

**ALAN PLUMMER ASSOCIATES, INC.**

**AGREEMENT FOR ENGINEERING SERVICES**

Project No. 1403-004-01

**THIS AGREEMENT** is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between the **City of Euless**, Texas, (hereinafter called "Owner") and the firm of **ALAN PLUMMER ASSOCIATES, INC.**, a Texas Corporation with its corporate office at 1320 South University, Suite 300, Fort Worth, Tarrant County, Texas, (hereinafter called "Engineer").

OWNER INFORMATION

Name: <u>City of Euless</u>	Contact: <u>Chris Barker</u>
Billing Address: <u>201 N. Ector Dr.</u>	Title: <u>Assistant City Manager</u>
<u>Euless, TX 76039</u>	Telephone: <u>(817) 685-1637</u>

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, Owner and Engineer agree as follows:

**SCOPE OF SERVICE:**

Owner requests and authorizes Engineer to perform BASIC ENGINEERING SERVICES as described in ATTACHMENT A, SCOPE OF WORK.

**COMPENSATION:**

Compensation for BASIC ENGINEERING SERVICES, shall be paid by the Owner to the Engineer for Services on a cost reimbursable basis in an amount not to exceed \$78,000.

When compensation is on a cost reimbursable basis, Engineer's personnel time will be billed at Engineer's hourly rates as shown in Attachment B. All direct non-labor expenses, including mileage, travel and lodging expenses, but excluding subcontract expenses, applied to the BASIC ENGINEERING SERVICES, shall be paid at invoice or internal office cost plus a fifteen percent (15%) service charge. Subcontract expenses shall be paid at direct cost plus a fifteen percent (15%) service charge. All sales, use, value added, business transfer, gross receipts, or other similar taxes will be added to Engineer's compensation when invoicing Owner.

**SPECIAL SERVICES:**

Special services will not be performed without written authorization from the Owner and will be performed on a cost

reimbursable basis under the same terms as Basic Services.

Services covered by this Agreement will be performed in accordance with the Provisions attached to this form and any other attachments or schedules. This Agreement supersedes all prior Agreements and understandings and may only be changed by written amendment executed by both parties.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first written above.

**Owner:**

**Alan Plummer Associates, Inc.:**

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

**GENERAL TERMS AND CONDITIONS****1. Authorization to Proceed**

Execution of this Agreement by the Owner will be authorization for ALAN PLUMMER AND ASSOCIATES, INC. ("Engineer") to proceed with the work, unless otherwise provided for in this Agreement.

**2. Salary Costs**

Engineer's Salary Costs, when the basis of compensation, are the amount of wages or salaries paid Engineer's employees for work directly performed on Owner's Project plus a percentage applied to all such wages or salaries to cover all payroll-related taxes, payments, premiums, and benefits.

**3. Per Diem Rates**

Engineer's Per Diem Rates, when the basis of compensation, are those hourly or daily rates charged for work performed on Owner's Project by Engineer's employees of the indicated classifications. These rates are subject to annual calendar year adjustments and include all allowances for salary, overheads, and fee, but do not include allowances for Direct Expenses.

**4. Direct Expenses**

Engineer's Direct Expenses, when part of the basis of compensation, are those costs incurred on or directly for the Owner's Project, including, but not limited to, necessary transportation costs, including Engineer's current rates for Engineer's vehicles; meals and lodging; laboratory tests and analyses; computer services; word processing services, telephone, printing, binding, and reproduction charges; all costs associated with outside consultants, subconsultants, subcontractors, and other outside services and facilities; and other similar costs. Reimbursement for Direct Expenses will be on the basis of actual charges when furnished by commercial sources and on the basis of current rates when furnished by Engineer.

**5. Cost Opinions**

Any cost opinions or Project economic evaluations provided by Engineer will be on a basis of experience and judgment; but, since it has no control over market conditions or bidding procedures, Engineer cannot warrant that bids, ultimate construction cost, or Project economics will not vary from these opinions.

**6. Termination**

This Agreement may be terminated for convenience upon 30 days' written notice by either party with or without cause. On termination, Engineer will be paid for all work performed up to the date of notification. If no notice of termination is given and termination is not for cause,

relationships and obligations created by this Agreement, except Articles 8 through 15, will be terminated upon completion of all applicable requirements of this Agreement.

**7. Payment to Engineer**

Monthly invoices will be issued by Engineer for all work performed under this Agreement. Invoices are due and payable on receipt. Interest at the rate of 1-1/2 percent per month, or that permitted by law if lesser, will be charged on all past-due amounts starting 30 days after date of invoice. Payments will first be credited to interest and then to principal.

