

Master Agreement for Professional Services

This Master Agreement for Professional Services is effective as of June 10, 2019 between the City of Arden Hills, Minnesota ("Client") and Short Elliott Hendrickson Inc. ("Consultant").

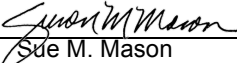
By entering into this Agreement, Client agrees to utilize the professional services of Consultant and Consultant agrees to provide the professional services described in this Agreement, exhibits or attachments. The attached General Conditions of the Agreement for Professional Services (General Conditions Rev. 07.14.16) shall apply to all work performed by Consultant on behalf of Client. Individual projects requested by Client on an as needed basis and accepted by Consultant will be described in Supplemental Letter Agreements ("SLA") with other optional exhibits and attachments cited. Nothing herein shall be deemed to require Client to retain Consultant or require Consultant to provide services beyond those specified in Supplemental Letter Agreements.

The following optional exhibits may be attached to an SLA: Exhibit A-1 for Hourly Payments, Exhibit A-2 or A-3 for Lump Sum Payments, and Exhibit B for Resident Project Representative Duties/Responsibilities.

This Master Agreement for Professional Services, General Conditions, Exhibits, and Attachments to Exhibits (collectively referred to as the "Agreement") represent the entire understanding between Client and Consultant and supersedes all prior contemporaneous oral or written agreements with respect to the services to be provided by Consultant hereunder. In the event of a conflict between the documents, this document and the attached General Conditions shall take precedence over all Exhibits unless alternate terms have been specifically agreed to on the SLA under "Other Terms and Conditions". The SLA shall take precedence over Exhibits. This Agreement may not be amended except by written agreement signed by the authorized representatives of each party.

Short Elliott Hendrickson Inc.

City of Arden Hills, Minnesota

By: 
Sue M. Mason

By: _____

Title: Regional Practice Center Leader

Title: _____

General Conditions of the Agreement for Professional Services

SECTION I – SERVICES OF CONSULTANT

A. General

1. Consultant agrees to perform professional services as set forth in the Agreement for Professional Services or Supplemental Letter Agreement ("Basic Services"). 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 Consultant. The Consultant'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 Consultant because of this Agreement or the performance or nonperformance of services hereunder.

B. Schedule

1. Unless specific periods of time or dates for providing services are specified, Consultant's obligation to render services hereunder will be for a period which may reasonably be required for the completion of said services.
2. If Client has requested changes in the scope, extent, or character of the Project or the services to be provided by Consultant, the time of performance and compensation for Consultant's services shall be adjusted equitably. The Client agrees that Consultant is not responsible for damages arising directly or indirectly from delays beyond Consultant's control. If the delays resulting from such causes increase the cost or the time required by Consultant to perform its services in accordance with professional skill and care, then Consultant shall be entitled to a equitable adjustment in schedule and compensation.

C. Additional Services

1. If Consultant determines that any services it has been directed or requested to perform are beyond the scope as set forth in the Agreement or that, due to changed conditions or changes in the method or manner of administration of the Project, Consultant's effort required to perform its services under this Agreement exceeds the stated fee for Basic Services, then Consultant shall promptly notify the Client regarding the need for additional services. Upon notification and in the absence of a written objection, Consultant shall be entitled to additional compensation for the additional services, and to an extension of time for completion of additional services absent written objection by Client.
2. Additional services shall be billed in accord with agreed upon rates, or if not addressed, then at Consultant's standard rates.

D. Suspension and Termination

1. If Consultant's services are delayed or suspended in whole or in part by Client, or if Consultant's services are delayed by actions or inactions of others for more than 60 days through no fault of Consultant, then Consultant shall be entitled to either terminate its agreement upon 7 days written notice or, at its option, accept an equitable adjustment of rates and amounts of compensation provided for elsewhere in this Agreement to reflect reasonable costs incurred by Consultant.
2. This Agreement may be terminated by either party upon seven days written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination.
3. This Agreement may be terminated by either party upon thirty days' written notice without cause. All provisions of this Agreement allocating responsibility or liability between the Client and Consultant shall survive the completion of the services hereunder and/or the termination of this Agreement.
4. In the event of termination, Consultant shall be compensated for services performed prior to termination date, including charges for expenses and equipment costs then due and all termination expenses.

