

1 CONTRACT

2 FOR

3 DESIGN SERVICES

4 (Sunflower Commerce Park 3<sup>rd</sup> Addition, Phase II Infrastructure)

5 This Agreement, made and entered into this 19<sup>th</sup> day of August, 2025, by and between the  
6 City of Bel Aire, Kansas, a Municipal Corporation, (hereinafter called "City") and Short Elliott  
7 Hendrickson, Inc., whose principal office is at 15750 West Dodge Road, Suite 304, Omaha,  
8 Nebraska, 68118, Telephone Number (402) 830-5855, (hereinafter called "Consultant").

9 WHEREAS, the City is authorized by law to employ consulting architects and engineers  
10 to perform all necessary studies and associated services required to provide estimated budget of  
11 costs of work for the Sunflower Commerce Park 3<sup>rd</sup> Addition, Phase II Infrastructure (hereinafter  
12 called "Project"); and

13 WHEREAS, Consultant has submitted a quote beneficial to City and is ready, willing, and  
14 able to provide the goods, commodities and/or services required by City.

15 NOW, THEREFORE, the parties hereto agree as follows:

16 1. PURPOSE

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18 A. The City will employ the Consultant to perform all necessary professional services  
19 described in Exhibit A (Project Description and Scope, 2 pages) in connection with the  
20 Design and Construction Documents included in the Project.

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22 2. THE CONSULTANT AGREES

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24 A. To provide the various technical and professional services, materials, equipment and  
25 transportation to perform the tasks as outlined in Exhibit A .

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27 B. To attend meetings with the City and other local stakeholders as necessitated in Exhibit  
28 A.

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30 C. To make available during regular office hours; calculations, sketches, documents and  
31 drawings related to the Project that the City may reasonably need to examine during  
32 performance of this Agreement.

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34 D. To the extent allowed by law, to indemnify, keep and save harmless the City, its officials  
35 and employees against damages and judgments that may result from the Consultant's  
36 or its agents', officers' or employees' willful or negligent acts, errors or omissions in

37 connection with professional services performed under this Agreement arising out of  
38 or resulting from injury to persons, damage to property or other liability loss. from  
39 injury to persons, damage to property or other liability loss. The Consultant shall  
40 require all sub-consultants to indemnify, keep and save harmless the City in the same  
41 manner as is required of the Consultant in this Agreement. The Consultant shall require  
42 all sub-consultants to provide similar indemnification for professional services they  
43 perform under this Agreement.  
44

- 45 E. To maintain books, documents, papers, accounting records and other evidence  
46 pertaining to costs incurred by Consultant and, where relevant to method of payment,  
47 to make such material available at its office at reasonable times during the Agreement  
48 period and for three (3) years from the date of final payment under the Agreement for  
49 inspection by the City of its representatives.  
50
- 51 F. To comply with the requirements of Exhibits B and C, which are attached hereto and  
52 adopted by reference as though fully set forth herein.  
53
- 54 G. To accept compensation for the work herein described in such amounts and at such  
55 periods as hereinafter provided and that such compensation shall be satisfactory and  
56 sufficient payment for all work performed, equipment or materials used, and services  
57 rendered in connection with such work and as outlined in Exhibit A.  
58
- 59 H. To complete the services to be performed by Consultant within the time allotted in the  
60 attached schedule for the Project jointly developed by City and Consultant; except that  
61 the Consultant shall not be responsible or held liable for delays occasioned by the  
62 actions or inactions of the City, or for other unavoidable delays beyond the control of  
63 the Consultant, including the delays of the General Contractor during the Construction  
64 Phase.  
65
- 66 I. To represent and be responsible for the professional and technical accuracy and the  
67 coordination of all designs, drawings, specifications, plans and/or other work or  
68 material furnished by the Consultant under this Agreement. Consultant shall perform  
69 its professional services consistent with the standard of care set forth in this Agreement  
70 furnished by Consultant, its agents, employees and subcontractors under this  
71 Agreement. The standard of care for all professional services performed or furnished  
72 by Consultant under this Agreement will be the care and skill ordinarily used by  
73 members of the subject profession practicing under similar circumstances at the same  
74 time and in the same locality. City shall not be responsible for discovering deficiencies  
75 in the technical accuracy of Consultant's services. Consultant shall correct deficiencies

in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in City furnished information.

