

**HANSEN, ALLEN & LUCE, INC.**  
**ENGINEERING SERVICES AGREEMENT**

THIS ENGINEERING SERVICES AGREEMENT (this "AGREEMENT") is made and entered into as of the 3rd day of June, 2014, by and between City of Cedar Hills ("CLIENT") and HANSEN, ALLEN & LUCE, INC., a Utah corporation ("HA&L"), who agree as follows:

1. PROJECT. CLIENT desires to engage HA&L to provide engineering, technical, and other services as described below in connection with CLIENT'S project (the "PROJECT"). The PROJECT is described as follows: Secondary Water System Capacity Assessment.
2. SCOPE OF SERVICES. HA&L shall provide certain specified services (the "SERVICES") on the PROJECT in accordance with this AGREEMENT, the Hansen, Allen & Luce, Inc. Standard Terms and Conditions ("STANDARD TERMS") attached hereto as Exhibit A, and the Scope of Services ("SCOPE OF SERVICES") attached hereto as Exhibit B. HA&L shall not be responsible to provide any services not expressly contained in the STANDARD TERMS or the SCOPE OF SERVICES.
3. FEES. CLIENT shall reimburse HA&L for services provided under this AGREEMENT on an hourly billing rate plus reimbursable expenses basis, with and estimated not-to-exceed fee of \$10,800, in accordance with the HA&L Standard Fee Schedule ("FEE SCHEDULE") attached hereto as Exhibit C. CLIENT hereby agrees that all fees and charges set forth in the FEE SCHEDULE are acceptable to CLIENT, and CLIENT further agrees to pay all fees and charges to HA&L in accordance with this AGREEMENT and FEE SCHEDULE.
4. SCHEDULE. SERVICES will be completed within 45 calendar days following written authorization from the CLIENT to HA&L to proceed.
5. ATTACHMENTS AND EXHIBITS. All attachments and exhibits referenced in or attached to this AGREEMENT are incorporated herein and are made a part of this AGREEMENT.
6. CLIENT has read and understood the terms and conditions set forth on this AGREEMENT, the STANDARD TERMS, and all ATTACHMENTS and EXHIBITS and agrees that such items are hereby incorporated into and made a part of this AGREEMENT.

IN WITNESS WHEREOF, CLIENT and HA&L have executed this AGREEMENT as of the date first above written.

CLIENT: City of Cedar Hills  
By: Walt H. Baker  
Its: CITY MANAGER  
Attest: Colleen A. Muehry  
Its: City Recorder

HANSEN, ALLEN & LUCE, INC.  
By: Richard M. Noce  
Its: Principal  
Attest: [Signature]  
Its: ENGINEER



**EXHIBIT A**  
**HANSEN, ALLEN & LUCE, INC.**  
**STANDARD TERMS AND CONDITIONS**

The standard terms and conditions set forth herein are attached to and made a part of the Engineering Services Agreement (the "AGREEMENT") between Hansen, Allen & Luce, Inc. ("HA&L"), a Utah corporation and CLIENT (as defined in the AGREEMENT).

All capitalized terms which are not specifically defined herein shall have the meanings assigned to such terms in the AGREEMENT.

**ARTICLE 1. SERVICES.** The SERVICES to be provided by HA&L are limited to and shall be as set forth in the SCOPE OF SERVICES attached to the AGREEMENT as Exhibit B.

**ARTICLE 2. BILLING.** Unless otherwise expressly provided in the AGREEMENT, billings will be based on actual accrued time, costs and expenses. CLIENT agrees to pay invoices upon receipt. If payment is not received by HA&L within 30 days of the invoice date, the amount due shall bear interest at a rate of 1.5 percent per month (18 percent per annum), before and after judgment and CLIENT shall pay all costs of collection, including without limitation reasonable attorneys' fees (provided, however, if interest provided in this ARTICLE 2 exceeds the maximum interest allowed under any applicable law, such interest shall automatically be reduced to the maximum interest allowable by applicable law). If CLIENT has any objection to any invoice or part thereof submitted by HA&L, CLIENT shall so advise HA&L in writing, giving CLIENT's reasons, within 14 days of receipt of such invoice. Payment of the invoice shall constitute final approval of all aspects of the work performed to date as well as the necessity thereof. If the PROJECT or the AGREEMENT is terminated in whole or part prior to the completion of the SERVICES, then HA&L shall be paid for work performed prior to HA&L's receiving or issuing written notice of such termination and in addition HA&L shall be reimbursed for any and all expenses associated with the termination of the PROJECT or the AGREEMENT, including without limitation any "shut-down" costs.