SECTION II – CLIENT RESPONSIBILITIES

A. General

1. The Client shall, in proper time and sequence and where appropriate to the Project, at no expense to Consultant, provide full information as to Client's requirements for the services provided by Consultant and access to all public and private lands required for Consultant to perform its services.
2. The Consultant is not a municipal advisor and therefore Client shall provide its own legal, accounting, financial and insurance counseling and other special services as may be required for the Project. Client shall provide to Consultant all data (and professional interpretations thereof) prepared by or services performed by others pertinent to Consultant's services, including but not limited to, previous reports; sub-surface explorations; laboratory tests and inspection of samples; environmental assessment and impact statements, surveys, property descriptions; zoning, deed and other land use restrictions; as-built drawings, electronic data base and maps. The costs associated with correcting, creating or recreating any data that is provided by the Client that contains inaccurate or unusable information shall be the responsibility of the Client.
3. Client shall provide prompt written notice to Consultant whenever the Client observes or otherwise becomes aware of any changes in the Project or any defect in Consultant's services. Client shall promptly examine all studies, reports, sketches, opinions of construction costs, specifications, drawings, proposals, change orders, supplemental agreements and other documents presented by Consultant and render the necessary decisions and instructions so that Consultant may provide services in a timely manner.
4. Client shall require all utilities with facilities within the Client's Project site to locate and mark said utilities upon request, relocate and/or protect said utilities as determined necessary to accommodate work of the Project, submit a schedule of the necessary relocation/protection activities to the Client for review and comply with agreed upon schedule. Consultant shall not be liable for damages which arise out of Consultant's reasonable reliance on the information or services furnished by utilities to Client or others hired by Client.
5. Consultant shall be entitled to rely on the accuracy and completeness of information or services furnished by the Client or others employed by the Client and shall not be liable for damages arising from reasonable reliance on such materials. Consultant shall promptly notify the Client if Consultant discovers that any information or services furnished by the Client is in error or is inadequate for its purpose.

SECTION III – PAYMENTS

A. Invoices

1. Undisputed portions of invoices are due and payable within 30 days. Client must notify Consultant in writing of any disputed items within 15 days from receipt of invoice. Amounts due Consultant will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) for invoices 30 days past due. Consultant reserves the right to retain Instruments of Service until all invoices are paid in full. Consultant will not be liable for any claims of loss, delay, or damage by Client for reason of withholding services or Instruments of Service until all invoices are paid in full. Consultant shall be entitled to recover all reasonable costs and disbursements, including reasonable attorney's fees, incurred in connection with collecting amounts owed by Client.
2. Should taxes, fees or costs be imposed, they shall be in addition to Consultant's agreed upon compensation.
3. Notwithstanding anything to the contrary herein, Consultant may pursue collection of past due invoices without the necessity of any mediation proceedings.

SECTION IV – GENERAL CONSIDERATIONS

A. Standards of Performance

1. The standard of care for all professional engineering and related services performed or furnished by Consultant under this Agreement will be the care and skill ordinarily exercised by members of Consultant's profession practicing under similar circumstances at the same time and in the same locality. Consultant makes no warranties, express or implied, under this Agreement or otherwise, in connection with its services.
2. Consultant neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the work in accordance with its construction contract or the construction documents prepared by Consultant. Client acknowledges Consultant will not direct, supervise or control the work of construction contractors or their subcontractors at the site or otherwise. Consultant shall have no authority over or responsibility for the contractor's acts or omissions, nor for its means, methods or procedures of construction. Consultant's services do not include review or evaluation of the Client's, contractor's or subcontractor's safety measures, or job site safety or furnishing or performing any of the Contractor's work.
3. If requested in the scope of a Supplemental Letter Agreement, then Consultant may provide an Opinion of Probable Construction Cost. Consultant's Opinions of Probable Construction Cost provided for herein are to be made on the basis of Consultant's experience and qualifications and represent Consultant's best judgment as a professional generally familiar with the industry. However, since Consultant has no control over the cost of labor, materials, equipment or service furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, Consultant cannot and does not guarantee that proposals, bids or actual construction cost will not vary from Opinions of Construction Cost prepared by Consultant. If Client wishes greater assurance as to probable Construction Cost, Client shall employ an independent cost estimator or negotiate additional services and fees with Consultant.

