

PO Box 159  
242 Fredonia Avenue  
Fredonia, Wi 53021  
Phone: 262-692-9125  
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Administrator: Christophe Jenkins  
[cjenkins@village.fredonia.wi.us](mailto:cjenkins@village.fredonia.wi.us)  
Clerk: Michelle T. Johnson  
[mjohnson@village.fredonia.wi.us](mailto:mjohnson@village.fredonia.wi.us)  
Treasurer: Melissa Depies  
[mdepies@village.fredonia.wi.us](mailto:mdepies@village.fredonia.wi.us)

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## AGENDA

### FREDONIA VILLAGE BOARD MEETING UPDATED

**Thursday, September 7th, 2023 at 7:00PM**  
Fredonia Government Center - Board Room  
242 Fredonia Avenue, Fredonia, Wisconsin

#### THE FOLLOWING BUSINESS WILL BE BEFORE THE VILLAGE BOARD FOR INITIATION, DISCUSSION, CONSIDERATION, DELIBERATION AND POSSIBLE FORMAL ACTION

1. Call to Order
2. Pledge of Allegiance / Roll Call
3. Consent agenda:
  - a) Approve Minutes of August 17<sup>th</sup>, 2023 Village Board Meeting.
  - b) Approve General Fund, Water and Sewer Invoices.
  - c) Approve Village Trick or Treating on Saturday, October 28<sup>th</sup>, 2023 from 4:00PM to 7:00PM.
4. Public Comments  
Please note public comments are limited to five minutes per person
5. Presentations:
  - a) 2024 Budget Preview
6. Report on Village Committees by:
  - a) Zoning Board of Appeals
7. Items for Discussion and/or Action:
  - a) Discussion and Possible Recommendation on Joint Review Board Appointments.
    1. Village Representative
    2. Citizen Representative
  - b) Motion to Approve 2024 Capital Improvement Projects List.
  - c) Discussion and Possible Action on Ordinance 2023-8: Pertaining to the Permitting of Food Trucks

1. Motion to Approve Ordinance 2023-8: Pertaining to the Permitting of Food Trucks
  2. Motion to Approve Food Truck Permit Fee
  - d) Motion to Approve Ordinance 2023-7: Eliminating the Architectural Control Board and Providing Its Authority to the Planning Commission and Altering the Fence Permitting Process.
  - e) Motion to Approve Ordinance 2023-10: Amending 132-4 Standing Committees
  - f) Motion to Approve Geotechnical Contract for Industrial Park TID #3.
8. Correspondence
- a) Mid-Moraine Municipal Association Dinner Meeting-September 27, 2023
9. Items for future consideration by Village Board.
10. Adjournment

UPCOMING MEETINGS:

Plan Commission – September 11<sup>th</sup>, 2023  
Architectural Control Board – September 20<sup>th</sup>, 2023, if necessary  
Village Board – September 21<sup>st</sup>, 2023

**UPON REASONABLE NOTICE**, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact the Village Clerk at (262) 692-9125.

Michelle Johnson is inviting you to a scheduled Zoom meeting.

Topic: September 7, 2023 Village Board Meeting  
Time: Sep 7, 2023 07:00 PM Central Time (US and Canada)

Join Zoom Meeting  
<https://us02web.zoom.us/j/89381756138>

Meeting ID: 893 8175 6138

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One tap mobile  
+16469313860,,89381756138# US  
+19292056099,,89381756138# US (New York)

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## FREDONIA VILLAGE BOARD MEETING MINUTES

Thursday, August 17<sup>th</sup>, 2023 at 7:00 PM

Fredonia Government Center - Board Room  
242 Fredonia Avenue, Fredonia, Wisconsin

1. President Gehrke called the meeting to order at 7:00PM, followed by the Pledge of Allegiance.
2. Board members present: President Gehrke, Trustee Paape, Trustee Haas, Trustee Abegglen, Trustee Dohrwardt, Trustee Bartz, Trustee Meyle.  
Staff members present: Administrator Jenkins, Clerk Johnson, Marshal Davel, Treasurer Depies, Paramedic Van Natta, Firefighter Courtright.  
Public present: Family members of Paramedic Van Natta and Firefighter Courtright, Jennifer Walsh and family members, Representative from CRS Brian Stracke.
3. Public Comment: none
4. Consent Agenda:  
**Motion to Approve the Agenda with a Change in Agenda Item 9C from “Contract” to “Letter of Acknowledgement”** made by Trustee Dohrwardt.  
Seconded by Trustee Bartz.  
Passed by unanimous vote.  
  
