



**MINUTES**  
**COMMITTEE #1**  
**REVENUES, DISBURSEMENTS, WATER AND WASTEWATER**  
**October 16, 2018**

**Committee #1 - Revenues, Disbursements, Water and Wastewater met on Tuesday, October 16, 2018 at 9:00 AM in the Council Chambers, City Hall, 30 West Central Street, Chippewa Falls, WI.**

Committee Members present: Rob Kiefer, John Monarski, and Paul Nadreau

Mayor/Other Council Members present: Mayor Hoffman

Others present: Finance Manager/Treasurer Lynne Bauer, Director of Public Works/City Engineer/Utilities Manager Rick Rubenzer, City Planner/Transit Manager Brad Hentschel, Police Chief Matthew Kelm, Water Supervisor Matt Boos, Library Director Joe Niese, Brian Flynn of Area Financial Services, and City Clerk Bridget Givens.

Call to Order: 9:00 am

**1. Discuss health and dental insurance plan options. Possible recommendations to the Council.**

Brian Flynn presented the health insurance plan options for the City including quotes from two new providers (copies on file in the office of the City Clerk). The different plan structures and costs were reviewed. It was stated that the renewal from the City's current provider averaged a 2.3% increase over last year.

The City offers a voluntary dental plan which saw an increase in premium this year. A quote was obtained from an alternative provider which came in at a much more affordable rate.

This will continue to be reviewed as the budget discussions progress.

**No action taken.**

**2. Review and discuss proposals regarding a limited environmental investigation on city-owned lots in Riverside Industrial Park. Possible recommendations to the Council. (Attachments)**

Two proposals were presented to the Committee for the environmental investigation on lots in Riverside Industrial Park.

**Motion by Kiefer/Nadreau** to recommend Council accept the proposal of SEH for a limited environmental investigation on city-owned lots in Riverside Industrial Park. **All present voting aye, except Monarski who voted no, motion carried.**

**3. Review preliminary budget data and issues affecting the budget. Possible recommendations to the Council.**

Finance Manager/Treasurer Bauer advised that the operational budgets have been entered and work is being done to enter wages and benefits. Donation requests will be brought to the meeting next week.

It is also anticipated additional information on the health insurance will be available for next week's meeting.

Chief Kelm advised that he will have two squads that will be taken out of service by the end of the year and wanted the Committee to be aware for budget purposes.

**No action taken.**

**4. Adjournment**

**Motion by Monarski/Kiefer to adjourn at 9:44 am. All present voting aye, motion carried.**

**Minutes submitted by,  
Lynne Bauer, Finance Manager/Treasurer**

## Supplemental Letter Agreement

In accordance with the Master Agreement for Professional Services between City of Chippewa Falls ("Client"), and Short Elliott Hendrickson Inc. ("Consultant"), effective October 23, 2013, this Supplemental Letter Agreement dated June 5, 2018 authorizes and describes the scope, schedule, and payment conditions for Consultant's work on the Project described as: Limited environmental investigation, Two City Parcels (#22808-0414-6623OL09 and #22808-0414-65640021), west of Cashman Drive, Chippewa Falls, Wisconsin.

**Client's Authorized Representative:** Mr. Brad Hentschel  
**Address:** 30 West Central Street  
Chippewa Falls, WI 54729  
**Telephone:** 715.726.2728 **email:** rbhentschel@chippewafalls-wi.gov

**Project Manager:** Bruce K. Olson, PE  
**Address:** 10 North Bridge Street  
Chippewa Falls, WI 54729  
**Telephone:** 715.720.6244 **email:** bolson@sehinc.com

**Scope:** The Basic Services to be provided by Consultant:

### Limited Environmental Investigation

Consultant proposes to perform the following tasks as part of a limited environmental investigation.

