

MUSTANG DESIGN, LLC

SERVICES CONTRACT



Project No: 2015001

THIS AGREEMENT is made effective this 15th day of January, 2015, by and between Mustang Design, LLC (hereafter "Mustang Design"), a Utah Limited Liability Company and Cedar Hills City (hereafter "CLIENT").

WHEREAS, Mustang Design agrees to provide design consulting services for CLIENT in exchange for remuneration in accordance to the contract documents, exhibits, and terms and conditions provided herein.

NOW, therefore, the parties agree as follows:

Services Provided by Mustang Design

Mustang Design agrees to provide consulting services as defined in the Scope of Services provided in Exhibit A

Basis of Fee and Billing Schedule

The CLIENT will pay Mustang Design for their services and reimbursable expenses as follows:

Contract Type:

- Time and Materials (*Charges are based on the Standard Rates and Fee Schedule of Exhibit B*)
 Fixed Price (Lump Sum) Contract Value \$3,293.00
 Retainer Value \$ _____

Contract Term

From January 15th, 2015 to May 2015

IN WITNESS WHEREOF, the parties, through their respective duly authorized officers, have executed this Agreement on the dates set forth below, to be effective as of the date first set forth above.

CLIENT

COMPANY: Cedar Hills City

ADDRESS: 10246 N Canyon Road

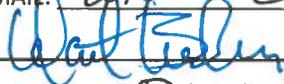
CITY: Cedar Hills STATE: Utah ZIP: 84043

PHONE: 801-785-9668 EMAIL: _____

A/P CONTACT: DAY FOSSUM

A/P PHONE: 801-785-9668 x402

A/P EMAIL: d.fossum@cedarhills.org

By: 

Printed Name: DAVID H. BUNKER

Title: CITY MANAGER / CITY ENGINEER

Date: 2-10-15

Mustang Design

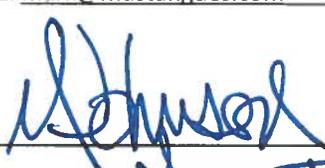
NAME: Mark Johnson

ADDRESS: 791 North 100 East, Suite 200

CITY: Lehi STATE: UT ZIP: 84043

PHONE: 801-361-6221

EMAIL: mark@mustangdes.com

By: 

Printed Name: MARK JOHNSON

Title: OWNER

Date: 2/2/2015

Mustang Design, LLC

TERMS AND CONDITIONS

GENERAL

Mustang Design shall provide for CLIENT design, engineering and/or land surveying services in all phases of the Project to which this Agreement applies. These services will include serving as CLIENT's design, engineering or land surveying representative for the Project, providing professional consultation and advice in accordance with generally accepted professional practices for the intended use of the Project and makes no other **WARRANTY EITHER EXPRESSED OR IMPLIED**.

Mustang Design shall not be responsible for acts or omissions of any party involved in the services covered by this Agreement other than their own or for failure of any contractor or subcontractor to construct any item in accordance with recommendations issued by Mustang Design.

Mustang Design has not been retained to supervise, direct or have control over Contractor(s) work nor shall Mustang Design have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by Contractor(s), for safety precautions and programs incident to the work of Contractor(s) or for any failure of Contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor(s) furnishing and performing their work. Accordingly, Mustang Design can neither guarantee the performance of the construction contracts by Contractor(s) nor assume responsibility for Contractor(s)' failure to furnish and perform their work in accordance with the Contract Documents.

In soils investigation work and in determining subsurface conditions for the Project, the characteristics may vary greatly between successive test points and sample intervals. Mustang Design will coordinate this work in accordance with generally accepted practice of the professional services being provided and makes no other **WARRANTIES EXPRESSED OR IMPLIED**, or as to the professional advice furnished by others.

Resetting of survey and/or construction stakes shall constitute extra work and shall be paid for on a time and material basis in addition to any other payment provided in this Agreement.

OPINIONS OF COST

Since Mustang Design has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, Mustang Design's opinions of probable Total Project Costs and Construction Costs provided for herein are to be made on the basis of Mustang Design's experience and qualifications and represent Mustang Design's best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but Mustang Design cannot and does not guarantee that proposals, bids or actual Total Project or Construction Costs will not vary from opinions of probable cost prepared by Mustang Design. If the CLIENT wishes greater assurance as to Total Project or Construction Costs, CLIENT shall employ an independent cost estimator. Mustang Design's services to modify the Project to bring the Construction Costs within any limitation established by the CLIENT will be considered Additional Services and paid for as such by the CLIENT.

