

# Amendment No. 2

## REINSTATEMENT, EXTENSION AND AMENDMENT NO. 2 TO L 30475

Contract Start Date:	2/26/2021	Original Total Amount:	\$30,00000
Original Completion Date:	2/15/2023	As Previously Amended:	\$86,200.00
Amendment Completion Date:	12/31/2023	Current Amendment:	\$68,590.00
Resolution:	23-0456R	New Total Contract Amount:	\$185,790.00

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This amendment, effective as of the date of attestation by the City Clerk (the "Effective Date"), by and between the City of Duluth, hereinafter referred to as "City", and SHORT ELLIOTT HENDRICKSON, INC. located at 418 West Superior Street, Suite 200, Duluth, MN 55802, hereinafter referred to as "Consultant", for the purpose of rendering services to the City.

WHEREAS, on February 26, 2021, City and Consultant entered into an agreement bearing City of Duluth Contract No. L 30475 for professional services through preliminary design for the Cross-City Trail Phase 3, which Contract has been previously amended one time, and which Contract and amendments are hereinafter referred to as the "Contract"; and

WHEREAS, both parties desire to amend the Contract.

NOW THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth, the parties hereto hereby agree as follows:

In this Amendment changes in the language of the Contract which delete language will be shown as stricken and language added to the contract language will be underlined.

**Revision 1.** The Completion Time for Final Design described in Section II.D.8) of the Contract is hereby amended as follows:

The Final Design Phase shall be completed and contract documents submitted by ~~n/a December 30, 2022~~ October 31, 2023.

**Revision 2.** The Completion Time for Bidding described in Section II.E.6) of the Contract is hereby amended as follows:

The bidding phase shall be completed by ~~n/a January 31, 2023~~ October 31, 2023.

**Revision 4.** The Total Not to Exceed described in Section V.C. of the Contract is hereby amended as follows:

All payments under this Contract are not to exceed ~~thirty thousand and 00/100 dollars (\$30,000.00) One Hundred Sixteen Thousand, Two Hundred and 00/100 Dollars (\$116,200.00)~~ One Hundred Eighty-Five Thousand, Seven Hundred Ninety and 00/100 DOLLAR (\$185,790.00).

**Revision 5.** The Exhibit described in Section VI.2) of the Contract is hereby amended as follows:

Exhibit B, Engineer's Proposal Cross City Trail Phase 3 Proposal, SEH No. DULUT 155146 14.00 dated January 26, 2021; and Exhibit B-1, Cross City Trail Phase 3 Final Design Proposal, SEH No. DULUT 159621, dated August 5, 2022 attached to this Amendment 1; and Cross City Trail Phase 3 Final Design Proposal, SEH No. DULUT 159621, dated May 15, 2023.

In all other respects the contract, together with all of its terms, covenants and conditions, is hereby confirmed in its entirety.

*[Remainder of page intentionally left blank. Signature page to follow.]*

IN WITNESS WHEREOF, the parties have hereunto set their hands on the date of attestation shown below

**CITY OF DULUTH**

**SHORT ELLIOTT HENDRICKSON, INC.**

By:

By:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Company Representative

Attest:

Its:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Title of Representative

Date Attested: \_\_\_\_\_

Date: \_\_\_\_\_

Countersigned:

\_\_\_\_\_  
City Auditor

Approved as to form:

\_\_\_\_\_  
City Attorney



# EXHIBIT A

May 15, 2023

RE: City of Duluth  
Cross City Trail Phase 3 Final Design  
Proposal  
SEH No. DULUT 159621

Mr. Patrick Loomis, PE  
Project Engineer  
City of Duluth Engineering  
411 West First Street  
Duluth, MN 55802

Dear Mr. Loomis:

## Project Background

We are pleased to present this proposal to continue working with City of Duluth staff on the Cross City Trail Phase 3 project. Our current contract included an amendment in September of 2022 for \$86,200 to provide final design, project memorandum, wetland delineation and permitting, meetings, and easement coordination with Minnesota Power.

From the time of our last amendment through April of 2023, we have continued with finalizing the plans and provided additional services outside of the scope of our September 2022 amendment. During this time, we expended portions of our fee to complete unforeseen additional work as requested by the City. The full \$86,200 amendment from September 2022 has now been expended.

The additional work included project management and meetings, easement acquisitions, cultural resources review, floodplain analysis and legal surveys. A summary of the activities we completed outside our original scope include:

## Work Completed

### Project Management and Meetings

**\$7,400**

- SEH facilitated bi-weekly team meetings with City staff beyond our amended agreement.
- Project Management for the additional tasks completed.