1. Pre-investigation activities, including requesting utility clearance by contacting Digger's Hotline, a site visit to assess access issues and to identify potential test pit locations, project coordination, and analytical bottle acquisition.
2. Test pit investigation, including observation of several test pit excavations, screening soil cuttings for relative concentrations of volatile organic compounds using a photoionization detector, collection of soil sample(s) for potential laboratory analysis, and documentation of field observations. Consultant will record test pit locations using a hand held GPS device using latitude and longitude coordinates. For the purpose of this proposal, Consultant assumes up to four hours on site time by a Wisconsin certified Professional Geologist.
3. Select soil samples would be collected, if warranted by field observations, preserved as necessary, and placed in laboratory clean analytical bottles. The samples will be submitted to a Wisconsin certified analytical laboratory via standard chain-of-custody documentation. Selected analytes would be based in part on field observations.
4. Letter report preparation, including a narrative of limited environmental investigation results, test pit logs documenting field observations, analytical results (if analysis is performed), and possible recommendations.
5. Project management.

**Assumptions:** Consultant assumes that a backhoe and an operator will be provided by Client during performance of test pit excavations. Consultant assumes that up to four hours of field time utilizing the backhoe and operator will be required to complete the field portion of this project. Consultant assumes that routine laboratory turnaround time (up to two weeks) can be used to minimize laboratory analytical costs. Consultant assumes that excavation backfilling and site restoration will be performed by Client personnel and at Client expense. Consultant assumes access to the site by Client will be provided throughout the duration of the project.

**Schedule:** Upon your authorization we can complete the pre-investigation activities within one week of your authorization. Field work can be performed when Client equipment and personnel are available. A letter report documenting the results of the limited environmental investigation can be completed within three weeks of completion of field activities.

**Payment:** A lump sum fee of \$3,200 including expenses and equipment will be used to complete this project. This fee includes up to \$500 of laboratory analytical fees. If no laboratory analysis is required, the lump sum fee will be reduced to \$2,700.

The payment method, basis, frequency and other special conditions are set forth in attached Exhibit A-2. Should circumstances arise that require additional effort on the part of SEH staff, we will request written authorization from the City to perform these services, and provide and an estimate of any additional fees.

SEH will prepare monthly invoices for work performed during the billing period. Interest in the amount of 1% of the unpaid balance per month may be added to the unpaid balance of invoices that are not paid within 35 days of receipt.

**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.

**Short Elliott Hendrickson Inc.**

By: \_\_\_\_\_  
Bruce K. Olson, PE  
Title: Sr. Project Manager

**Approved: City of Chippewa Falls**  
30 W. Central Street  
Chippewa Falls, WI 54729

By: \_\_\_\_\_  
Brad Hentschel, Planner

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

Attest: \_\_\_\_\_  
Bridget Givens, Clerk

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

**Approved as to Form:**

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

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

I, Lynne R. Bauer, hereby certify that sufficient funds are in the Treasury of the City of Chippewa Falls, to meet the expense of this Contract, or that provisions have been made to pay the liability that will accrue thereunder.

\_\_\_\_\_  
Lynne R. Bauer, Finance Director

**Exhibit A-2**  
**to Supplemental Letter Agreement**  
**Between City of Chippewa Falls (Client)**  
**and**  
**Short Elliott Hendrickson Inc. (Consultant)**  
**Dated June 5, 2018**

**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 Lump Sum amount includes compensation for Consultant's services and the services of Consultant's Consultants, if any 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. Expense of overtime work requiring higher than regular rates, if authorized in advance by the Client.
2. Other special expenses required in connection with the Project.
3. 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.

c:\users\bolson\documents\bruce info\proposals\chippewa falls\cfcit 146247 cashman drive exhibit a-2.docx

## 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.

October 5, 2018

Brad Hentschel, AICP  
City of Chippewa Falls  
30 W. Central Street  
Chippewa Falls, WI 54729  
VIA e-mail: [bhentschel@chippewafalls-wi.gov](mailto:bhentschel@chippewafalls-wi.gov)

Re: Limited Environmental Site Investigation  
Riverside industrial Park  
Lots 66230L09 and 65640021  
Chippewa Falls, Wisconsin

Dear Brad:

Thank you for requesting Ayres Associates (CONSULTANT) to conduct a Limited Environmental Site Investigation of two vacant parcels in Riverside Industrial Park, Chippewa Falls, Wisconsin (subject property). This letter presents our scope of services, time schedule, fee, and contract terms and conditions for this work. This Letter Agreement is at all times subject to all terms and conditions as stated.