REUSE OF DOCUMENTS

All documents and magnetic media including Drawings and Specifications prepared or furnished by Mustang Design pursuant to this Agreement are instruments of service in respect of the Project and Mustang Design shall retain an ownership and property interest therein whether or not the Project is completed. Any reuse without written verification or adaptation by Mustang Design for the specific purpose intended will be at CLIENT's sole risk and without liability or legal exposure to Mustang Design and CLIENT shall indemnify and hold harmless Mustang Design from all claims, damages, losses and expenses arising out of or resulting therefrom.

CONTROLLING LAW

This Agreement is to be governed by the law of the State of Utah, principal place of business of Mustang Design.

SUCCESSORS AND ASSIGNS

CLIENT and Mustang Design each is hereby bound and the partners, successors, executors, administrators and legal representatives of CLIENT and Mustang Design are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives of such other party, in respect of all covenants, agreements and obligations of this Agreement.

Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than CLIENT and Mustang Design, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of CLIENT and Mustang Design and not for the benefit of any other party.

TIMES OF PAYMENTS

Mustang Design shall submit monthly statements or invoices for services rendered and for Reimbursable Expenses incurred. CLIENT shall make prompt monthly payments. If CLIENT fails to make any payment due Mustang Design for services and expenses within ten (10) days after receipt of Mustang Design's statement therefor, the amounts due Mustang Design will be increased at the rate of 1.5% per month from said tenth day, and in addition, Mustang Design may, after giving ten days' written notice to CLIENT, suspend services under this Agreement until Mustang Design has been paid in full all amounts due for services, expenses and charges.

TERMINATION

The obligation to provide further services under this Agreement may be terminated by either party upon thirty days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. If this Agreement is terminated by either party, Mustang Design will be paid for services rendered and for Reimbursable Expenses incurred to the date of such termination plus an allowance for demobilization costs as determined by Mustang Design.

RISK ALLOCATION

The CLIENT is aware of the risks, rewards, and benefits of the project and Mustang Design's total fee for services. The risks are hereby allocated such that the CLIENT agrees that, to the fullest extent permitted by law, Mustang Design's total liability to the CLIENT for all injuries, claims, expenses, damages or claims expenses arising out of this agreement from any cause, shall not exceed the fees for services rendered on this Project. Such causes include, but are not limited to, Mustang Design's negligence, errors, omissions, strict liability and breach of this Agreement.

HAZARDOUS WASTE AND ASBESTOS

In consideration of the unavailability of professional liability insurance for services involving or related to hazardous waste elements of this Agreement, or for the removal or encapsulation of asbestos, it is further agreed that the CLIENT shall indemnify and hold harmless Mustang Design and their consultants, agents and employees from and against all claims, damages, losses and expenses direct and indirect, or consequential damages, including but not limited to fees and charges of attorneys and court, mediation or arbitration costs, arising out of or resulting from the performance of the work by Mustang Design, or claims against Mustang Design related to hazardous waste or asbestos activities.

MEDIATION BEFORE LITIGATION

No action or lawsuit shall commence nor recourse to a judicial forum be made (hereinafter "litigation") until CLIENT, Mustang Design, and/or other Parties of Real Interest have commenced, participated in and concluded nonbinding mediation, pursuant to the rules of mediation.

LEGAL FEES

In the event of any action brought by either party against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts for fees, costs and expenses, including attorney's fees as may be set by the Court.

EXTENT OF AGREEMENT

This Agreement represents the entire and integrated agreement between the CLIENT and Mustang Design and supersedes all prior negotiations, representations or agreements, either written or oral. The Agreement may be amended only by written instrument signed by both CLIENT and Mustang Design.

Mustang Design, LLC

CONSULTING SERVICES CONTRACT

Exhibit A - Scope of Services

SCOPE OF SERVICES AND RELATED FEES

Date: January 13, 2015

Project Name: Cedar Hills Development Review

Project Type: Consulting Services

Project Address: 10246 N Canyon Road, Cedar Hills, Utah 84062

Client Name: Cedar Hills

Project Criteria: Mustang Design will provide development review services to the City of Cedar Hills in order to allow the city to feel comfortable that their design criteria, zoning regulations and development code requirements are applied.

Request Narrative: We are responding to a request to provide development review services for a 23 lot subdivision in the City of Cedar Hills. It is understood that this project will require a short turnaround time because of a specific situation request made by the City. Mustang Design is prepared to respond to that shortened time frame. It is understood that Engineering Review and Code Compliant Review will be required. Mustang Design will also provide Plat Review and Zoning Compliance at any level the city may find warranted. **This proposal includes the review of both preliminary and final submittals.**

Project Fees: Proposals include both "lump sum" and "time & materials" project fees. The type of fee is listed next to the task provided. Services that are subject to unforeseeable regulatory issues, problematic site issues, uncommon site requirements, construction observation and construction surveying are typical of services that will be billed on a "time & materials" basis. The client should refer to the standard agreement for terms of payment, interest and hourly billing rates. The client will also be responsible for all external fees associated with the project such as but not limited to application fees, regulatory fees, and record fees if applicable. **It is anticipated that all fees on this project will be LUMP SUM.**

Direct Costs: There will be no direct costs for this project. Any direct costs have been anticipated and are included in the fees shown.

