



**AGREEMENT WITH THE CITY OF SIERRA VISTA
PUBLIC WORKS DEPARTMENT
To Provide Commercial Driver's License (CDL) Testing to Other Government Agencies'
Employees**

THIS AGREEMENT is made and entered into this 9th day of **February**, 2022, by and between **Cochise County**, hereinafter designated as ("**Contracting Agency**"), a county organized and existing under and by virtue of the laws of the State of Arizona; and the City of Sierra Vista, a municipal corporation, organized and existing under and by virtue of the laws of the State of Arizona, hereinafter, designated as the ("**Sierra Vista**").

WHEREAS, The CONTRACTING AGENCY needs to have their employees licensed as CDL drivers; and in order to be licensed, the employee must pass the Arizona Department of Transportation (ADOT) approved CDL test; and

WHEREAS, SIERRA VISTA has an employee on staff (Bob Butterworth) who is certified by ADOT as a CDL examiner, hereforth designated as "EXAMINER; and

WHEREAS, SIERRA VISTA offers the services of its CDL test EXAMINER to CONTRACTING AGENCY and its employees; and

WITNESSETH: That SIERRA VISTA offers to provide CDL Testing to CONTRACTING AGENCY's staff on an as-needed basis for and in consideration of the sums to be paid to SIERRA VISTA, in the manner and at the time hereinafter provided, and of the other covenants and agreements herein contained, hereby agrees, for itself, all heirs, executors, administrators, successors, and assigns as follows:

ARTICLE I – SCOPE OF WORK:

SIERRA VISTA will:

1. Provide CDL testing services conducted upon mutual arrangement with the EXAMINER and the CONTRACTING AGENCY.
2. The EXAMINER shall test on all ADOT-required elements, including but not limited to pre-trip, skills, and road tests.
3. Mail or e-mail CONTRACTING AGENCY an invoice, payable to the City of Sierra Vista for all employees that take the test. SIERRA VISTA will also accept checks or money orders payable to City of Sierra Vista. Cash will not be accepted.
4. Examiner shall provide test results to the CONTRACTING AGENCY and the employee, only stating “pass” or “fail”, and will follow ADOT reporting requirements.
5. Provide general liability insurance per ADOT requirements:
 - \$2,000,000 General Aggregate
 - Products – Completed Operations Aggregate \$1,000,000
 - Personal and Advertising Injury \$1,000,000
 - Blanket Contractual Liability – Written and Oral \$1,000,000
 - Damage to Rented Premises \$50,000
 - Each Occurrence \$1,000,000

CONTRACTING AGENCY will:

1. Provide to SIERRA VISTA, a copy of their liability insurance policy showing as additional insured: The City of Sierra Vista, its officials, employees, agents, and volunteers.
2. Make arrangements with the EXAMINER regarding testing dates and times.
3. The CONTRACTING AGENCY shall be responsible for any applicable payment to their employees during the testing period for salary, travel, etc.
4. The CONTRACTING AGENCY shall provide their own vehicles for their employee’s testing.
5. Payment shall be made on the day of the test via payment of a City of Sierra Vista invoice, check, or money order payable to City of Sierra Vista.
6. Pay all correct invoices within thirty (30) calendar days from receipt of the invoice.

ARTICLE II – CONTRACT TERM:

CONTRACTING AGENCY and SIERRA VISTA agree to perform said services for the period beginning as dated above. SIERRA VISTA and/or AGENCY shall have the right to terminate this agreement, or any renewal thereof, upon giving written notice to the other party.

ARTICLE III – PAYMENT: (See Appendix A)

ARTICLE IV – INSURANCE PROVISIONS:

The subjects to be tested shall be employees of CONTRACTING AGENCY and CONTRACTING AGENCY shall have sole responsibility, at its expense, for providing workers compensation and all other insurance that is customarily maintained by CONTRACTING AGENCY for similarly situated employees of CONTRACTING AGENCY. CONTRACTING AGENCY shall indemnify and hold SIERRA VISTA harmless from any and all claims, damages, losses, or expenses, including reasonable attorneys' fees, incurred by CONTRACTING AGENCY as a result of the acts or omissions of SIERRA VISTA's employees.

The Parties hereby mutually release each other from liability and waive all right of recovery against each other for any loss from perils insured against under a standard liability policy with extended coverage endorsement; provided, that this Paragraph shall be inapplicable if it would have the effect, but only to the extent that it would have the effect, of invalidating any insurance coverage of the parties.

ARTICLE V – FORCE MAJEURE

- A. In the event that the performance of any of the covenants of this agreement on the part of the SIERRA VISTA or CONTRACTING AGENCY shall be prevented by war, act of God, illness, physical disability, acts or regulations of public authorities or labor interruption or delay of transportation service or any other similar causes beyond their control, they shall be relieved of their obligation hereunder with respect to the activities so prevented for any of the foregoing reasons, and SIERRA VISTA is not able to reschedule, CONTRACTING AGENCY shall not be obligated to compensate SIERRA VISTA for its services and expenses incurred.