#### **Project Background**

City of Chippewa Falls (CLIENT) is interested in evaluating the property listed above prior to development. Short Elliott Hendrickson (SEH) performed a preliminary site investigation (SI) in December 1999 that identified environmental conditions approximately 200 yards east of the subject property that may have impacted the subject property. The environmental issues from this SI are noted below:

- Solid waste fill material consisting of empty metal drums, cans, bottles pipe, etc. were noted in the SEH findings. Building demolition debris consisting of concrete and block rubble was also noted in this area.
- Soil sampling identified low levels of RCRA metals in the soil, and low levels of volatile organic compounds (VOC's) in shallow groundwater.

Based upon the environmental conditions identified in the December 1999, preliminary site investigation, CLIENT is requesting a proposal to assess the potential for fill material to be present at the parcels identified above. The following Scope of Services outlines our approach for environmental assessment.



**Note: This Project includes services on a site with potential petroleum and other hazardous substances contamination. Because of the inherent risk on the site, provisions contained in Attachment A are hereby incorporated into this Agreement between CLIENT and CONSULTANT.**

### **Scope of Services**

Ayres Associates will provide the following services to conduct a limited site investigation of the subject property:

#### Health and Safety Plan

Ayres Associates will prepare a site-specific Health and Safety Plan (HSP) for the project prior to performing fieldwork. The purpose of the HSP is to assign responsibilities, establish personal protection standards and mandatory safety practices and procedures, and provide contingencies for situations that may arise during site operations. The provisions of the plan are mandatory for all employees who are engaged in hazardous material management activities. The plan will be developed under U.S. Environmental Protection Agency guidelines and will comply with applicable regulations, including Occupational Safety and Health Administration (OSHA) standards [29 Code of Federal Regulations (CFR) 1910 and 1926].

#### Test Pits

A total of four (4) test pits will be advanced on the subject property in proximity the east property boundary and in the vicinity of found material noted in the SI as shown on Figure 1. It is understood the CLIENT will provide the equipment and staff to advance the test pits. All test pits will be advanced 10-12 feet below ground surface or to refusal. Soil samples will be continuously collected during excavation activities. Each collected sample will be characterized according to the Unified Soil Classification System (USCS) and screened for volatile organic vapors using a photoionization detector. The water table is anticipated to be approximately 12 feet below ground surface (bgs).

\*Note If solid waste is identified in any of the four test pits, up to four additional test pits will be excavated to the west (towards the center of the property) to define the extent across the property. Any waste material generated from the tests will be returned to the excavation as backfill. Even if encountered, CONSULTANT will not collect any groundwater samples from the test pits.

#### Soil Screening

Soil samples from each test pit will be screened for total VOC soil vapors. These samples will be screened for the presence of total ionizable VOCs using a photoionization detector (PID) equipped with a 10.7 eV lamp and calibrated to an isobutylene standard. Samples will be selected for possible laboratory analysis based on visual and olfactory observations and PID screening results. A minimum one soil sample will be collected from one (1) to four (4) feet bgs from each test pit to evaluate direct contact risk. In addition, if solid waste or soil staining is present below the direct contact threshold, one (1) soil sample will be collected below the area of impact to evaluate potential groundwater pathway risk. If no waste is encountered, no soil samples will be collected below 4 feet bgs.

#### Test Pit Backfill/Abandonment

Each test pit advanced during this assessment will be backfilled/abandoned in a safe and organized manner. Excavated soil will be replaced and packed with the back of the excavator bucket, with surface elevations returned in-kind to match existing grades.

#### Laboratory Analysis of Soil Samples

Select soil samples collected during the limited site investigation will be submitted to a Wisconsin certified analytical laboratory for analysis. Soil samples will be analyzed for Petroleum Volatile Organic compounds plus Naphthalene (PVOC's + Nap) and Resource Conservation and Recovery Act (RCRA) metals (total). Samples will be selected for chemical analysis based upon visual and olfactory observations, field screening results, and conditions of the subsurface geology indicate an impact.