**ARTICLE 3. RIGHT OF ENTRY.** CLIENT grants a right of entry to the PROJECT SITE to HA&L, its employees, agents, consultants, contractors, and subcontractors, for the purpose of performing services, and all acts, studies, and research in connection therewith, including without limitation the obtaining of samples and the performance of tests and evaluations.

**ARTICLE 4. PERMITS AND LICENSES.** CLIENT represents and warrants that it possesses all necessary permits and licenses required for the performance of the SERVICES and the continuation of CLIENT and HA&L's activities at the PROJECT SITE.

**ARTICLE 5. DOCUMENTS.** CLIENT shall furnish, or cause to be furnished, such reports, data, studies, plans, specifications, documents and other information deemed necessary by HA&L for the proper performance of the SERVICES. HA&L shall be entitled to rely upon documents provided by the CLIENT in performing the SERVICES. All documents provided by CLIENT shall remain the property of CLIENT; provided, that HA&L shall be permitted at HA&L's discretion to retain copies of such documents for HA&L's files. All documents prepared by HA&L in connection with the performance of the SERVICES, including but not limited to drawings, specifications, computer files, reports, field notes, laboratory test data, calculations, estimates, and other documents and instruments shall remain the exclusive property of HA&L. However, all final documents provided to the CLIENT by HA&L shall be subject to public disclosure under the provisions of the Government Records Access and Management Act (USC 63G-2). CLIENT agrees that all documents of any nature furnished to CLIENT or CLIENT's agents or designees, if not paid for by CLIENT, will be returned to HA&L upon demand and will not be used by CLIENT for any purpose whatsoever. CLIENT further agrees that under no circumstances shall any documents produced by HA&L pursuant to this AGREEMENT be used at any location or for any project not expressly provided for in this AGREEMENT without HA&L's prior written permission. If CLIENT has used or uses any portion of HA&L's work without HA&L's consent, CLIENT shall indemnify and save HA&L harmless from any and all claims arising from or relating to, in any way, such unauthorized use.

**ARTICLE 6. OPINIONS REGARDING COST.** In providing opinions of probable construction cost, the CLIENT understands that HA&L has no control over costs or the price of labor, equipment or materials, or over the contractor's method of pricing, and that the opinions of probable construction costs provided herein are to be made on the basis of HA&L's qualifications and experience. HA&L makes no warranty, expressed or implied, as to the accuracy of such opinions as compared to the bid or actual costs.

**ARTICLE 7. INDEMNITY.** HA&L hereby agrees to indemnify and hold harmless CLIENT and CLIENT's officers, employees, agents, successors and assigns from and against any and all losses, damages and liabilities to the extent caused by any negligent acts, errors or omissions of HA&L or HA&L's consultants or subconsultants of any tier, or their officers, employees or agents, with respect to the AGREEMENT or the performance of HA&L's SERVICES. CLIENT hereby agrees to indemnify and hold harmless HA&L and HA&L's consultants and subconsultants of any tier and their officers, directors, employees, agents, successors and assigns from and against any and all losses, damages and liabilities to the extent caused by the negligent acts, errors or omissions of CLIENT or CLIENT's other consultants or contractors, or their officers, employees or agents, with respect to the AGREEMENT or the performance of HA&L's SERVICES.

**ARTICLE 8. ENGINEER LIABILITY.** HA&L maintains worker's compensation and employer's liability insurance for HA&L personnel, as may be required by state law. HA&L also maintains liability and auto liability insurance as required by state law. HA&L also maintains professional liability insurance. A Certificate of Insurance evidencing the coverage currently held by HA&L may be supplied upon written request by CLIENT.

**HANSEN, ALLEN & LUCE, INC.**  
STANDARD TERMS AND CONDITIONS (cont.)

Notwithstanding any provision of the AGREEMENT to the contrary, HA&L shall not be liable or responsible for any costs, expenses, losses, damages, or liability beyond the amount of the fee earned, or the amounts, limits, coverage, or conditions of the insurance held by HA&L, whichever is less. In the event any third party brings suit or claim against HA&L for any matter relating to or arising from the SERVICES, the PROJECT, or the PROJECT SITE (including, without limitation any suit alleging exposure to or damage from material, elements or constituents at or from the PROJECT or the PROJECT SITE or which is alleged to have resulted in or caused disease or any adverse health condition to any third party, or resulted in costs for remedial action, uninhabitability of the property, or other property damage), before, during or after the performance of the SERVICES, CLIENT agrees, at its sole cost and expense, to indemnify, defend and hold HA&L and its officers, employees, contractors, and representatives harmless from all costs (including without limitation attorney's fees, witness costs and courts costs), expenses, losses and judgments. CLIENT shall have the right to investigate, negotiate and settle, with HA&L's concurrence, any such suit or claim.