ARTICLE VI – MISCELLANEOUS PROVISIONS:

- A. Non-discrimination – Contractor agrees that he will not discriminate in any manner because of race, color, handicap, religion, sex, or national origin, and to abide by all Federal and State laws regarding non-discrimination.
- B. Indemnification (Sierra Vista) – To the fullest extent permitted by law, CONTRACTING AGENCY shall defend, hold harmless, and indemnify the City of Sierra Vista, its agents, officers, officials, and employees shall arise in connection with any tortuous claim, damage, loss, or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting there from, caused by any Contractor’s acts, errors, mistakes, omissions, work, or services in the performance of this Contract including any employee of the Contractor, or any other person for whose acts, errors, mistakes, omissions, work, or services the Contractor may be legally liable.
- C. Indemnification (CONTRACTING AGENCY) – To the fullest extent permitted by law, SIERRA VISTA shall defend, hold harmless, and indemnify CONTRACTING AGENCY, its agents, officers, officials, and employees shall arise in connection with any tortuous claim, damage, loss, or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting there from, caused by any Contractor’s acts, errors, mistakes, omissions, work, or services in the performance of this Contract including any employee of the Contractor, or any other person for whose acts, errors, mistakes, omissions, work, or services the Contractor may be legally liable.
- D. IN WITNESS THEREOF, three (3) identical counterparts of this Contract, each of which shall for all purposes be deemed an original thereof, have been duly executed by the parties hereinabove named on the date and year first above written.

Entire Agreement and Modifications.

This Agreement incorporates the Standard Addendum of Cochise County attached hereto as Attachment A. The Agreement together with Appendix A and the Standard Addendum constitute the entire agreement between both parties and supersede all prior agreements, understandings, and representations, both written and oral, between us with respect to the subject matter of this Agreement. Amendments, addenda, and

waivers to this Agreement will be effective only if made in writing and signed by both parties. Any additional or different terms or conditions contained in any purchase order, confirmation, receipt, invoice, or similar documents will not be binding on either party.

IN WITNESS THEREOF, the Parties hereto have caused this Contract to be executed by their duly authorized representatives as attested and witnessed as of the day and year date first above written.

CITY OF SIERRA VISTA:

CONTRACTING AGENCY:
Cochise County, Arizona



Kennie Downing
Chief Procurement Officer

Ann English
Chair, Board of Supervisors

ATTEST:

AGENCY WITNESS / ATTEST:



SignNow e-signature ID: 8fb39fa12b...
02/09/2022 17:04:57 UTC

Jill Adams,
City Clerk

Tim Mattix
Interim Clerk, Board of Supervisors

APPROVED AS TO FORM:



SignNow e-signature ID: c9d5df88b7...
02/09/2022 20:14:08 UTC

Nathan J. Williams
City Attorney

APPROVED AS TO FORM:



Paul Correa
Cochise County Deputy County Attorney

APPENDIX A

1. Testing Fees shall be **\$150 per person**
2. The employee is allowed three (3) attempts to take the test at no additional fee.

City of Sierra Vista Point of Contact:

Bob Butterworth

E-mail: Bob.Butterworth@SierraVistaaz.gov

Phone: 520-458-5775

CONTRACTING AGENCY Point of Contact:

Jason Faccio, Operations Superintendent

E-mail: jfaccio@cochise.az.gov

Phone 520-732-8431

Sierra Vista invoices shall be mailed or emailed to:

Cochise County Public Works

2595 N. Sagebrush Road

Huachuca City, AZ 85616

rsmith@cochise.az.gov

Attachment A

Cochise County Standard Addendum

The following terms are added to and form a part of the AGREEMENT WITH THE CITY OF SIERRA VISTA PUBLIC WORKS DEPARTMENT to Provide Commercial Driver's License (CDL) Testing to Other Government Agencies' Employees ("Contract") between Cochise County ("County") and the City of Sierra Vista ("City") and supersede any conflicting terms:

1. **NON-DISCRIMINATION:** Neither party shall unlawfully discriminate against any employee, applicant, patient, or student based on race, color, creed, sex (including sexual preference/identity), religion, marital status, disability, veteran status, age, or national origin.
2. **CONFLICT OF INTEREST:** This Contract is subject to cancellation pursuant to the provisions of A.R.S. § 38-511 regarding Conflict of Interest.
3. **INSPECTION AND AUDIT:** The City agrees to keep all books, accounts, reports, files, and other records relating to this Contract for five (5) years after completion of this contract. In addition, the City agrees that such books, accounts, reports, files, and other records shall be subject to audit pursuant to A.R.S. § 35-214.
4. **ARBITRATION:** The parties agree that any dispute arising under this Contract involving the sum of \$65,000 or less in money damages only shall be resolved by arbitration pursuant to A.R.S. § 12-1501 et. seq.
5. **PUBLIC RECORDS LAWS:** Notwithstanding any provision in the Contract to the contrary, disclosure of any documents or records are subject to Arizona public records law, A.R.S. § 39-121 et. seq.
6. **JURISDICTION AND LAW:** Notwithstanding any provision in the Contract to the contrary, the Contract shall be governed by Arizona law and jurisdiction shall be in Arizona courts with venue in Cochise County, Arizona.

7. **IMMIGRATION LAWS:** City hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to City's employment of its employees, and with the requirements of A.R.S. § 23-214(A). The City shall further ensure that any sub-Contractor who performs any work for the City under this Agreement likewise complies with the State and Federal Immigration Laws.

8. **CERTIFICATION PURSUANT TO A.R.S. § 35-393.01:** If City engages in for-profit activity and has 10 or more employees, and if this Agreement has a value of \$100,000 or more, City certifies it is not currently engaged in, and agrees for the duration of this Contract to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.