In the event of a disputed or contested billing, only that portion so contested will be withheld from payment, and the undisputed portion will be paid. The Owner will exercise reasonableness in contesting any bill or portion thereof. No interest will accrue on any contested portion of the billing until mutually resolved.

**8. Independent Consultant**

Engineer agrees to perform all services as an independent consultant and not as a subcontractor, agent or employee of the Owner.

**9. Engineer's Personnel at the Project Site**

The presence or duties of the Engineer's personnel at the Project site, whether as on-site representatives or otherwise, do not make the Engineer or its personnel in any way responsible for those duties that belong to Owner and/or to other contractors, subcontractors, or other entities, and do not relieve the other contractors, subcontractors, or other entities of their obligations, duties, and responsibilities, including, but not limited to, all methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the work of those parties in accordance with their contract requirements and any health or safety precautions required by such work. The Engineer and its personnel have no authority to exercise any control over any contractor, subcontractor, or other entity or their employees in connection with their work or any health or safety precautions and have no duty for inspecting, noting, observing, correcting, or reporting on health or safety deficiencies of any contractor, subcontractor, or other entity or any other persons at the Project site except Engineer's own personnel.

Engineer neither guarantees the performance of any contractors, subcontractors or other entities nor assumes responsibility for their failure to perform their work in accordance with their contractual responsibilities.

**10. Litigation Assistance**

Unless specifically set forth in the Scope of Services, the Scope of Services does not include costs of the Engineer for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation or administrative proceedings taken or defended by the Owner.

All such services required or requested of the Engineer by the Owner, except for suits or claims between the parties to this Agreement, will be reimbursed as may be mutually agreed, and payment for such services shall be in accordance with Section 7, unless and until there is a finding by a court or arbitrator that Engineer's sole negligence caused Owner's damage.

#### **11. Venue**

In the event that any legal proceeding is brought to enforce this Agreement or any provision hereof, the same shall be brought in Tarrant County, Texas, and shall be governed by the laws of the State of Texas.

#### **12. Severability and Survival**

If any of the provisions contained in this Agreement are held illegal, invalid or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby. Limitations of liability and indemnities shall survive termination of this Agreement for any cause.

#### **13. Interpretation**

The limitations of liability and indemnities will apply whether Engineer's liability arises under breach of contract or warranty; tort, including negligence; strict liability; statutory liability; or any other cause of action, except for willful misconduct or gross negligence for limitations of liability and sole negligence for indemnification, and shall apply to Engineer's officers, affiliated corporation, employees and subcontractors. The law of the state of Texas shall govern the validity of this Agreement, its interpretation and performance, and any other claims related to it.

#### **14. No Third Party Beneficiaries**

This Agreement gives no rights or benefits to anyone other than the Owner and Engineer and has no third party beneficiaries. The Owner will include a provision in each agreement which Owner enters into with any other entity or person that such entity or person shall have no third-party beneficiary rights under this Agreement.

Engineer's services are defined solely by this Agreement, and not by any other contract or Agreement that may be associated with the Project.

#### **15. Liability**

- a. Engineer's services shall be governed by the negligence standard for professional services,

measured as of the time those services are performed.

- b. The Owner's review, approval, or acceptance of, or payment for, any of these services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performances of this Agreement, and the Engineer shall be and remain liable in accordance with applicable law for all damages to the Owner caused by Engineer's omissions or negligent performance of any of the services furnished under this Agreement.
- c. To the maximum extent permitted by law, Engineer's liability for Owner damages for any cause or combination of causes will, in the aggregate, not exceed the limits of the Engineer's professional liability insurance coverage.
- d. As used herein, Engineer includes the corporation, subcontractors, and any of its or their officers, or employees.
- e. As between the Owner and the Engineer, any contract claim must be brought within two years from the day following the act or omission giving rise to the breach of contract claim.

#### **16. Assignment**

Neither Party will assign all or any part of this Agreement without prior written consent to the other party.