**Motion to Approve Minutes of August 3rd, 2023 Village Board Meeting, General Fund, Water and Sewer Invoices, Temporary Class “B” Retailer’s License for OWSBA for Movie In The Park on September 8, 2023 and Class B Combination Liquor License Application from Jen’s Place, LLC Agent: Jennifer Welch, 504 Fredonia Ave, Fredonia WI, 53021** made by Trustee Abegglen.  
Seconded by Trustee Haas.  
Passed by unanimous vote.
6. Presentations
  - a) Clerk Johnson administered the oath of office to Paramedic Josh Van Natta Paramedic.
  - b) Clerk Johnson administered the oath of office to Firefighter Joseph Courtwright.
  - c) Administrator Jenkins presented the Village of Fredonia Strategic Plan.

*President Gehrke added that the priorities identified through the planning process aligned with discussions and decisions made at the committee level. He was encouraged to see that the Board is moving in the direction that community members want.*

- d) Commercial Recreation Specialists Representative Brian Stracke gave a Splash Pad Presentation.

*President Gehrke asked if the Village could utilize staff and donated labor to cut back on costs. Mr. Stracke stated that CRS could do as much as the Village would like, and assist Village contractors if necessary. Trustee Haas asked how many square feet the splash pad would be at the \$300,000 estimate. Mr. Stracke responded that \$300,000 was average cost for a flow through splash pad. Trustee Paape expressed concern about dogs near children playing at the splash pad and asked how much water would be used. Mr. Stracke said there were no sanitary concerns relating to animals and that a flow through system would not use more than 50,000 gallons per day. Mr. Stracke extrapolated the costs over 15 years. Trustee Meyle asked if the splash pad would be a free service to residents or if municipalities charge. Mr. Strack said most were free to residents, but that it was the Board's decision. President Gehrke asked if the splash pad would be on a timer. Mr. Stracke responded that there are timers and staff can easily control access. Trustee Dohrwardt asked if waste water would be returned to the plant. Administrator Jenkins responded that the water would go to the storm sewer, and Mr. Stracke outlined different drainage options.*

7. Report on Village Committees by:

- a) **Parks and Recreation Committee:** *Trustee Bartz gave an overview of the most recent meeting, including debriefing the Mud Run and ideas for next year. Movie in the Park was successful and dry. The committee began making tentative plans for next year's events and park upgrades. Trustee Paape asked what the cost of Movie in the Park is to the Village. Trustee Bartz responded that generous sponsors cover cost to the movie rights, the Tech Committee sets up donated equipment, and that there is no cost to the Village.*
- b) **150<sup>th</sup> Celebration Subcommittee:** *President Gehrke stated that he, a group of citizens, and Trustee Bartz met to begin planning the event. They picked June 29<sup>th</sup>, 2024 to hold the event. They discussed putting a time capsule in the Marshal's building, a craft fair, and games. A future meeting will be planned.*
- c) **Technology Committee:** *Trustee Abegglen said the committee met to discuss Movie in the Park and to start planning to replace microphones in the board room. They met with a vendor and Village staff will follow up for quotes.*

8. Report on Operations of Village by:

- a) **Village President:** *President Gehrke updated the board on the progress Hillcrest had made in laying storm sewer, curbs and gutter. Trustee Dohrwardt asked if anyone was inspecting that work. President Gehrke said they would make sure an engineer inspected.*
- b) **Village Administrator:** *Administrator Jenkins added to his report to say that staff had been working closely with the auditor, resulting in line item changes. The CIP list has been approved by the Finance Committee. He stated that he was further along in the budgeting process than he expected, but was waiting on numbers from the state and*

requests from department heads. He would present an overview early September. He thanked the DPW for the support with the Mud Run and updated the Board on clarifier repairs, street repairs, and the SCADA system installation. He attended an economic development meeting for Ozaukee County. Mirror Image has almost finalized their developer's agreement. Trustee Meyle asked when Mirror Image was planning to begin construction. Administrator Jenkins responded that they planned to build at the same time the Village was beginning construction.