**ARTICLE 9. FORCE MAJEURE.** HA&L is not responsible for damages or delays in performance caused by factors beyond HA&L's control, including but not limited to strikes, lockouts, work slowdowns or stoppages, accidents, acts of God, failure of any governmental or other regulatory authority to act in a timely manner, failure of the CLIENT to furnish timely information or approve or disapprove of HA&L's services or work product promptly, or delays caused by faulty performance by CLIENT or by contractor(s) or any level. When such delays beyond HA&L's reasonable control occur, the CLIENT agrees HA&L is not responsible for damages, nor shall HA&L be deemed to be in default of this AGREEMENT.

**ARTICLE 10. CORPORATE PROTECTION.** It is intended by the parties to this AGREEMENT that HA&L's professional services in connection with the project shall not subject HA&L's individual employees, officers or directors to any personal legal exposure for the risks associated with this PROJECT. Therefore, and notwithstanding anything to the contrary contained herein, the CLIENT agrees that as the CLIENT'S sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against HA&L, a Utah corporation, and not against any of HA&L's employees, officers or directors.

**ARTICLE 11. EXTENSION OF PROTECTION.** The CLIENT agrees to extend any and all liability limitations and indemnifications provided by the CLIENT to HA&L to those individuals and entities HA&L retains for performance of the services under this AGREEMENT, including but not limited to HA&L's officers and employees and their heirs and assigns, as well as HA&L's subconsultants and their officers, employees, heirs and assigns.

**ARTICLE 12. STANDARD OF CARE.** The SERVICES will be performed in accordance with generally accepted engineering principles and practices existing at the time of performance for the locality where the SERVICES were performed.

**ARTICLE 13. GOVERNING LAW.** The CLIENT and HA&L agree that all disputes arising out of or in any way connected to this AGREEMENT, its validity, interpretation and performance and remedies for breach of contract, or any other claims related to this AGREEMENT shall be governed by the laws of the State of Utah.

**ARTICLE 14. MEDIATION.** In an effort to resolve any conflicts that arise during the design or construction of the PROJECT or following the completion of the PROJECT, the CLIENT and HA&L agree that all disputes between them arising out of or relating to this AGREEMENT shall be submitted to nonbinding mediation unless the parties mutually agree otherwise.

**ARTICLE 15. LEGAL ACTION.** All legal actions by either party against the other arising from the AGREEMENT, or for the failure to perform in accordance with the applicable standards of care provided in the AGREEMENT, or for any other cause of action, shall be barred 2 years from the date the claimant knew or should have known of its claim: provided, however, no legal actions shall be asserted by CLIENT or HA&L after 4 years from the date of substantial completion of the SERVICES.

**ARTICLE 16. LITIGATION ASSISTANCE.** The SCOPE OF SERVICES does not include costs of HA&L for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by the CLIENT. All such services required or requested of HA&L except for suits or claims between the parties to the AGREEMENT will be reimbursed as mutually agreed, and payment for such services shall be in accordance with this AGREEMENT, unless and until otherwise required by a court or arbitrator.

**ARTICLE 17. CHANGES.** CLIENT may make or approve changes by written change order within the SCOPE OF SERVICES. CLIENT shall pay any additional costs of such changes at the rates set forth in the current FEE SCHEDULE.

**ARTICLE 18. TERMINATION.** Either the CLIENT or HA&L may terminate this AGREEMENT at any time with or without cause upon giving the other party thirty (30) calendar days prior written notice. The CLIENT shall within thirty (30) calendar days of termination pay HA&L for all services rendered and all costs incurred up to the date of termination, in accordance with the compensation provisions of this AGREEMENT.

**ARTICLE 19. SURVIVAL.** All obligations arising prior to the termination of the AGREEMENT and all provisions of the AGREEMENT allocating the responsibility or liability between CLIENT and HA&L shall survive the completion of the SERVICES and the termination of the AGREEMENT.

**HANSEN, ALLEN & LUCE, INC.**  
STANDARD TERMS AND CONDITIONS (cont.)

ARTICLE 20. NO THIRD PARTY BENEFICIARIES. No rights or benefits are provided by the AGREEMENT to any person other than the CLIENT and HA&L and the AGREEMENT has no third-party beneficiaries.