- J. Consultant shall procure and maintain such insurance as will protect the Consultant from damages resulting from the negligent acts of the Consultant, its officers and employees in the performance of the professional services rendered under this Agreement. Such professional liability insurance policy shall be in an amount not less than \$1,000,000 per occurrence. In addition, Consultant will procure and maintain a Workers' Compensation and Employer's Liability Policy that covers claims for injury, disease or death of employees arising out of and in the course of their employment which, for any reason, may not fall within the provisions of the Workers' Compensation Law. The liability limit shall be not less than:

Workers' Compensation:	Statutory
Employer's Liability:	\$1,000,000 each occurrence

Further, a Commercial General Liability policy shall be procured and maintained by the Consultant that shall be written in a comprehensive form and shall protect Consultant against all claims arising from injuries to persons (other than Consultant's employees), damage to property of the City or third parties or other liability loss arising out of any negligent act or omission of Consultant, its agents, officers, employees or subcontractors in the performance of the services under this Agreement. The liability limit shall not be less than \$1,000,000.00 per occurrence for bodily injury, death, property damage and other liability loss. Consultant shall file satisfactory certificates of insurance with the City before the time Consultant starts any work under this Agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the City shall be given thirty (30) days' written notice by the insurance company before such policy is canceled.

- K. Any claims, disputes or controversies arising out of or relating to this Agreement shall first be submitted to mediation. If mediation is unsuccessful, the parties may pursue their legal remedies in a court of competent jurisdiction.

- L. To designate a Project Manager for the coordination of the work that this Agreement requires to be performed. The Consultant agrees to advise the City, in writing, of the person designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this Agreement. The designated Project Manager shall be the person identified for that role by Consultant in its response for the Request for Proposals unless otherwise approved by City, which approval shall not

116 be unreasonably denied. Written notification shall be provided to the City for any  
117 changes exceeding one week in length of time.

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119 The designated Project Manager will coordinate all aspects of this Project through the  
120 City's Project Manager. Any requests from any other staff that would affect the Project  
121 schedule must be approved by the City's Project Manager. No request from any party,  
122 including the Project Manager, shall affect the Project's identified not-to-exceed cost,  
123 unless approved in advance by the City's governing body.

### 124 125 3. THE CITY AGREES

- 126  
127 A. To furnish all available data pertaining to the Project now in the City's files at no cost  
128 to the Consultant. Confidential material so furnished will be kept confidential by the  
129 Consultant.
- 130  
131 B. To provide standards as required for the Project.
- 132  
133 C. To pay the Consultant for its services in accordance with the requirements of this  
134 Agreement.
- 135  
136 D. To provide reasonable right of entry for Consultant's personnel in performing field  
137 surveys and observations.
- 138  
139 E. To designate a Project Manager for the coordination of the work that this Agreement  
140 requires to be performed. The City agrees to advise the Consultant, in writing, of the  
141 person designated as Project Manager with the issuance of the notice to proceed on the  
142 work required by this Agreement. The City shall also advise the Consultant of any  
143 changes in the person designated as Project Manager.
- 144  
145 F. To examine all studies, reports, sketches, drawings, specifications, proposals and other  
146 documents presented by Consultant in a timely fashion.
- 147  
148 G. To the extent allowed by law, to indemnify, keep and save harmless Consultant against  
149 damages and judgments that may result from the City, its agents, servants, or  
150 employees' willful or negligent acts, errors or omissions in connection with the  
151 performance of its obligations under this Agreement.

### 152 153 4. PAYMENT PROVISIONS

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The City agrees to pay the Consultant for services rendered under this Agreement and as specifically detained in Exhibit A, a total fee established as follows:

- A. Payments to the Consultant for the performance of Architectural and Engineering services required by this Agreement shall be as defined in Exhibit A and is limited to a fixed Project fee (including reimbursable expenses and supplemental agreements) of **two hundred forty five thousand five hundred dollars (\$245,500.00)**, to be paid on scope of work received July 21, 2025, and which shall constitute complete compensation for the services.
- B. Payments are payable to the Consultant for undisputed work within thirty (30) days from the date of receipt of invoice. If any invoice for undisputed amounts is outstanding for more than thirty (30) days from the date due, the Consultant shall have the right, in addition to any and all other rights provided, to refuse to render further services to the City and such act or acts shall not be deemed a breach of this Agreement. Continued performance and/or completion of work by the Consultant under this Agreement are contingent upon payment of fees by the City. This provision shall be interpreted in conformity with the Kansas Fairness in Public Construction Contract Act.
- C. When requested by the City, the Consultant will enter into a Supplemental Agreement for additional services related to the Project such as, but not limited to:
  - a. Consultant serving as a witness for the City in any litigation, administrative hearing, and other legal proceedings related to the Project.
  - b. Additional design services not covered by the scope of this Agreement that City requires to be added to the project due to significant modifications to scope or design by Consultant and City will mutually agree upon the change in scope and an equitable adjustment in design services fee, identified within the executed Supplemental Agreement.
- D. If additional work should be necessary, the Consultant will be given written notice by the City, along with a request for an estimate of the increase necessary in the not-to-exceed fee, for performance of such additions. No additional work shall be performed, nor shall additional compensation be paid, except as authorized in a Supplemental Agreement between the parties and approved by the City's governing body. Upon receipt of such approval and subsequent completion of additional work, payment will be made as stated in Paragraph IV. B. above.