B. Indemnity for Environmental Issues

1. Consultant is not a user, generator, handler, operator, arranger, storer, transporter or disposer of hazardous or toxic substances, therefore the Client agrees to hold harmless, indemnify and defend Consultant and Consultant's officers, directors, subconsultant(s), employees and agents from and against any and all claims, losses, damages, liability and costs, including but not limited to costs of defense, arising out of or in any way connected with, the presence, discharge, release, or escape of hazardous or toxic substances, pollutants or contaminants of any kind at the site.

C. Limitations on Consultant's Liability

1. The Client hereby agrees that to the fullest extent permitted by law, Consultant's total liability to the 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 including, but not limited to, Consultant's negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not exceed five hundred thousand dollars (\$500,000). In the event Client desires limits of liability in excess of those provided in this paragraph, Client shall advise Consultant in writing and agree that Consultant's fee shall increase by 1% for each additional five hundred thousand dollars of liability limits, up to a maximum limit of liability of five million dollars (\$5,000,000).
2. Neither Party shall be liable to the other for consequential damages, including, without limitation, lost rentals, increased rental expenses, loss of use, loss of income, lost profit, financing, business and reputation and for loss of management or employee productivity, incurred by one another or their subsidiaries or successors, regardless of whether such damages are foreseeable and are caused by breach of contract, willful misconduct, negligent act or omission, or other wrongful act of either of them.
3. It is intended by the parties to this Agreement that Consultant's services shall not subject Consultant's employees, officers or directors to any personal legal exposure for the risks associated

with this Agreement. 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 Consultant, and not against any of Consultant's individual employees, officers or directors, and Client knowingly waives all such claims against Consultant individual employees, officers or directors.

D. Assignment

1. Neither party to this Agreement shall transfer, sublet or assign any rights under, or interests in, this Agreement or claims based on this Agreement without the prior written consent of the other party. Any assignment in violation of this subsection shall be null and void.

SECTION V – DISPUTE RESOLUTION

A. Mediation

1. Any dispute between Client and Consultant arising out of or relating to this Agreement or services provided under this Agreement, (except for unpaid invoices which are governed by Section III), shall be submitted to nonbinding mediation as a precondition to litigation unless the parties mutually agree otherwise. Mediation shall occur within 60 days of a written demand for mediation unless Consultant and Client mutually agree otherwise.

B. Litigation – Choice of Venue and Jurisdiction

1. Any dispute not settled through mediation shall be settled through litigation in the state where the Project at issue is located.

SECTION VI – INTELLECTUAL PROPERTY

A. Proprietary Information

1. All documents, including reports, drawings, calculations, specifications, CADD materials, computers software or hardware or other work product prepared by Consultant pursuant to this Agreement are Consultant's Instruments of Service ("Instruments of Service") and Consultant retains all ownership interests in Instruments of Service, including all available copyrights.
2. Consultant shall retain all of its rights in its proprietary information including, without limitation, its methodologies and methods of analysis, ideas, concepts, expressions, inventions, know how, methods, techniques, skills, knowledge and experience possessed by Consultant prior to, or acquired by Consultant during, the performance of this Agreement and the same shall not be deemed to be Work Product or Work for Hire and Consultant shall not be restricted in any way with respect thereto.