After the analytical data is received from the laboratory, Ayres Associates staff will review the data to ensure that chain-of-custody procedures were followed, hold times were met, analytical methods and detection limits are consistent with the specifications, and samples were properly preserved when received at the laboratory. The data will be reviewed for reporting errors (i.e., units) as well as consistency with anticipated results based on field observations.

#### Data Analysis and Reporting

Data obtained from this limited environmental site investigation will be evaluated and interpreted by Ayres Associates. The objectives of the evaluation will be to determine the presence and significance of potential impacts to soil related to environmental issues previously identified by SEH on an adjacent property.

One electronic copy of the report summarizing findings of the site assessment along with field and laboratory data will be submitted to CLIENT. The report will include a description of the site conditions, the subsurface geology, and results and interpretation of the laboratory analytical data.

#### **Responsibilities of Client and Others**

Designate a person to act as CLIENT's representative and provide excavating equipment and staff for the purpose of installing the test pits. Provide access to the project site to executing the scope of work. CLIENT to coordinate Digger's Hotline utility mark out at least 3 working days in advance of work. If findings from the investigation indicate a discharge has occurred in accordance with the definition of Wis. Stats. Ch. 292, it will be CLIENT's responsibility for appropriate reporting.

#### **Time Schedule**

We will complete the limited environmental site investigation according to the following schedule upon authorization to proceed.

<u>Task</u>	<u>Calendar Days After Authorization to Proceed</u>
Environmental Site Assessment	10 days*
Data Analysis and Reporting	30 days**

\*Advancement of test pits is dependent upon CLIENT equipment availability.

\*\*Laboratory analysis assumes standard turnaround time.

**Fee**

We will perform the proposed scope of work for a fee of \$2,900 including field time, report time and laboratory expenses. CONSULTANT shall not exceed an amount of \$2,900 unless approved in writing by CLIENT. No additional costs are borne for field work if additional test pits are conducted, but laboratory costs may increase as noted below. A summary table of all fees are listed below:

**Table 1  
Proposed Project Budget Detail**

<b>Item</b>	<b>Estimated Cost</b>
Ayres Associates Engineering and Direct Fees	\$2,200
Laboratory Costs <sup>1</sup>	\$ 700
<b>Estimated Project Total<sup>2</sup></b>	<b>\$2,900</b>

<sup>1</sup> Assumes a maximum of six (6) soil samples each will be analyzed for PVOC+Naphthalene and RCRA metals. If additional samples are analyzed based upon field conditions, this cost will be passed on to CLIENT.

<sup>2</sup> Compensation is estimated to be \$2,900 based on the assumed distribution of compensation shown in Table 1. Consultant may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services rendered but shall not exceed the estimated project total unless approved by CLIENT.

**Contract Terms and Conditions**

Attached are "Contract Terms and Conditions" which will apply to the services and which are incorporated into this proposal by reference.

**Acceptance**

If this proposal and terms and conditions are acceptable to you, a signature on the enclosed copy of this letter will serve as our authorization to proceed.

Proposed by Consultant:

Accepted by Client:

Ayres Associates Inc



Lori A. Rosemore, PG

Hydrogeologist

715.834.3161

rosemorel@AyresAssociates.com

City of Chippewa Falls

Client's Name

Signature



Ben Peotter, PE

Manager Environmental Services

608.443.1206

peotterb@ayreassociates.com

Name

Title

GMA:lar

Attachments: Contract Terms & Conditions

Attachment A

Figure 1

Date

**AYRES ASSOCIATES**  
**CONTRACT TERMS AND CONDITIONS**

**1. Performance of Services:** Consultant shall perform the services outlined in its proposal to Client in consideration of the stated fee and payment terms.

**2. Billing and Payment:** Invoices for Consultant's services shall be submitted to Client on a monthly basis. Invoices shall be due and payable within 30 days from date of invoice. If any invoice is not paid within 30 days, Consultant may, without waiving any claim or right against Client, and without liability whatsoever to Client, suspend or terminate the performance of services. Accounts unpaid 30 days after the invoice date will be subject to a monthly service charge of 1.5% on the unpaid balance, or the maximum rate of interest permitted by law, if less. The amount of any excise, value-added, gross receipts, or sales taxes that may be imposed on payments shall be added to Consultant's compensation. No deductions or offsets shall be made from Consultant's compensation or expenses on account of any setoffs or back charges.