## **ATTACHMENT A SCOPE OF WORK**

### **BASIC SERVICES**

#### **TASK A: TWDB Drinking Water SRF Loan Application Support- Automatic Metering Project**

1. ENGINEER will assist CITY in preparing and submitting a project information form (PIF) to the Texas Water Development Board (TWDB) for potential inclusion on the 2014 Intended Use Plan (IUP) for Drinking Water State Revolving Fund (DWSRF).
2. Assuming the project is included on the IUP and Euless is invited to apply for funding, ENGINEER will assist CITY in preparing the funding application and submittal to the TWDB. Specific tasks associated with development of the application include:
  - a. ENGINEER will prepare a feasibility report that meets TWDB requirements. Per correspondence with TWDB, requirements for meter replacement projects are not as substantial as for other projects that involve significant infrastructure, but need to include:
    - i. A description of the project
    - ii. Map of the project
    - iii. Project schedule
    - iv. Future population and water use projections
    - v. A discussion of alternatives considered

CITY will provide ENGINEER information necessary to prepare the feasibility report. No new information will be developed by the ENGINEER.
  - b. ENGINEER will coordinate with CITY staff and the TWDB to complete the funding application, including all forms and attachments. Fees for basic services in this task assume that a categorical exclusion can be obtained and no environmental information document (EID) is required. Basic services fees also assume the CITY or its financial advisor will provide all financial information requested in the application to the ENGINEER and that the CITY has completed and submitted the documents listed in Part F of the application to the TWDB (water conservation plan, annual water use survey, water loss audit). Preparation of an EID, water conservation plan, water use survey or water loss audit report will be considered special services.
  - c. ENGINEER will assist the CITY in responding to any requests for information from the TWDB associated with the funding application.
3. ENGINEER will assist the CITY in the preparation of outlay reports throughout the duration of the project. Quarterly reports are required between closing of the loan and until construction begins. Monthly reports are required once construction begins until the project is completed. CITY will provide ENGINEER with the required

documentation of receipts/invoices to be included with the outlay reports. Assistance with preparation of up to 12 reports is assumed for basic services. Additional reports will be provided as a special service.

4. ENGINEER will provide up to 24 hours of additional support to the CITY related to administration of the loan. This support may include review of documents, clarification of requirements, coordination meetings with the TWDB, etc.

#### **TASK B: TWDB Drinking Water (or Clean Water) SRF Loan Application Support-Additional Reclaimed Water System Phases**

1. ENGINEER will assist CITY in preparing and submitting a PIF to the Texas Water Development Board (TWDB) for each project phase for potential inclusion on the 2015 or subsequent year IUPs for the DWSRF and/or Clean Water State Revolving Fund (CWSRF).
2. Assuming the projects are included on the IUP and Euless is invited to apply for funding, ENGINEER will assist CITY in preparing the funding applications and submittal to the TWDB. Specific tasks associated with development of the applications include:
  - a. ENGINEER will prepare a feasibility report that meets TWDB requirements. Per TWDB guidance documents, the feasibility report must include:
    - i. Description of existing system
    - ii. Projected needs, population and demands
    - iii. Description of alternatives considered
    - iv. Alternatives
    - v. Description of site and any treatment requirements
    - vi. Conceptual design information and description of adequacy of facilities to meet capacity and pressures
    - vii. Description of operation and maintenance plan and impact on budget
    - viii. Project schedule
    - ix. Discussion of required permits and contracts and status of approvals
    - x. Project cost/budget

ENGINEER will update future phase options and prepare a formal feasibility report that meets the above requirements. The update will include a site investigation and documentation of all system connection points for each phase (similar to what was performed for Phase 1) in order to obtain accurate cost information for future phases.

- b. ENGINEER will coordinate with CITY staff and the TWDB to complete a funding application for Phase 2, including all forms and attachments. Basic services fees assume the CITY or its financial advisor will provide all financial

- information requested in the application to the ENGINEER and that the CITY has completed and submitted the documents listed in Part F of the application to the TWDB (water conservation plan, annual water use survey, water loss audit). Preparation of a water conservation plan, water use survey or water loss audit report will be considered special services.
- c. ENGINEER will assist the CITY in responding to any requests for information from the TWDB associated with the funding application.
3. ENGINEER will assist the CITY in drafting an Environmental Assessment (EA) (if Tier II) or Environmental Information Document (EID) (if Tier III) (select according to funding source) report based on current TWDB guidelines for report preparation. The EA/EID process consists of field work assessing the proposed corridor, the preparation of a draft EA/EID report, public, state and federal agency review and comment on the draft EA/EID report, and preparation of a final EA/EID report once the comment period has expired. The draft report will include a description of the project in terms of scope and opinion of probable cost; pre- and post-project impacts to the social and natural environment; project alternatives; and beneficiaries and non-beneficiaries of the proposed project.
    - i. ENGINEER will provide twelve (12) copies of the draft EA/EID for submittal to the CITY and the commenting agencies. ENGINEER will coordinate the draft EA/EID with all agencies listed in the TWDB guidance, provide preparation of a public notice (source of publication for the public notice is to be determined by the CITY) and provide any responses to inquiries/comments on behalf of the CITY. ENGINEER will subcontract with an archaeological consultant to satisfy the cultural resources component of the draft EA/EID.
    - ii. The final EA/EID report will include the aforementioned documentation and any comments received from the public and/or state and federal agencies. The final EA/EID report will be submitted to the TWDB for review and comment. Any comments received from the TWDB will be addressed and incorporated into the final EA/EID.
    - iii. ENGINEER will provide the CITY with four (4) copies of the final EA/EID.
  4. Section 404 Permit – ENGINEER will assist the CITY in determining the impacts and regulatory permitting requirements as a result of the proposed project. A pedestrian investigation will be required to complete a jurisdictional determination for the presence and possible impact to waters of the U.S. regulated under Section 404 of the Clean Water Act. The purpose of the jurisdictional determination is to identify waters of the U.S. as outlined in the U.S. Army Corps of Engineers' (USACE) Regulatory Program Regulations Section 33 CFR 328.2 that may be impacted by the proposed PROJECT.