B. Client Use of Instruments of Service

1. Provided that Consultant has been paid in full for its services, Client shall have the right in the form of a license to use Instruments of Service resulting from Consultant's efforts on the Project. Consultant shall retain full rights to electronic data and the drawings, specifications, including those in electronic form, prepared by Consultant and its subconsultants and the right to reuse component information contained in them in the normal course of Consultant's professional activities. Consultant shall be deemed to be the author of such Instruments of Service, electronic data or documents, and shall be given appropriate credit in any public display of such Instruments of Service.
2. Records requests or requests for additional copies of Instruments of Services outside of the scope of services are available to Client subject to Consultant's current rate schedule.

C. Reuse of Documents

1. All Instruments of Service prepared by Consultant pursuant to this Agreement are not intended or represented to be suitable for reuse by the Client or others on extensions of the Project or on any other Project. Any reuse of the Instruments of Service without written consent or adaptation by Consultant for the specific purpose intended will be at the Client's sole risk and without liability or legal exposure to Consultant; and the Client shall release Consultant from all claims arising from such use. Client shall also defend, indemnify and hold harmless Consultant from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting from reuse of Consultant documents without written consent.

Supplemental Letter Agreement

In accordance with the Master Agreement for Professional Services between the City of Arden Hills, Minnesota (“Client”), and Short Elliott Hendrickson Inc. (“Consultant”), effective June 10, 2019, this Supplemental Letter Agreement dated June 10, 2019 authorizes and describes the scope, schedule, and payment conditions for Consultant’s work on the Project described as: **Interim Public Works Director / City Engineer**.

Client’s Authorized Representative: David Perrault
Address: 1245 West Highway 96
Arden Hills, MN 55112
Telephone: 651.792.7824 **email:** dperrault@cityofardenhills.org

Project Manager: Todd A. Blomstrom, P.E.
Address: 10901 Red Circle Drive, Suite 300
Minnetonka, MN 55343
Telephone: 952.912.2607 **email:** tblomstrom@sehinc.com

Scope: The Basic Services to be provided by Consultant:

SEH will serve as the Interim Public Works Director / City Engineer for the City of Arden Hills and provide services as requested by the Client. Todd Blomstrom will serve as the Project Manager and on-site representative for interim director services anticipated to include, but are not limited to, the following tasks.

Task 1 – Transition Services

- 1.1. Review the adopted 2019 Budget and Capital Improvement Program and discuss questions and priorities with the City Administrator and Finance Director.
- 1.2. Review the 2040 Comprehensive Plan and discuss priorities and challenges with Community Development and Planning staff.
- 1.3. Discuss the City’s strategic goals, objectives and priorities with the City Administrator to ensure the Public Works Department remains in alignment with City Council expectations.
- 1.4. Review the City Code of Ordinances for the City of Arden Hills.
- 1.5. Meet with Public Works Department staff, City department directors, and staff within other City departments to establish open communication, build effective working relationships, and learn internal City policies, practices and procedures.
- 1.6. Review City Council and Planning Commission packet materials for the previous three months.

Task 2 - Director Services

- 2.1. Attend City Council meetings and Work Sessions (2nd, 3rd and 4th Mondays) and City staff meetings.
- 2.2. Develop and guide work plans, productivity, and performance measures for public works staff, while maintaining alignment with City Council and City Administrator priorities.
- 2.3. Respond to questions and requests from citizens and local businesses.
- 2.4. Conduct daily briefings with public works superintendent and weekly department staff meetings.
- 2.5. Provide leadership support and guidance for department staff to promote teamwork and positive morale.
- 2.6. Administer department budget under the direction of the Finance Director.
- 2.7. Attend weekly meetings with City Administrator and prepare weekly reports summarizing department activities, work initiatives and priorities.

Task 3 – Engineering Services

- 3.1. Evaluate the City’s public infrastructure needs, including streets, sewer, water, drainage and lighting. Develop and implement plans and programs to meet those needs as directed by City Council and City Administrator.
- 3.2. Review proposed commercial, industrial and residential development plans, plats, and land use applications for consistency with City requirements and policies.
- 3.3. Provide administrative engineering oversight and coordination of street and utility improvement projects.
- 3.4. Assist the City with seeking grants and funding for improvement projects.
- 3.5. Maintain the City’s Municipal State Aid system documentation with MnDOT.
- 3.6. Provide engineering support to City staff, including land use application support to planning staff.
- 3.7. Serve as City’s technical representative for local, state and federal agencies.
- 3.8. Assist in implementing water resource functions including storm water management, agency permitting, and wetland protection.
- 3.9. Review project record plans and manage the project record retention system.
- 3.10. Prepare public works/engineering related City Council agenda materials.