**3. Access to Site:** Client shall furnish right-of-entry on the project site for Consultant and, if the site is not owned by Client, warrants that permission has been granted to make planned explorations pursuant to the scope of services. Consultant will take reasonable precautions to minimize damage to the site from use of equipment, but has not included costs for restoration of damage that may result and shall not be responsible for such costs.

**4. Location of Utilities:** Consultant shall use reasonable means to identify the location of buried utilities in the areas of subsurface exploration and shall take reasonable precautions to avoid any damage to the utilities noted. However, Client agrees to indemnify and defend Consultant in the event of damage or injury arising from damage to or interference with subsurface structures or utilities which result from inaccuracies in information or instructions which have been furnished to Consultant by others.

**5. Hazardous Materials:** In the event that unanticipated potentially hazardous materials are encountered during the course of the project, Client agrees to negotiate a revision to the scope of services, time schedule, fee, and contract terms and conditions. If a mutually satisfactory agreement cannot be reached between both parties, the contract shall be terminated and Client agrees to pay Consultant for all services rendered, including reasonable termination expenses.

**6. Insurance:** Consultant shall maintain Workers' Compensation, General Liability, and Automobile Liability Insurance during its services for Client. Consultant shall furnish a Certificate of Insurance to Client upon written request. Client agrees that Consultant shall not be liable or responsible to Client for any loss, damage, or liability beyond the amounts, limits, exclusions, and conditions of such insurance.

**7. Limitation of Professional Liability:** Client agrees to limit Consultant's professional liability to an amount of \$50,000 or Consultant's fee, whichever is greater. In the event that Client does not wish to limit Consultant's professional liability to this sum, Consultant agrees to raise the limitation of liability to a sum not to exceed \$1,000,000 for increased consideration of ten percent (10%) of the total fee or \$500, whichever is greater, upon receiving Client's written request prior to the start of Consultant's services.

**8. Opinions of Probable Costs:** Consultant's opinions of probable project costs are made on the basis of Consultant's experience, qualifications and judgment; but Consultant cannot and does not guarantee that actual project costs will not vary from opinions of probable cost.

**9. Construction Review:** Consultant does not accept responsibility for the design of a construction project unless the Consultant's contract includes review of the contractor's shop drawings, product data, and other documents, and includes site visits during construction in order to ascertain that, in general, the work is being performed in accordance with the construction contract documents.

**10. Construction Observation:** On request, Consultant shall provide personnel to observe construction in order to ascertain that, in general, the work is being performed in accordance with the construction contract documents. This construction observation shall not make Consultant a guarantor of the contractor's work. The contractor shall continue to be responsible for the accuracy and adequacy of all construction performed. In accordance with generally accepted practice, the contractor will be solely responsible for the methods of construction, direction of personnel, control of machinery, and falsework, scaffolding, and other temporary construction aids. In addition, all matters related to safety in, on, or about the construction site shall be under the direction and control of the contractor and Consultant shall have no responsibility in that regard. Consultant shall not be required to verify any part of the work performed unless measurements, readings, and observations of that part of the construction are made by Consultant's personnel.

**11. Standard of Performance:** The standard of care for all professional services performed or furnished by Consultant under this contract will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Consultant does not make any warranty or guarantee, expressed or implied, nor is this contract subject to the provisions of any uniform commercial code. Similarly, Consultant will not accept those terms and conditions offered by Client in its purchase order, requisition, or notice of authorization to proceed, except as set forth herein or expressly agreed to in writing. Written acknowledgement of receipt or the actual performance of services subsequent to receipt of such purchase order, requisition, or notice of authorization to proceed is specifically deemed not to constitute acceptance of any terms or conditions contrary to those set forth herein.