- 194 E. If services are rendered by the Consultant for the Project but the City elects to terminate  
195 the Project or portions thereof at any time, the Consultant shall be compensated at an  
196 amount in proportion to the services rendered as stated in Paragraph A above, and as  
197 scheduled in Exhibit A.  
198

199 5. TIME OF COMPLETION  
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201 The Consultant agrees to complete all Design Phases of this Project as follows:  
202

- 203 A. The Consultant agrees to complete the phases of this Project as indicated on Exhibit A,  
204 subject to reasonable availability of City resources and circumstances of force majeure.  
205  
206 B. The City agrees to cooperate with the Consultant in reviewing drawings and data  
207 submitted and to make necessary decisions promptly to facilitate completion in the  
208 scheduled time, and the City agrees to furnish promptly to the Consultant, upon written  
209 request, any approvals and instructions required to be given by the City to the  
210 Consultant under the terms of the Agreement.  
211

212 6. TERMINATION OF AGREEMENT  
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- 214 A. The City may terminate this Agreement any time for any cause by a notice in writing  
215 to the Consultant. Upon receipt of such notice, the Consultant shall, unless the notice  
216 directs otherwise, immediately discontinue all services and work and the placing of all  
217 orders or the entering into contracts for supplies, assistance, equipment and materials  
218 in connection with the performance of this Agreement and shall proceed to cancel  
219 promptly all existing orders and contracts insofar as such orders or contracts are  
220 chargeable to this Agreement.  
221  
222 B. In the event of termination, Consultant shall be compensated for Services performed  
223 prior to termination date, including charges for expenses and equipment costs then due.  
224  
225 C. Upon full payment of all undisputed amounts due under this Agreement, Consultant  
226 grants the City a non-exclusive, non-transferable license to use the final drawings and  
227 all other instruments of service associated with the Project. All instruments of service,  
228 including but not limited to reports, drawings, specifications, and electronic data, shall  
229 remain the property of Consultant and Consultant shall retain all intellectual property  
230 rights, including but not limited to copyrights, patents, trade secrets, and know-how the  
231 final deliverables were prepared specifically for the City under this Agreement.  
232 Consultant shall retain ownership of all preliminary materials, working documents, and  
233 any pre-existing intellectual property, methodologies, or proprietary information.

Consultant shall retain an unrestricted right to use, reuse and modify any documents or work product created under this Agreement.

- D. Dissolution of the firm of Short Elliott Hendrickson, Inc. for any reason whatsoever, shall give the City the option of terminating this Agreement in accordance with the terms of Paragraph B above, provided said dissolution materially affects the Agreement as determined by City, and such termination shall be deemed to be due to the fault of Consultant.

## 7. THE PARTIES MUTUALLY AGREE

- A. Consultant grants the City a non-exclusive, non-transferable license to use the final drawings and all other instruments of service associated with the Project upon completion or termination of the Consultant's services and payment in full of undisputed charges due the Consultant, in accordance with this Agreement. The Consultant shall not be responsible for any re-use or modification of the plans and specifications once they are used by City. The City agrees to hold the Consultant harmless from all claims, liability or cost, including reasonable attorney fees and defense costs which arise out of such further use without the participation of the Consultant.
- B. In the event of unavoidable delays in the progress of the work contemplated by this Agreement, reasonable extensions in the time allotted for the work will be granted by the City; provided, however, that the Consultant shall request extensions, in writing, giving the reasons therefore. Such time extensions shall not justify an increase in the Project cost.
- C. It is further agreed that this Agreement and any modifications to it shall be binding upon the parties hereto and their successors and assigns.
- D. Neither the City's review, approval or acceptance of, nor payment for any of the work or services required to be performed by the Consultant under this Agreement shall constitute a waiver of any rights under this Agreement or any cause of action arising out of the performance of this Agreement and the Consultant shall be and remain liable to the City for all costs of any kind which are incurred by the City as a result of the Consultant's breach of any condition contained in the Agreement.
- E. The rights and remedies of each party provided for under this Agreement are in addition to any other rights and remedies provided by law and the City may assert its right of recovery by any appropriate means, including, but not limited to, set offs; suit;

withholding; recoupment; or counterclaim, either during or after performance of this Agreement.