- c) **Village Marshal:** Marshal Davel added to his report by saying that he felt pets should not be allowed at the splash pad site. He stated that parades were very difficult to staff and suggested utilizing the same route of the Fire Department's 100<sup>th</sup> Anniversary parade when planning the 150<sup>th</sup> Celebration. Trustee Paape mentioned that he'd heard reports of speeding on Fredonia Ave and asked where the Marshal planned to move the speed signs. Marshal Davel responded the Village would need to purchase a new speed sign if they wanted one installed permanently at that location. President Gehrke asked if it was effective to move speed signs around the Village. Marshal Davel responded his preference was to have permanent signs, as they do provide some deterrent. Trustee Bartz asked if the sign on West Martin had been repaired. Marshal Davel responded that parts had been purchased. Trustee Meyle asked for clarification on the arrest records in Marshal Davel's report. He clarified that the numbers represented were for the entirety of last year and that currently they have had roughly the same number of arrests as last year.
- d) **Fire Chief:** Chief Weyker was not present, report on file.
- e) **Public Works/Wastewater Treatment Plant:** Director Paulus was not present. Report on file.
- f) **Clerk:** Clerk Johnson added to her filed report by encouraging the Trustees to send any interested individuals to Village Hall to apply to work the polls in 2024.
- g) **Treasurer:** Treasurer Depies stated that the office was catching up.
- h) **Ozaukee County District 2 Supervisor:** Trustee Haas continued to express frustration that Paramedic funds are still being debated, and explained committee-level activity and that a proposed \$325,000 one-time payment could be made to the Village. Trustee Haas stated this amount is insufficient to run the EMS program. He petitioned the County Board to move the day time meeting on September 6 to an evening meeting to allow more people to attend, and is hoping it will pass at the Executive Committee meeting. Trustee Haas clarified that it would cost over \$700,000 to fund the program over three years. Trustee Paape asked if the proposed dispatch center could utilize these grant funds. Trustee Meyle stated the government exists to protect the people, and EMS protects the people. Administrator Jenkins updated the Board on what the Village has spent on the program and that they have yet to see any reimbursement money. Trustee Haas stated that they haven't be reimbursed because they don't have it figured out yet. Trustee Haas encouraged phone calls to the Executive Committee and the County Administrator to advocate for the Village.

9. Items for Discussion and/or Action

- a) **Motion to Approve Resolution 2023-M: A Resolution to Approve 2023 Q2 Line Item Corrections** made by Trustee Haas.

Seconded by Trustee Abegglen

Administrator Jenkins explained these changes were a result of the recent audit. He gave an overview and pointed out the large increase in the water line item that were repair items. All funds balanced except water, which the Board addressed at a previous meeting by

*approving a rate increase.*

Passed by unanimous vote.

- b) **Motion to Adopt the Village of Fredonia Strategic Plan** made by Trustee Dohrwardt.

Seconded by Trustee Haas.

Passed by unanimous vote.

- c) **Motion to Approve ~~Contract~~ Letter of Acknowledgment with Commercial Recreation Specialists for Splash Pad** made by Trustee Abegglen.

Seconded by Trustee Bartz.

*Administrator Jenkins stated that this letter starts a relationship with CRS. They would work in tandem with Parks and Recreation to create the design and determine final costs. He clarified that no tax payer dollars would be spent on the project, instead using ARPA dollars and a fundraising campaign to pay for it. He suggested that spring of 2025 was an appropriate timeline for fundraising. Trustee Haas asked if CRS would design the splash pad without charging a fee if the Village decides not to build. Mr. Stracke responded that they would design without an upfront cost, and if the Village went with another vendor there would be a small design fee. Trustee Haas stated that he had a shorter time frame in mind and that funds should be raised by and that the \$100,000 should go to road maintenance. He suggested September 2024 as a deadline. Administrator Jenkins asked for two holiday cycles as folks tend to be more generous at that time of year, suggesting January 31, 2025. Trustee Dohrwardt suggested putting an alternate plan into the CIP list for these funds. President Gehrke stated that the Board should give fundraising a shot, explaining that the Village would collect letters of commitment and donations of labor instead of cash. Trustee Haas asked to state on the record that no tax payer dollars would be spent on the splash pad. Trustee Paape asked the Board to refrain from using social media.*

Passed by 5-2 vote.

President Gehrke: Aye

Trustee Paape: Nay

Trustee Haas: Aye

Trustee Abegglen: Aye

Trustee Dohrwardt: Nay

Trustee Bartz: Aye

Trustee Meyle: Aye

10. **Correspondence:** *President Gehrke stated that Mid Moraine was holding two meetings in September, one to select Legislative Committee on September 13, and the dinner meeting on September 27. There is no deadline to RSVP.*
11. **Items for Future Consideration by Village Board:** *Trustee Paape asked what this agenda item means, and reinforced the importance of investing in public safety and infrastructure. He stated that he doesn't believe the splash pad will happen. He also questioned where the funds for the amphibious vehicle went. Administrator Jenkins stated that the amphibious vehicle wasn't on the CIP list just approved by the Finance Committee. Administrator Jenkins clarified that it is the role of the Finance Committee to approve the CIP list, which, in turn would be part of the full budget approved by the Village Board. President Gehrke clarified that the "Items for Future Consideration" were items that the Board wishes to consider at a future meeting.*
12. Motion to adjourn made by Trustee Haas.  
Seconded by Trustee Abegglen.  
Passed by unanimous vote.