Cost Breakdown: The cost for engineering services as detailed below is:

Cedar Hills Development Review of 23 Lot Subdivision – **\$3,293.00 TOTAL**

TASK

FEE TYPE

000 - Project Administration

\$340.00 Lump Sum

- a) Site visit, project setup and retrieval of existing data
- b) Client meetings, consultation and coordination

- c) Administration of changes and/or revisions initiated by the client, governing agencies and/or utility companies

Limited To: 1 site visit, 2 city meetings including an initial meeting to discuss review direction.

001 - Engineering Review

\$1,480.00 Lump Sum

- a) Geotechnical compliancy
- b) Review Hydraulics (pipe slopes, pipe capacities, ditches, etc.)
- c) Review Hydrological Analysis (runoff calculations, runoff conveyance, detention capacity, etc.)
- d) Review roadway design (slopes, turning radii, widths, intersections, etc.)
- e) General engineering compliancy (AASHTO, ADA, etc.)

Limited To: Standards given to Mustang Design required for review.

002 - Code Compliance

\$1,123.00 Lump Sum

- a) Verify submittal checklist
- b) Required documentation check
- c) City design standards compliancy
- d) Standard Specs and Drawings compliancy

003 - Zoning Compliance

Time & Materials

- a) These services are not anticipated on this project

004 - Plat Review

\$350.00 Lump Sum

- a) Plat closure
- b) Right-of-way width verification
- c) County road width verification

Direct Costs

\$0.00 Lump Sum

- a) Mileage - Not charged on this project

ASSUMPTIONS

1. Cedar Hills will provide all city code and standards documentation necessary for this development plan review. They will also notify Mustang Design of any criteria that may be obscure or non-standard before work begins.
2. Cedar Hills will notify Mustang Design of any special circumstances regarding this development that will need to be considered.
3. No Time & Materials charges are anticipated on this project. However our current rate table will be provided if requested.

Mustang Design, LLC

CONSULTING SERVICES CONTRACT

Exhibit B - Standard Rates and Fee Schedule

LABOR RATES: Services provided will be invoiced at the unit rates identified below:

Labor Category	Hourly Labor Rate
Project Engineer	\$130
Project Designer	\$120
Survey Chief	\$120
Survey Assistant	\$100
2 Man Survey Crew	\$160
Designer	\$90
Technician II	\$80
Technician I	\$60
Clerical	\$60

Billing Rate Classification is determined from burdened labor cost. Agreements under \$50,000 may require prepaid retainer that appropriate and applicable rates can be billed against. All projects require a work authorization signed by Mustang Design and CLIENT prior to commencing work. Insurance requirements required by CLIENT's project requirements, in excess of standardized Mustang Design coverage will be billed to job at cost plus 5%.

TIME CHARGES: Time charges are based upon actual project work. Time reporting for all office personnel is based upon actual time in office. Time reporting for all field work is based upon actual field work plus travel time to and from temporary living quarters. Time will be recorded in 1/10's of an hour.

SUBCONTRACTS: General subcontracts, excluding consultant services, will be invoiced at cost plus a 10% handling charge to cover administrative costs associated with management and processing of the subcontracts.

OTHER DIRECT COSTS: Expenses for in-house services such as computer usage, copying, and reprographics, may be billed at a fixed rate or unit prices whichever is applicable and deemed necessary by Mustang Design. Specialized instrumentation, company vehicles, mobile laboratories, and related equipment are billed at fixed daily or weekly rate depending upon the period of usage. Rate schedules are available upon request. Costs for project specific supplies or travel related expenses (lodging, meals, airfare, vehicle rental, etc...) are invoiced at the cost plus a 10% handling charge.

AUDIT PRIVILEGES: All job audit privileges of CLIENT will extend only to review and approval of monthly invoices submitted by Mustang Design to CLIENT. Invoices prepared and submitted by Mustang Design will include copies of source documents of all expenditures including: time, travel, subcontracts, supplies, equipment, materials, or premiums. The CLIENT may review, debate, or qualify items for payment at the time of invoice review and approval and payment of invoice. CLIENT waves post job audit privileges beyond invoice approval. Mustang Design will not retain job related support documents or any other billing documents beyond the periodic billing, review period, and collection by Mustang Design of invoices submitted.

Estimates are provided to the CLIENT for budgeting purposes only and are not an agreement by Mustang Design to perform the services for a lump-sum, fixed price, or not to exceed price unless otherwise provided for in the contract. Mustang Design reserves the right to change rates used on rate-based reimbursable contracts on a semi-annual basis.

Effective: September, 2014