### Route Alternatives / Cost Estimates

**\$11,300**

- Our final design contract did not include evaluating additional route alternatives and cost estimates. This was based on the understanding the route was finalized prior to starting final design. After our final design contract was executed, we continued to provide route alternatives and corresponding cost estimates based on City comments from the bi-weekly team meetings. The final alignment was agreed upon in January of 2023.
- This included alignment alternatives to meet ADA requirements, limit clearing and fill areas, avoid floodplain impacts, utilize tax forfeit property, align with existing BNSF easements, 57<sup>th</sup> Avenue curb replacements, and alley/street vacations.
- This included additional topo survey and design to shift the trail alignment north from 57<sup>th</sup> to 58<sup>th</sup> Avenue West.

Engineers | Architects | Planners | Scientists

Short Elliott Hendrickson Inc., 418 West Superior Street, Suite 200, P.O. Box 229, Duluth, MN 55801-0229

218.279.3000 | 888.722.0547 | 888.908.8166 fax | [sehinc.com](http://sehinc.com)

SEH is 100% employee-owned | Affirmative Action–Equal Opportunity Employer

Contract No. L30475-02

**Cultural Resources Review**

**\$12,200**

- Phase 1 Environmental Review - SEH completed for the BNSF parcels the City is purchasing for the project.
- Archaeological Phase 1A – per the MnDOT review of the Project Memorandum, an archaeological review was required. City authorized SEH to hire Duluth Archaeology to complete the work.
- Archaeological Phase 1 – per the Phase 1A report, additional field sampling has to be completed prior to construction. SEH has hired Duluth Archaeology to complete the work.

**Floodplain Modeling, Impacts Analysis, Special Use Permit**

**\$10,600**

- The planned trail route between 57<sup>th</sup> and 59<sup>th</sup> Avenues West resulted in floodplain impacts. In discussions with the City Planning Department, the floodplain had to be modeled, a report generated, and a Special Use Permit had to be applied for. SEH completed this work and the Special Use Permit was approved by the Planning Commission on May 9, 2023.

**BNSF Rail Crossing Design**

**\$4,900**

- SEH prepared a separate plan set for the concrete crossing panels that BNSF required as part of their permit. SEH also coordinated design review calls with BNSF and MnDOT.

**Easement Exhibits**

**\$7,490**

- BNSF Easements – SEH prepared draft and final easement exhibits for the Cross City Trail. As part of this work, we mapped out the existing BNSF R/W and compared it against existing City easements. This helped identify any easement gaps in the trail alignment. We also provided exhibits for the agreement.
- MnPower Easements – We prepared easement drawings for the lands that MP owns to be incorporated into their land agreement.
- Tax Forfeit Property – The project alignment included acquiring tax forfeit lands from St. Louis County. SEH prepared exhibits for the parcels to be acquired.

**ALTA Survey**

**\$12,600**

- A part of the BNSF Purchase Agreement, the BNSF is requiring an ALTA survey on the land to be purchased from them. SEH has completed the preliminary ALTA work and provided to the City. SEH will complete the final ALTA survey according to the Title Commitment and Table A the City provided.

**Project Documentation**

**\$3,100**

- STIP updates – SEH provided updated exhibits, estimates and descriptions for the required STIP updates.
- Project Memorandum Updates – SEH updated the Project Memorandum document to match the STIP changes.

**Schedule**

We have submitted final plans to the City and MnDOT State Aid. The plans are currently going through the Federal review process, and we are able to make the necessary updates immediately upon receipt of review comments and a signed amendment to our contract.

The following work is left to be completed to have the plans ready for bidding:

- Federal Aid review comments – anticipated to be received in May 2023.
- Final specifications and project manual meeting Federal Aid requirements.
- SEQ, Tabs, and Estimate updates per the change in “participating” pay items.

- DCP final documents
- Bid support answering contractor questions during bidding.

### **Amendment Fee Request**

Our fee for the additional services described above is \$69,590 and we are requesting a contract amendment in that amount.

### **Future Work**

We understand you may be looking for assistance with Construction Administration, observation, and staking during construction. The following estimated fee can be used for budgeting purposes. We will provide an updated Fee Proposal for these services at the time of bidding.

- Construction Administration, Observation (full-time for 10 weeks), and Staking - \$79,200

We look forward to continuing our work with you on the Cross City Trail Project and to discuss this proposal with you further. If you have any questions, please contact me at **218.260.9551** or via email at **mbolf@sehinc.com**.

Sincerely,

SHORT ELLIOTT HENDRICKSON INC.



Matt Bolf, PE  
Principal / Project Manager  
(Lic. MN, WI)

mb/mh

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