Others

The CLIENT shall furnish, at the CLIENT's expense, copies of the project plans and specifications prior to project initiation. The TESTING/CONSULTANT AGENCY may use the above information in performing its services and is entitled to rely upon the accuracy and completeness thereof.

Client Initials: _____



HOURLY TESTING RATES

Project Name: City of Binghamton Parking Garage Restoration Project No. P03415
 Client: City of Binghamton Date: 3/20/15

| SERVICE | UNIT FEE |
|--|---|
| FIELD TESTING: | |
| TECHNICAL PERSONNEL | |
| Soil Technician - (In-Place Density Testing and Inspection) •Includes: Sub-grade acceptance tests and in-place density tests of fill and/or backfill. Meets the requirements of ASTM D75, D2922, D3017, and D6938. | \$ 45.00/Hour, Plus Nuclear Density Gauge \$ 67.50/Hour O.T. |
| Concrete Technician - (On-Site Placement and Inspection) •Includes (in accordance with ACI 318): measurement of slump, air content and unit weight on each truck placed; molding of cylinders as required; and visual inspection of reinforcement. Meets the requirements of ASTM C31, C143, C172, and C231. | \$ 45.00/Hour \$ 67.50/Hour O.T. |
| Reinforcing Steel Technician - (Inspection) •Includes: verify bar sizes, number of bars, placement of bars, layout of bars, clearances, etc. | \$ 70.00/Hour \$ 105.00/Hour O.T. |
| Structural Steel Technician - (Inspection) •Includes: checks for bolt tension, column plumbness, visual inspection of welds and bearing plates, tests of shear studs, etc. | \$ 100.00/\$125.00 Hour \$ 150.00/\$187.50. Hour O.T. |
| Masonry Technician - (Testing and Inspection) •Includes (in accordance with ACE 530.1): checking "plumb and straightness"; molding of grout prisms, mortar cylinders and cubes; checking reinforcement, and observation of grouting procedures. | \$ 45.00/Hour \$ 67.50/Hour O.T. |
| Asphalt Technician - (Testing and Inspection) •Includes: monitoring of temperature and density during placement; coring for thickness and density verification. | \$ 50.00/Hour \$ 75.00/Hour O.T. |
| Engineering Technician | \$ 70.00/Hour |
| Environmental Technician: OSHA Certified | \$ 75.00-\$110.00/Hour |
| Professional Engineer: (Range, if Requested) | \$ 120.00-\$140.00 Hour |
| LABORATORY TESTING: | |
| Concrete: ASTM C39: Compressive Strength Test/Hold Cylinders Cylinders fabricated by KMT /Cylinders fabricated by others ASTM C109: Mortar Cubes ASTM C1019: Grout & Observation | \$ 13.00/Cylinder/\$ 15.00/Cylinder \$ 30.00/Set of 3 \$ 45.00/Set of 4 |

| SERVICE (con't) | UNIT FEE (con't) |
|--|--|
| LABORATORY TESTING (con't): | |
| Soil: | |
| ASTM C117: Material Finer than 75 µm (No. 200 Sieve) in Mineral Aggregates by Washing | \$ 30.00/Each |
| ASTM C136: Sieve Analysis of Fine and Coarse Aggregates | \$ 55.00/Each |
| ASTM D4318: Atterberg Limits | \$ 85.00/Each |
| ASTM D422: Particle Size Analysis with Hydrometer | \$ 110.00/Each |
| ASTM D698: Standard Proctor Test | \$ 120.00/Each |
| ASTM D1557: Modified Proctor Test | \$ 140.00/Each |
| ADDITIONAL & MISCELLANEOUS SERVICES | |
| Overtime and Saturday rates will be charged at 1.5 times the hourly rate. | |
| Administrative/Secretarial Fee | \$ 25.00/Hour |
| Nuclear Density Gauge | \$ 15.00/Hour |
| Photocopies (8-1/2 x 11) | \$ 0.15/Each |
| Postage: Regular Mail, FedEx, etc. | Standard Rates |
| Travel (mileage) | \$ 0.60/Mile (portal to portal) 10 mile radius from Binghamton: \$25.00 each pick up |
| Cylinder Pickup (when no other work is being performed) | Over 10 miles: \$ 0.60/Mile + \$25.00/hr (portal to portal) |

GENERAL TERMS AND CONDITIONS:

- A one-day advance notice will be provided to schedule services on site.
- We will hold cylinders to be discarded when the compressive strength exceeds the minimum specified value, unless otherwise instructed.
- Cancellation of scheduled services must be received prior to personnel departure for the project site, or a minimum charge in accordance with the Unit Fee Schedule will be applicable.