ARTICLE 21. INTEGRATION. The AGREEMENT and all the exhibits and attachments thereto constitute the entire agreement between the parties and cannot be changed except by a written instrument signed by all parties thereto.

ARTICLE 22. CONTRACTOR AND JOB-SITE SAFETY. If contractor(s) are involved in the PROJECT, HA&L shall not be responsible for the supervision or direction of any contractor or its employees or agents, and CLIENT shall so advise the contractor(s). Neither the professional activities of HA&L, nor the presence of HA&L or his or her employees and subconsultants at a construction site, shall relieve the contractor(s) and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the Work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. HA&L and his or her personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. HA&L shall not be responsible for job or site safety on the PROJECT or at the PROJECT SITE, and HA&L shall not have the right or obligation to stop the work of any contractor or other person at the PROJECT SITE. The CLIENT agrees that the contractor(s) are solely responsible for jobsite safety, and warrants that this intent shall be made evident in the CLIENT's agreement with the contractor(s). The CLIENT also agrees that CLIENT, HA&L and HA&L's consultants shall be indemnified and shall be made additional insureds under the contractor(s) general liability insurance policy.

ARTICLE 23. NO SUPERVISION OR REPORTING DUTIES. HA&L shall not, under any circumstances, assume control of or responsibility for the PROJECT SITE or the persons operating on the PROJECT SITE nor shall HA&L be responsible for reporting to any federal, state or local agencies any conditions at the PROJECT SITE that may present potential dangers to public health, safety or the environment. CLIENT shall promptly notify the appropriate federal, state or local agencies, or otherwise disclose, any information that may be necessary to prevent any danger to health, safety or the environment, in accordance with applicable law and in a timely manner.

ARTICLE 24. SHOP DRAWING REVIEW. HA&L shall review and approve or take other appropriate action on the Contractor submittals, such as shop drawings, product data, samples and other data, which the Contractor is required to submit, but only for the limited purpose for checking for conformance with the design concept and the information shown in the Construction Documents. This review shall not include review of the accuracy or completeness of details, such as quantities, dimensions, weights or gauges, fabrication processes, construction means or methods, coordination of the work with other trades or construction safety precautions, all of which are the sole responsibility of the Contractor. HA&L's review shall be conducted with reasonable promptness while allowing sufficient time in HA&L's judgment to permit adequate review. Review of a specific item shall not indicate that HA&L has reviewed the entire assembly of which the item is a component. HA&L shall not be responsible for any deviations from the Construction Documents not brought to the attention of HA&L in writing by the Contractor. HA&L shall not be required to review partial submissions or those for which submissions of correlated items have not been received.

ARTICLE 25. HAZARDOUS MATERIALS. As used in this AGREEMENT, the term *hazardous materials* shall mean any substances, including but not limited to asbestos, toxic or hazardous waste, PCBs, combustible gases and materials, petroleum or radioactive materials (as each of these is defined in applicable federal statutes) or any other substances under any conditions and in such quantities as would pose a substantial danger to persons or property exposed to such substances at or near the PROJECT SITE

ARTICLE 26. HAZARDOUS MATERIALS - SUSPENSION OF SERVICES. Both parties acknowledge that HA&L's SCOPE OF SERVICES does not include any services related to the presence of any hazardous or toxic materials. In the event HA&L or any other party encounters any hazardous or toxic materials, or should it become known to HA&L that such materials may be present on or about the jobsite or any adjacent areas that may affect the performance of HA&L's services, HA&L may, at its option and without liability for consequential or any other damages, suspend performance of its services under this AGREEMENT until the CLIENT retains appropriate consultants or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the jobsite is in full compliance with all applicable laws and regulations.

ARTICLE 27. HAZARDOUS MATERIALS INDEMNITY. The CLIENT agrees, notwithstanding any other provision of this AGREEMENT, to the fullest extent permitted by law, to indemnify and hold harmless HA&L, its officers, partners, employees and consultants from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorney's fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, or about or adjacent to the PROJECT SITE, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability or any other cause of action, except for the sole negligence or willful misconduct of HA&L.

## EXHIBIT B

### SCOPE OF SERVICES

Hansen, Allen & Luce, Inc. proposes to complete the following Tasks to assist the City with preparing a Secondary Water System Capacity Assessment. Each Task includes an Objective and a Statement of Work (list of activities) to accomplish the Task.