- F. The Consultant agrees to employ structural, mechanical and electrical engineers, if necessary, as reasonably determined by the Consultant in consultation with the City, for design and analysis and to pay the fees as contracted for with the individual engineers for such services. These fees are included in the Project fee unless otherwise specified in Exhibit A.
- G. If a firm or firms are separately engaged by the City to work under the general direction of the Consultant, the Consultant shall have no responsibility or liability for the accuracy, completeness, quality, timeliness, or technical sufficiency of the services of such separately engaged firms.
- H. Neither Party shall be liable to the other Party for failure or delay in performance of this Agreement due to acts of God, acts of governmental authorities, extraordinary weather conditions, pandemics, epidemics, quarantines, other natural catastrophes, strikes, labor disputes, supply chain disruptions, cyber attacks, telecommunications or power failures, or any other cause beyond the reasonable control or contemplation of either Party ("Force Majeure Event"), provided the delayed Party:
- (a) shall make commercially reasonable efforts to avoid or mitigate such delay;
  - (b) shall promptly notify the other Party in writing of the cause and expected duration of the delay; and
  - (c) resumes performance as soon as reasonably practicable after the Force Majeure Event has ended.

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314 APPROVED by the Governing Body of the City of Bel Aire, Kansas, on the 18<sup>th</sup> day of November,  
315 2025.

316 SIGNED by the Mayor on the \_\_\_\_\_ day of November, 2025.

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**CITY OF BEL AIRE, KANSAS**

\_\_\_\_\_  
Jim Benage, Mayor

ATTEST:

APPROVED AS TO FORM ONLY:

\_\_\_\_\_  
Melissa Krehbiel, City Clerk

\_\_\_\_\_  
Maria A. Schrock, City Attorney

**(Exhibits A, and B are attached.)**

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SIGNED by Consultant on the \_\_\_\_\_ day of November, 2025.

**SHORT ELLIOTT HENDRICKSON, INC.**

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(Authorized Signature: Name, Title)

Matt Bolf, Principal and Professional Engineer

**(Exhibits A, and B are attached.)**

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## EXHIBIT A (CONSULTANT QUOTE & DESCRIPTION)

**Project Manager:** Samantha Ghareeb  
**Address:** 15750 West Dodge Road, Suite 304, Omaha, Nebraska 68118  
**Telephone:** 402.830.5855 **email:** sghareeb@sehinc.com

**Project Description:** The project area is Phase II of the improvements to Sunflower Commerce Park 3<sup>rd</sup> Addition, including 5 Industrial Lots, and will begin at the north end of Sunflower Court in the City of Bel Aire, Kansas. The proposed industrial development design will include; grading, paving, water main, sanitary sewer main, Lift station and force main, and drainage. A bid package will be developed for the entire scope of work (1 contract).

**Scope:** The Basic Services to be provided by Consultant as set forth herein are provided subject to the attached General Conditions of the Agreement for Professional Services (General Conditions Rev. 05.15.22), which is incorporated by reference herein and subject to Exhibits attached to this Agreement.

**Task 1: Construction Documents (Phase 2 – Improvements for Lots 2 - 5, & 6)**

- Develop roadway alignment and typical sections
- Develop storm sewer routing and design
- Provide water main plans and connections to the existing water system
- Develop sanitary sewer routing and design
- Determine Lift Station Size, power requirements, control panel, and force main routing
- Submit Final Plans for City staff review, which shall include the following:
  - Title sheet
  - Notes sheet
  - Typical section sheet
  - Details sheet
  - Control sheet
  - Site Grading Plans
  - Site Grading Heat map
  - Site Erosion Control & Stabilization plans
  - Sanitary Sewer Plan & Profile sheets
  - Water Main Plan & Profile sheets
  - Roadway Plan & Profile sheets
  - Storm Sewer Plan & Profile sheets
  - Lift Station Structure and Detail
  - Force Main Plan & Profile sheets
  - Roadway Cross-sections sheets
- Provide project specifications & bid documents
- Send plans to local utility companies for review and relocation coordination, as necessary
- Send plans to City of Bel Aire for review and comment, and make revisions as necessary
- Send plans to Kansas Dept. of Health and Environmental (KDHE) for review and permitting
- Provide Final Opinion of Cost for Sanitary, Water, Street, and Drainage for Special Assessment Petitions
- Make final revisions and incorporate comments from City staff and KDHE from Final Plans review

