



## **PUBLIC WORKS – UTILITY OPERATIONS**

**DATE:** October 18, 2016  
**FROM:** Michelle Klose, Director of Utility Operations *MK*  
**ITEM:** Contract for Emergency Repairs at Wastewater Treatment Plant

### **REQUEST**

Consider and approve time and material contract that was initiated as part of emergency response to pipe failure at the Wastewater Treatment Plant.

Please place this item on the October 25, 2016 City Commission meeting.

### **BACKGROUND INFORMATION**

On October 7, 2016, the Plant experienced a pipe leak between the grit chamber and preliminary treatment. The Plant was shut down to complete a temporary repair. Emergency work was discussed with City Administrator and approved to proceed with notice to SEH Engineering to assist in the investigation and long-term repair.

As part of the initial investigation, non-destructive testing was performed by Braun Intertec to determine pipe wall thicknesses within the second and third chambers. Wall thicknesses are significantly degraded.

This work may likely continue over the next couple of months.

### **RECOMMENDED CITY COMMISSION ACTION**

Approval of emergency contract with SEH Engineering.

### **STAFF CONTACT INFORMATION**

Michelle Klose, Director of Utility Operations, 355-1700, [mklose@bismarcknd.gov](mailto:mklose@bismarcknd.gov)

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Supplemental Letter Agreement

In accordance with the Master Agreement for Professional Services between the City of Bismarck, North Dakota ("Client"), and Short Elliott Hendrickson Inc. ("Consultant"), effective September 27, 2016, this Supplemental Letter Agreement dated October 10, 2016 authorizes and describes the scope, schedule, and payment conditions for Consultant's work on the Project described as: Emergency Assistance for Pretreatment Building Pipe Leak Investigation.

Client's Authorized Representative: Michelle Klose

Address: 221 N. Fifth Street  
Bismarck, ND

Telephone: 701.355.1300 email: mklose@bismarcknd.gov

Project Manager: Colin Marcusen, P.E.

Address: 1200 25<sup>th</sup> Avenue South  
St. Cloud, MN 56302

Telephone: 320.229.4359 email: cmarcusen@sehinc.com

Scope: The Basic Services to be provided by Consultant:

Emergency Assistance related to repairs to ductile iron pipe located in Preliminary Treatment Building.

Schedule: Work will begin immediately after authorization. Schedule to be determined and documented in future email correspondence.

Payment: The fee is hourly plus expenses. If requested, RPR services will be provided in accordance with attached Exhibit B.

The payment method, basis, frequency and other special conditions are set forth in attached Exhibit A-1.

Other Terms and Conditions: Other or additional terms contrary to the Master Agreement for Professional Services that apply solely to this project as specifically agreed to by signature of the Parties and set forth herein: None.

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Short Elliott Hendrickson Inc.

City of Bismarck, North Dakota

By:   
Colin Marcusen, PE  
Title: Project Manager

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**Exhibit A-1**  
**to Supplemental Letter Agreement**  
**Between City of Bismarck, North Dakota (Client)**  
**and**  
**Short Elliott Hendrickson Inc. (Consultant)**  
**Dated October 10, 2016**

**Payments to Consultant for Services and Expenses**  
**Using the Hourly Basis Option**

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

**A. Hourly Basis Option**

The Client and Consultant select the hourly basis for payment for services provided by Consultant. Consultant billing will be at employee hourly salary times a multiplier of 3.1. Consultant shall be compensated monthly. Monthly charges for services shall be based on Consultant's current billing rates for applicable employees plus charges for expenses and equipment.

Consultant will provide an estimate of the costs for services in this Agreement. It is agreed that after 90% of the estimated compensation has been earned and if it appears that completion of the services cannot be accomplished within the remaining 10% of the estimated compensation, Consultant will notify the Client and confer with representatives of the Client to determine the basis for completing the work.

Compensation to Consultant based on the rates is conditioned on completion of the work within the effective period of the rates. Should the time required to complete the work be extended beyond this period, the rates shall be appropriately adjusted.

**B. Expenses**

The following items involve expenditures made by Consultant employees or professional consultants on behalf of the Client. Their costs are not included in the hourly charges made for services and shall be paid for as described in this Agreement but instead are reimbursable expenses required in addition to hourly charges for services:

1. Transportation and travel expenses.
2. Lodging and meal expense connected with the Project.
3. Fees paid, in the name of the Client, for securing approval of authorities having jurisdiction over the Project.
4. Plots, Reports, plan and specification reproduction expenses.
5. Postage, handling and delivery.
6. Expense of overtime work requiring higher than regular rates, if authorized in advance by the Client.
7. Renderings, models, mock-ups, professional photography, and presentation materials requested by the Client.
8. All taxes levied on professional services and on reimbursable expenses.
9. Other special expenses required in connection with the Project.
10. The cost of special consultants or technical services as required. The cost of subconsultant services shall include actual expenditure plus 0% markup for the cost of administration and insurance.

The Client shall pay Consultant monthly for expenses.

**C. Equipment Utilization**

The utilization of specialized equipment, including automation equipment, is recognized as benefiting the Client. The Client, therefore, agrees to pay the cost for the use of such specialized equipment on the project at the rate of \$3 per invoiced SEH employee hour.

Survey equipment rates are listed in Exhibit A-3.

The Client shall pay Consultant monthly for equipment utilization.