**12. Ownership of Documents:** All documents produced by Consultant under this contract are instruments of Consultant's professional service and shall remain the property of Consultant and may not be used by Client for any other purpose without the prior written consent of Consultant.

**13. Electronic Files:** Client and Consultant agree that any electronic files furnished by either party shall conform to the specifications agreed to at the time this contract is executed. Electronic files furnished by either party shall be subject to an acceptance period of 60 days during which the receiving party agrees to perform appropriate acceptance tests. The party furnishing the electronic file shall correct any discrepancies or errors detected and reported within the acceptance period. After the acceptance period, the electronic files shall be deemed to be accepted and neither party shall have any obligation to correct errors or maintain electronic files. Client is aware that differences may exist between the electronic files delivered and the printed hard-copy documents. In the event of a conflict between the hard-copy documents prepared by Consultant and electronic files, the hard-copy documents shall govern.

**14. Financial and Legal Services:** Consultant's services and expertise do not include the following services, which shall be provided by Client if required: (1) Accounting, bond and financial advisory (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services; (2) Legal services with regard to issues pertaining to the Project as Client requires, Contractor(s) raises, or Consultant reasonably requests; and (3) Such auditing services as Client requires to ascertain how or for what purpose any Contractor has used the money paid.

**15. Termination of Services:** This contract may be terminated at any time by either party should the other party fail to perform its obligations hereunder. In the event of termination for any reason whatsoever, Client shall pay Consultant for all services rendered to the date of termination, all reimbursable expenses incurred prior to termination, and reasonable termination expenses incurred as the result of termination.

**16. Controlling Law:** This contract is to be governed by the law of the place of business of Consultant at the address in its proposal to Client.

**17. Assignment of Rights:** Neither Client nor Consultant shall assign, sublet or transfer any rights under or interest in this contract (including, but without limitation, moneys that may become due or moneys that are due) without the written consent of the other, except to the extent mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this contract. Nothing contained in this paragraph shall prevent Consultant from employing such independent subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

**18. Third Party Benefits:** This contract does not create any benefits for any third party.

**19. Dispute Resolution:** Client and Consultant agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to exercising their rights under the following dispute resolution provision. If direct negotiations fail, Client and Consultant agree that they shall submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this contract or the breach thereof to mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association effective on the date of this contract prior to exercising other rights under law.

**20. Exclusion of Special, Indirect, Consequential, and Liquidated Damages:** Consultant shall not be liable, in contract or tort or otherwise, for any special, indirect, consequential, or liquidated damages including specifically, but without limitation, loss of profit or revenue, loss of capital, delay damages, loss of goodwill, claim of third parties, or similar damages arising out of or connected in any way to the project or this contract.

**21. Betterment:** If, due to Consultant's negligence, a required item or component of the project is omitted from the construction documents, Consultant's liability shall be limited to the reasonable cost of correction of the construction, less what Client's cost of including the omitted item or component in the original construction would have been had the item or component not been omitted. It is intended by this provision that Consultant will not be responsible for any cost or expense that provides betterment, upgrade, or enhancement of the project.

**22. Amendments:** This contract may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

**ATTACHMENT A**  
**TERMS AND CONDITIONS FOR SERVICES INVOLVING HAZARDOUS SUBSTANCES**

This is an attachment to the Agreement dated October 5, 2018, between City of Chippewa Falls (CLIENT) and Ayres Associates Inc (CONSULTANT).

**SERVICES INVOLVING HAZARDOUS SUBSTANCES**

**Standard of Care - Services Involving Hazardous Substances**

In accepting this Agreement for professional services, CLIENT acknowledges the inherent risk associated with hazardous, oil, radioactive, toxic, irritant, pollutant, or otherwise dangerous substances or conditions as well as with construction activities. In performing the professional services, CONSULTANT shall use that degree of care and skill ordinarily exercised, under similar circumstances, by members of the profession practicing in the same or similar locality. The standard of care shall be judged exclusively at the time the services are rendered and not according to later standards.