#### **TASK 1 - PREPARE AN EXTENDED TIME PERIOD COMPUTER MODEL**

##### **Objective:**

Prepare an extended time period computer model using data obtained from the City.

##### **Statement of Work:**

1. Meet with City personnel to gain an understanding of the data available to prepare an extended period hydraulic model. Also, gain an understanding of system layout, system operation and system performance.
2. Work with City personnel to obtain needed data. The following list of data is typical for what is obtained to complete the model: current CAD files of system inventory, pump and well data (pump curves, ground water levels, pump type, pump column size and depth, controls, usage), tank dimensions, piping configuration, system SCADA data and control information, master water meter use data, and normal operating procedures for the system and how the procedures change throughout the irrigation season.
3. Prepare the extended period computer model by importing the CAD system inventory and adding additional features, controls, well data, pump data, tank data and other data necessary to model the operation of the water system over time under varying demand conditions.
4. Distribute demands throughout the system based on system layout and parcels.
5. Prepare demand curves for peak use, average use, and minimum use. The three curves usually give a good representation of changing demand throughout the season.
6. Calibrate the extended period model by comparing available pump station, storage, and valve performance graphs from the SCADA system with performance graphs from the model. Also, compare available water cost and energy cost data to model results. Any anomalies in the model will be resolved by interviewing City personnel, using the SCADA system, and field tests (assumed to be performed by City staff if necessary).

#### **TASK 2 - SYSTEM ANALYSIS**

##### **Objective:**

Use the model to analyze the existing secondary water distribution system during varying demand conditions. Analyze the secondary water system operation with failure of key booster pumps and the Cottonwood Well.

**Statement of Work:**

1. Use the model to understand and simulate the current operation procedures of water distribution system.
2. Use the model to simulate system operation under reduced demand conditions with water conservation measures.
3. Use the model to simulate operation under build out conditions with water conservation measures.
4. Use the model to simulate system operation with failure of key system components including booster pumps and the Cottonwood Well.

**TASK 3 - LETTER REPORT**

**Objective:**

Present modeling results to the City.

**Statement of Work:**

1. Prepare a letter report summarizing model results.

**DELIVERABLES:**

1. Letter report summarizing model results
2. EPANET model on compact disc.

**ASSUMPTIONS:**

- Two meetings including a data collection session are assumed at City offices.
- It is assumed that the model will be prepared in EPANET.
- It is assumed that the City will provide complete and recent water system CAD inventory data, SCADA output, and water use data, and will facilitate obtaining any additional needed data for this study.
- It is assumed that the City will provide updated water system facility information, and surveying and testing by HA&L will not be required.

**STANDARD FEE SCHEDULE**  
September 2013 – August 2014

**PERSONNEL CHARGES**

Client agrees to reimburse Hansen, Allen & Luce, Inc. (HAL), for personnel expenses directly related to the completion of the project, in accordance with the following:

Senior Managing Professional.....	\$167.00/hr
Managing Professional.....	\$139.00/hr
Senior Professional II.....	\$129.00/hr
Senior Professional I.....	\$121.00/hr
Professional III.....	\$110.00/hr
Professional II.....	\$103.00/hr
Professional I.....	\$93.50/hr
Professional Intern.....	\$87.00/hr
Senior Designer.....	\$106.00/hr
Designer.....	\$92.50/hr
Senior Field Technician.....	\$92.50/hr
Field Technician.....	\$75.50/hr
CAD Operator.....	\$75.50/hr
Secretary.....	\$55.50/hr
1 Man GPS Surveying Services.....	\$159.00/hr
2 Man GPS Surveying Services.....	\$172.00/hr
Surveying Services.....	\$149.00/hr
Expert Legal Services.....	\$265.00/hr

**DIRECT CHARGES**

Client also agrees to reimburse HAL for all other costs directly related to the completion of the project. Direct charges shall include, but not be limited to, the following:

Communication, Computer, Reproduction.....	\$6.00 per labor hour
Out-of-town per diem allowance (lodging not included).....	\$35.00 per day
Vehicle.....	\$0.65 per mile
Outside consulting and services.....	Cost plus 10%
Other direct expenses incurred during the project.....	Cost plus 10%
Trimble GPS Unit.....	\$130.00 per day

INTEREST CHARGE AFTER 30 DAYS FROM INVOICE DATE..... 1.5% per month

Note: Annual adjustments to personnel and direct expense charges will occur in September of each year. Mileage rate changes are based on fuel prices.