Not included:

- Construction Administration
- Landscape plan
- Construction Staking

Schedule: Design is anticipated to take up to 12 weeks for the Construction Documents submittal to the city for review, and reviews and resubmittals can take another 3 weeks. Once approved by the City, permitting will begin and within 3 weeks the project can solicit bids.

Not: The consultant can adjust the schedule to meet critical deadlines that are mutually agreed upon. Overall schedule may be impacted by regulatory approval processes beyond the control of the Consultant.

Payment: The lump sum fee is **\$245,500** including expenses and equipment.

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437 **EXHIBIT B**

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439 **CITY OF BEL AIRE, KANSAS**  
440 **MANDATORY INDEPENDENT CONSULTANT ADDENDUM**  
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- 442 1. The parties agree Consultant shall satisfy all tax and other governmentally imposed  
443 responsibilities including, but not limited to payment of state, federal, and social security taxes;  
444 unemployment taxes; workers' compensation and self-employment taxes. No federal, state, or  
445 local taxes of any kind shall be withheld or paid by City and Consultant's shall indemnify City  
446 for its failure to comply with Contractor's responsibilities under this paragraph.  
447
- 448 2. The parties agree that as an independent contractor, Consultant is not entitled to any benefits  
449 from City, including but not limited to:

- 450 (a) unemployment insurance benefits;  
451  
452 (b) workers' compensation coverage; or  
453  
454 (c) health insurance coverage.  
455  
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457 Consultant may only receive such coverages if provided by Consultant or an entity other than  
458 City. Subject to the foregoing, Consultant hereby waives and discharges any claim, demand,  
459 or action against City's workers' compensation insurance and/or health insurance and further  
460 agrees to indemnify City for any such claims related to Contractor's operations or the  
461 performance of services by Consultant hereunder.  
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- 463 3. The parties hereby acknowledge and agree that City will not:  
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- 465 (a) require Consultant to work exclusively for City;  
466
- 467 (b) establish means or methods of work for Consultant, except that City may provide plans  
468 and specifications regarding the work, but will not oversee the actual work. City may  
469 establish performance standards for the contracted outcomes;  
470
- 471 (c) pay to Consultant a salary or hourly rate, but rather will pay Consultant a fixed or  
472 contract rate;  
473
- 474 (d) provide training for Consultant on performance of the services to be done; City may  
475 provide informational briefing on known conditions.  
476
- 477 (e) provide tools or benefits to Consultant (materials and equipment may be supplied if  
478 negotiated);  
479
- 480 (f) dictate the time of Contractor's performance; and  
481

(g) pay Consultant personally; instead, City will make all checks payable to the trade or business name under which Consultant does business.

4. Consultant does not have the authority to act for City, to bind City in any respect whatsoever, or to incur debts or liabilities in the name of or on behalf of City.
5. Unless given express written consent by City, Consultant agrees not to bring any other party (including but not limited to employees, agents, subcontractors, sub-subcontractors, and vendors) onto the project site.
6. If Consultant is given written permission to have other parties on the site, and Consultant engages any other party which may be deemed to be an employee of Consultant, Consultant will be required to provide the appropriate workers' compensation insurance coverage as required by this Agreement.
7. Consultant has and hereby retains control of and supervision over the performance of Consultant's obligations hereunder. Consultant agrees to retain control over any allowed parties employed or contracted by Consultant for performing the services hereunder and take full and complete responsibility for any liability created by or from any actions or individuals brought to the project by Consultant.
8. Consultant represents that it is engaged in providing similar services to the public and not required to work exclusively for City.
9. All services are to be performed solely at the risk of Consultant and Consultant shall take all precautions necessary for the safety of its and the City's employees, agents, subcontractors, sub-subcontractors, vendors, along with members of the public it encounters while performing the work.
10. Consultant will not combine its business operations in any way with City's business operations and each party shall maintain their operations as separate and distinct.

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