Interim Public Works Director and City Engineer services will be provided under the direct supervision of the City Administrator. Final decisions involving personnel actions, staff disciplinary actions, collective bargaining (union) contracts, expenditures of public funds, contract execution, and procurements will be provided by the City Administrator, Human Resources Director, Finance Director, City Clerk or the City Council.

Schedule: SEH Project Manager Todd Blomstrom will provide 112 hours of on-site services per month at the Arden Hills City Hall or Public Works Facility, generally scheduled over four days per week. The Project Manager will be available by mobile telephone to answer questions from the City Administrator and Public Works Department staff. The Project Manager will also be available for assistance with emergency events requiring a response by the Public Works Department. Interim Director services will begin on June 19, 2019. Services are anticipated to extend for six to 12 months.

Payment: SEH will provide Interim Public Works Director / City Engineer services for the City of Arden Hills as described above for a lump sum fee of \$10,920 per month, including expenses and equipment, through January 31, 2020 (based on 112 on-site hours per month). The monthly fee may be nominally adjusted for annual inflation by mutual consent after January 2020 should the City request an extension of the service term. Additional services such as engineering project design and for services from additional SEH staff can be provided under a separate professional services proposal.

The payment method, basis, frequency and other special conditions are set forth in attached Exhibit A-2.

Short Elliott Hendrickson Inc.

the City of Arden Hills, Minnesota

By: 
Sue M. Mason
Title: Regional Practice Center Leader

By: _____
Title: _____

Exhibit A-2
to Supplemental Letter Agreement
Between City of Arden Hills (Client)
and
Short Elliott Hendrickson Inc. (Consultant)
Dated June 10, 2019

Payments to Consultant for Services and Expenses
Using the Lump Sum Basis Option

The Agreement for Professional Services is amended and supplemented to include the following agreement of the parties:

A. Lump Sum Basis Option

The Client and Consultant select the Lump Sum Basis for Payment for services provided by Consultant. During the course of providing its services, Consultant shall be paid monthly based on Consultant's estimate of the percentage of the work completed. Necessary expenses and equipment are provided as a part of Consultant's services and are included in the initial Lump Sum amount for the agreed upon Scope of Work. Total payments to Consultant for work covered by the Lump Sum Agreement shall not exceed the Lump Sum amount without written authorization from the Client.

The following expenses are included in the Lump Sum fee.

1. Mileage for travel to and from the City of Arden Hills and within city limits during established office hours.
2. SEH computer and software used during the course of business. Client will provide a separate computer for accessing City networks and printers. Due to IT security protocols of both parties, Consultant anticipates that SEH computers cannot be connected to the City network.
3. Mobile telephone for communication.
4. Project financial accounting and invoice processing.
5. Consultant performance reviews with City Administrator by the SEH Client Services Manager.

The Lump Sum amount includes compensation for Consultant's services for the agreed upon Scope of Work. Appropriate amounts have been incorporated in the initial Lump Sum to account for labor, overhead, profit, expenses and equipment charges. The Client agrees to pay for other additional services, equipment, and expenses that may become necessary by amendment to complete Consultant's services at their normal charge out rates as published by Consultant or as available commercially.

B. Expenses Not Included in the Lump Sum

The following items involve expenditures made by Consultant employees or professional consultants on behalf of the Client and shall be paid for as described in this Agreement.

1. Consultant work by SEH staff other than the Project Manager (Todd Blomstrom).
2. Project design, including preparation of engineering plans, surveys, and specifications for capital improvements.
3. Resident Project Representative services to conduct recurring construction inspections, construction staking and testing for capital improvement projects.
4. Other special expenses required in connection with the Project.
5. The cost of special consultants or technical services as required. The cost of subconsultant services shall include actual expenditure plus 10% markup for the cost of administration and insurance.