**Project Site**

- CLIENT shall furnish to CONSULTANT all documents and information known to CLIENT that relate to the identity, location, quantity, nature, or characteristics of any hazardous substances at, on, or under the site. In addition, CLIENT shall furnish all data, prior studies, manufacturing or waste disposal histories, and construction documents actually or potentially informative as to the actual conditions at the site for performance of CONSULTANT's services in Client's possession after reasonable inquiry. CONSULTANT shall be entitled to rely upon CLIENT-furnished documents and information in performing the services required under this Agreement, however, CONSULTANT assumes no responsibility or liability for their accuracy or completeness.
- CONSULTANT shall not supervise, direct, or have control over the work of construction contractors or their subcontractors. CONSULTANT's services do not include a review or evaluation of the contractor's or subcontractor's safety measures.
- CONSULTANT shall be responsible only for its activities and that of its employees and subconsultants on the site. Neither the professional activities nor the presence of CONSULTANT or its employees or its subconsultants on the site shall imply that CONSULTANT controls the operations of others, nor shall this be construed to be an acceptance by CONSULTANT of any responsibility for jobsite safety.

**Right-of-Entry**

CLIENT shall furnish right-of-entry for CONSULTANT to such property as may be necessary for CONSULTANT to perform the services under this Agreement. CONSULTANT shall take reasonable precautions to minimize damage to the property caused by CONSULTANT's equipment, but has not included in CONSULTANT's fee the cost of restoration of damage which may result from CONSULTANT's operations. If CLIENT requires CONSULTANT to restore property to its former conditions, the costs associated with restoration shall be added to CONSULTANT's fee.

**Disposal of Contaminated Material**

It is understood and agreed that CONSULTANT is not, and has no responsibility as a handler, generator, operator, treater, storer, transporter, or disposer of hazardous or toxic substances found or identified at the site, and that CLIENT shall undertake or arrange for the handling, removal, treatment, storage, transportation, and disposal of hazardous substances or constituents found or identified at the site. It is the intent to replace found non-hazardous waste debris from test pits within test pit excavation along with soil spoil material.

**Indemnification**

- It is understood and agreed that CLIENT is requesting CONSULTANT to undertake, for CLIENT's benefit,

obligations involving the presence or potential presence of hazardous substances. Therefore, it is expressly understood that CLIENT shall in no manner hold CONSULTANT responsible for any existing site condition and the presence or potential presence of hazardous substances.

- CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless CONSULTANT, its officers, directors and employees and subconsultants (collectively, CONSULTANT) against all damages, liabilities or costs, including reasonable attorney fees and defense costs, to the extent caused by CLIENT's negligent acts in connection with the Project and the acts of its contractors, subcontractors or consultants or anyone for whom CLIENT is legally liable.
- CONSULTANT agrees, to the fullest extent permitted by law, to indemnify and hold harmless CLIENT, its officers, directors and employees (collectively, CLIENT) against all damages, liabilities or costs, including reasonable attorney fees and defense costs, to the extent caused by CONSULTANT's negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom CONSULTANT is legally liable.
- Neither CLIENT nor CONSULTANT shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence. In the event there is joint negligence on the part of CLIENT and CONSULTANT, the responsibility and indemnification obligations for such negligence shall be prorated to reflect the relative degree of negligence or fault attributable to CLIENT and CONSULTANT. CONSULTANT shall not be liable for any indirect damages.

#### **Precedence**

These Terms and Conditions for Services Involving Hazardous Substances shall take precedence over any conflicting provisions elsewhere in the Agreement other than in the Master Professional Services Agreement.