ENGINEER will perform the following tasks:

- i. Delineate all waters of the U.S. including their adjacent wetlands within the proposed corridor;

- ii. Delineate waters of the U.S. and adjacent wetlands with a hand-held GPS device;
  - iii. Prepare a PJD report including maps of delineated jurisdictional areas;
  - iv. Identify and quantify impacts to waters of the U.S. including wetlands; and
  - v. Prepare a USACE Preconstruction Notification (PCN).
5. Threatened and Endangered Species – ENGINEER will assist the CITY in determining the impacts and regulatory permitting requirements as a result of the proposed project with respect to federally listed threatened or endangered species. A pedestrian investigation will be required to complete a threatened or endangered species survey to determine the presence of and/or the critical habitat necessary for any listed threatened or endangered species for Tarrant County, Texas.
6. ENGINEER will assist the CITY in the preparation of outlay reports throughout the duration of the project. Quarterly reports are required between closing of the loan and until construction begins. Monthly reports are required once construction begins until the project is completed. CITY will provide ENGINEER with the required documentation of receipts/invoices to be included with the outlay reports. Assistance with preparation of up to 12 reports is assumed for basic services. Additional reports will be provided as a special service.
7. ENGINEER will provide up to 24 hours of additional support to the CITY related to administration of the loan. This support may include review of documents, clarification of requirements, coordination meetings with the TWDB, etc.

### **TASK C: USBR WaterSMART Grant Application Support**

1. ENGINEER will assist CITY in the preparation of a U.S. Bureau of Reclamation (USBR) WaterSMART grant application for the Automatic Metering Project.
  - a. ENGINEER will prepare technical proposal required for the application.
  - b. ENGINEER will assist CITY in documenting the funding plan and budget information in the appropriate application format. CITY will provide ENGINEER with all relevant funding and budget data for the project.
  - c. ENGINEER will assist the CITY in preparation of other application documents including documentation of compliance with environmental and cultural resource requirements, documentation of any required permits or approvals, and preparation of a draft resolution authorizing the funding application for approval by City Council.

### **SPECIAL SERVICES**

SPECIAL SERVICES are services that are requested by the CITY but are not included in the BASIC SERVICES. SPECIAL SERVICES may include:

- Additional meetings

- Preparation of documents not included in basic services
- Development of additional project alternatives
- Other tasks specifically requested by the CITY not covered by BASIC SERVICES

**ATTACHMENT B  
ALAN PLUMMER ASSOCIATES, INC.  
HOURLY FEE SCHEDULE  
2014**

Staff Description	Staff Code	2014 Rate
Admin Staff	A1-A3	\$ 72.00
Senior Admin Staff	A4	\$ 102.00
Designer/Technician	C1-C2	\$ 90.00
Senior Designer/Technician	C3-C4	\$ 115.00
Engineer-in-Training/Scientist-in-Training	ES1-ES3	\$ 115.00
Project Engineer/Scientist	ES4	\$ 130.00
Senior Project Engineer/Scientist	ES5	\$ 145.00
Project Manager	ES6	\$ 170.00
Senior Project Manager	ES7	\$ 218.00
Electrical Engineer	EE1	\$140.00
Senior Electrical Engineer	EE2	\$235.00
Structural Engineer	SE1	\$140.00
Senior Structural Engineer	SE2	\$200.00
Principal	ES8-ES9	\$ 250.00

Billing rates may be adjusted by up to 4 percent annually (at the beginning of each calendar year) during the term of this agreement.

A multiplier of 1.15 will be applied to all direct expenses