The Client shall pay Consultant monthly for expenses not included in the Lump Sum amount.

SEH HOURLY BILLABLE RATES – 2019

Classification - Office Staff	Billable Rate ⁽¹⁾
Principal	\$160.00 - \$250.00
Project Manager	\$140.00 - \$230.00
Senior Project Specialist	\$135.00 - \$210.00
Senior Project Engineer	\$140.00 - \$215.00
Project Engineer	\$100.00 - \$165.00
Staff Engineer	\$85.00 - \$125.00
Senior Project Architect	\$120.00 - \$205.00
Project Architect	\$100.00 - \$150.00
Staff Architect	\$85.00 - \$110.00
Senior Project Scientist	\$130.00 - \$170.00
Project Scientist	\$85.00 - \$125.00
Staff Scientist	\$80.00 - \$100.00
Senior Project Planner	\$130.00 - \$200.00
Project Planner	\$95.00 - \$140.00
Staff Planner	\$75.00 - \$100.00
Project GIS Analyst	\$90.00 - \$150.00
Lead Technician	\$100.00 - \$160.00
Senior Technician	\$85.00 - \$135.00
Technician	\$65.00 - \$110.00
Word Processor	\$55.00 - \$99.00
General Clerical	\$55.00 - \$99.00
Graphic Designers	\$90.00 - \$125.00

Classification - Field Staff	Billable Rate ⁽¹⁾
Licensed Land Surveyor	\$110.00 - \$150.00
Lead Project Representative	\$95.00 - \$145.00
Sr. Project Representative	\$90.00 - \$135.00
Project Representative	\$70.00 - \$125.00
Survey Crew Chief	\$85.00 - \$125.00
Survey Instrument Operator	\$60.00 - \$95.00

⁽¹⁾ The actual rate charged is dependent upon the hourly rate of the employee assigned to the project.

The rates shown are subject to change.

Effective: January 1, 2019

Expires: December 31, 2019



SEH SCHEDULE OF EXPENSES – 2019

Vehicle Mileage Rates

Current IRS rate if IRS rate is whole cents, otherwise rounded down to nearest whole cent.

Vehicle Allowance Costs

Resident Project Representative \$16.00/day

Survey and Field Vehicle \$4.50/hour + mileage as referenced above

Survey Equipment

Robotic Total Station \$30.00/hour

Global Positioning System (GPS) \$30.00/hour

Computer Equipment

Computer Charges per Direct Hour of Labor \$3.00/hour

Other Equipment Expenses

SEH uses many different types of equipment, such as traffic counters; flow meters; air, water, and soil sampling kits; inspection cameras; density meters; and many others. Our equipment is frequently upgraded to utilize current technology. You will be charged for equipment usage per your agreement with SEH.

Rates are subject to change.

IDENTIFIABLE REPRODUCTION AND REPROGRAPHIC COSTS ^{(1) (2)}

Item	8½x11	11x17	Large Format	Per Item
Black/White Copy ⁽³⁾	0.07	0.24	0.95 + 0.50/sq. ft.	
Color Copy ⁽³⁾	0.46	1.02	0.95 + 2.55/sq. ft.	
Mylar			5.00	
CD Copy				3.00
Lamination	2.00	3.50	3.50/sq. ft.	
Laminated Foamcore				
– up to 30" x 42"			40.00	
– larger than 40" x 60"			75.00	
3-Ring Binder	<i>size</i>	1" 2" 3" 4"		
	<i>cost</i>	3.20 4.80 5.60 7.24		
Machine Folding				0.02
Binding				
– wire				3.60
– comb				3.20
Covers				
– custom				0.15
– blank				0.03
Tabs (white)				0.20
Mailing/Processing				UPS or USPS rates

⁽¹⁾ prices include operator time

⁽²⁾ prices denote single-sided printing

⁽³⁾ standard stock, white paper used for pricing

Prices are subject to change and may not be accompanied by immediate notification.