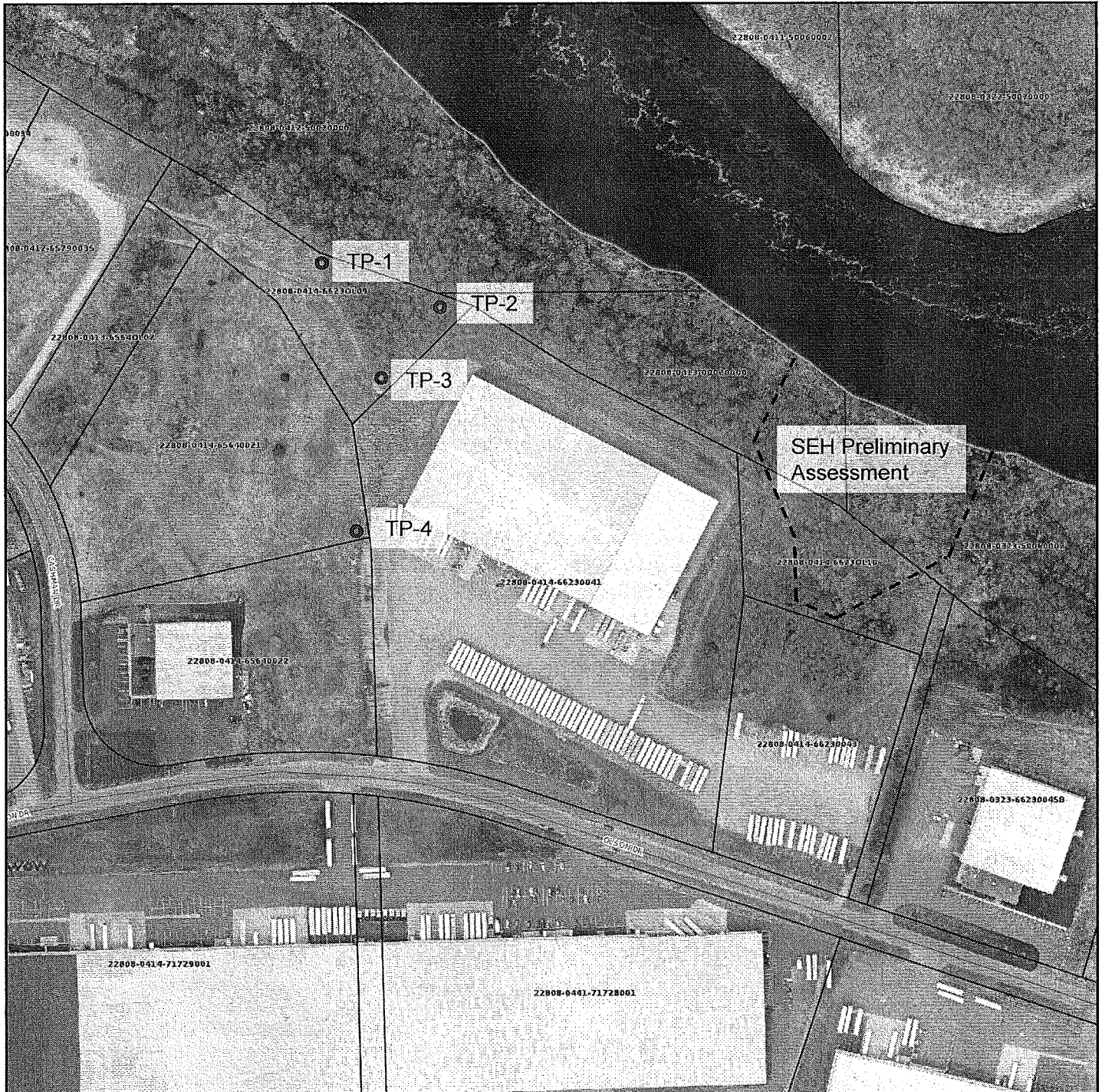
#### **Severability**

If any of these Terms and Conditions are determined to be invalid or unenforceable in whole or part, the remaining provisions of this Agreement shall remain in full force and effect, and be binding upon the parties hereto. The parties agree to reform this Agreement to replace any such invalid or unenforceable provision with a valid and enforceable provision that comes as close as possible to the intention of the stricken provision.

#### **Survival**

These Terms and Conditions shall survive the completion of the services under this Agreement and the termination of this Agreement for any cause.





● = Test Pit

Scale = 1" = 300'



Source: Chippewa County Web Mapping

**Figure 1 – Location Map**  
 Limited Environmental Site Investigation  
 Riverside Industrial Park, Lots 66230L09 and 65640021  
 Chippewa Falls, Wisconsin  
 October 2018

##-####.00

**AYRES**  
 ASSOCIATES