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**Exhibit B**  
**to Supplemental Letter Agreement**  
**Between City of Bismarck, North Dakota (Client)**  
**and**  
**Short Elliott Hendrickson Inc. (Consultant)**  
**Dated October 10, 2016**

**A Listing of the Duties, Responsibilities and**  
**Limitations of Authority of the Resident Project Representative**

Through more extensive on site observations of the construction work in progress and field checks of materials and equipment by the Resident Project Representative (RPR), Consultant shall endeavor to provide further protection for Client against defects and deficiencies in the work of Contractor (Work); but, the furnishing of such services will not make Consultant responsible for or give Consultant control over construction means, methods, techniques, sequences or procedures or for safety precautions or programs, or responsibility for Contractor's failure to perform the Work in accordance with the Contract Documents. Contract Documents are the documents that govern or are pertinent to Contractor's Work including but not limited to the agreement between Client and Contractor, the Contractor's bid, the bonds, specs, Drawings\*, Field Orders\*, Addenda\*, clarifications, interpretations, approved Shop Drawings\* and reports collectively called the Contract Documents. The duties and responsibilities of the RPR are further defined as follows:

**A. General**

RPR is an agent of Consultant at the site, will act as directed by and under the supervision of Consultant, and will confer with Consultant regarding RPR's actions. RPR's dealings in matters pertaining to the on site work shall in general be with Consultant and Contractor keeping the Client advised as necessary. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Client with the knowledge of and under the direction of Consultant.

**B. Duties and Responsibilities of RPR**

1. Schedules: Review the progress schedule, schedule of Shop Drawing submittals and schedule of values prepared by Contractor and consult with Consultant concerning acceptability.
2. Conferences and Meetings: Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
3. Liaison:
  - (a) Serve as Consultant's liaison with Contractor, working principally through Contractor's superintendent and assist in understanding the intent of the Contract Documents; and assist Consultant in serving as Client's liaison with Contractor when Contractor's operations affect Client's on-site operations.
  - (b) Assist in obtaining from Client additional information, when required for proper execution of the Work.
4. Shop Drawings and Samples\*:
  - (a) Record date of receipt of Shop Drawings and Samples.
  - (b) Receive Samples furnished at the site by Contractor, and notify Consultant of availability of Samples.
  - (c) Advise Consultant and Contractor of the commencement of any Work requiring a Shop Drawing or sample if the submittal has not been approved by Consultant.
5. Review of Work, Observations and Tests:
  - (a) Conduct on-site observations of the Work in progress to assist Consultant in determining if the Work is in general proceeding in accordance with the Contract Documents.
  - (b) Report to Consultant whenever RPR believes that any Work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Consultant of

- Work that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
- (c) Determine if tests, equipment and systems start-ups and operating and maintenance training are conducted in the presence of appropriate personnel, and that Contractor maintains adequate records thereof; and observe, record and report to Consultant appropriate details relative to the test procedures and start-ups.
  - (d) Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to Consultant.
6. Interpretation of Contract Documents: Report to Consultant when clarification and interpretations of the Contract Documents are requested by Contractor and transmit to Contractor clarifications and interpretations as issued by Consultant.
  7. Modifications: Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications\* and report with RPR's recommendations to Consultant. Transmit to Contractor decisions as issued by Consultant.
  8. Records:
    - (a) Maintain at the job site orderly files for correspondence, reports of job conferences, shop drawings and samples, reproductions of original Contract Documents including all Work Change Directive\*, Addenda, Change Orders\*, Field Orders, additional Drawings\* issued subsequent to the execution of the Contract, Consultant's clarifications and interpretations of the Contract Documents, progress reports, and other related documents.
    - (b) Keep a diary or log book, recording Contractor hours on the job site, weather conditions, data relative to questions of Work Change Directive Change Orders or changed conditions, list of job site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Consultant.
    - (c) Record names, addresses and telephone numbers of all Contractors, subcontractors and major suppliers of materials and equipment.
  9. Reports:
    - (a) Furnish Consultant periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and sample submittals.
    - (b) Consult with Consultant in advance of scheduled major tests, inspections or start of important phases of the Work.
    - (c) Draft proposed Change Orders and Work Change Directive, obtaining backup material from Contractor and recommend to Consultant Change Orders, Work Change Directive, and Field Orders.
    - (d) Report immediately to Consultant and Client upon the occurrence of any accident.
  10. Payment Requests: Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Consultant, noting particularly the relationship of the payment requested to the schedule of values, Work completed and materials and equipment delivered at the site but not incorporated in the Work.
  11. Certificates, Maintenance and Operation Manuals: During the course of the Work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to Consultant for review and forwarding to Client prior to final payment for the Work.
  12. Completion:
    - (a) Before Consultant issues a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring completion or correction.
    - (b) Conduct final inspection in the company of Consultant, Client, and Contractor and prepare a final list of items to be completed or corrected.
    - (c) Observe that all items on final list have been completed or corrected and make recommendations to Consultant concerning acceptance.

**C. Limitations of Authority**

Resident Project Representative:

1. Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment, unless authorized by Client.
2. Shall not exceed limitations of Consultant's authority as set forth in the Agreement for Professional Services.
3. Shall not undertake any of the responsibilities of Contractor, subcontractors or Contractor's superintendent.
4. Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.
5. Shall not accept Shop Drawing or sample submittals from anyone other than Contractor.
6. Shall not authorize Client to occupy the Project in whole or in part.
7. Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by Consultant.

\*All instances in this Exhibit of this capitalized term are as defined in the EJCDC form C-700, copyrighted in 2013.

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