Meeting adjourned at 8:54PM.

DRAFT

9/05/2023 10:23 AM

In Progress Checks - Full Report - ALL

Page: 1

ALL Checks by Payee

ACCT

GENERAL CHECKING & MONEY MARKET

Dated From:

From Account:

Thru:

Thru Account:

Voucher Nbr	Check Date	Payee	Amount
	8/31/2023	APPLETON SIGN COMPANY	
		GRAPHICS FOR EXPLORER	
351-00-58100-901-000		PARAMEDIC VECHICLE CAPITAL	1,065.78
		GRAPHICS FOR EXPLORER	
		Total	1,065.78
	8/31/2023	AQUAFIX, INC.	
		DAZZEL SEWER SWEETENER	
660-00-53610-000-827		OTHER OPERATING	710.00
		DAZZEL SEWER SWEETENER	
		IN009012	
		Total	710.00
	8/31/2023	ARNOLD'S ENVIRONMENTAL SERVICES, INC.	
		PORTA POTTY	
100-00-55200-350-000		REPAIR/MAINTENANCE PARKS	150.00
		FREEDOM PARK	
		0000906845	
100-00-55200-350-000		REPAIR/MAINTENANCE PARKS	330.00
		MARIE KRAUSE PARK	
		0000905556	
100-00-55200-350-000		REPAIR/MAINTENANCE PARKS	150.00
		OAK PARK	
		0000905278	
		Total	630.00
	9/05/2023	ASSOCIATED TRUST COMPANY	
		GO BOND MONITORING	
660-00-53610-000-852		OUTSIDE SERVICES EMPLOYED	475.00
		GO BOND MONITORING	
		24523	
		Total	475.00
	8/31/2023	ASSOCIATION OF OZAUKEE COUNTY FIRE DEPTS.	
		ASSOCIATION ANNUAL DUES	
350-00-52250-501-000		TRAINING/EDUCATION	150.00
		ANNUAL DUES	
		INV041023	
		Total	150.00
	9/05/2023	AURORA MEDICAL CENTER GRAFTON LLC	
		PHARMACY ITEMS	
350-00-52280-809-000		AMBULANCE EXP-MEDICAL SUPPLIES	632.77
		PHARMACY ITEMS	
		136-CI0000147	
		Total	632.77



ALL Checks by Payee  
GENERAL CHECKING & MONEY MARKET

ACCT

Dated From:  
Thru:

From Account:  
Thru Account:

Voucher Nbr	Check Date	Payee	Amount
	8/31/2023	BADGER METER, INC. BEACON HOSTING SERVICE	
600-00-53700-000-681		OFFICE SUPPLIES BEACON HOSTING SERVICE	169.05
		80137716	
		Total	169.05
	8/31/2023	BOEHLKE BOTTLED GAS CORP. PROPANE	
100-00-53240-351-000		GASOLINE/DIESEL HWY EQUIPMENT PROPANE	62.78
		362182	
		Total	62.78
	8/31/2023	COMPARIN, CALVIN L. JANITORIAL SERVICE	
100-00-51600-350-000		REPAIR/MAINTENANCE VILLAGE HAL JANITORIAL SERVICE	240.00
		713	
		Total	240.00
	8/31/2023	EMERGENCY MEDICAL PRODUCTS, INC. MEDICAL SUPPLIES	
350-00-52280-809-000		AMBULANCE EXP-MEDICAL SUPPLIES MEDICAL SUPPLIES	271.23
		2576600	
		Total	271.23
	8/31/2023	FRONTIER TELEPHONE VH	
100-00-51600-221-000		TELEPHONE VILLAGE HALL TELEPHONE VH	323.40
		082523	
		Total	323.40
	8/31/2023	GALLS, LLC. FIRE/EMS UNIFORMS	
350-00-52230-303-000		OPERATING EXP.-OFFICE SUPPLIES TROUSERS	224.97
		025270590	
350-00-52230-303-000		OPERATING EXP.-OFFICE SUPPLIES TROUSERS	1,994.74
		025369239	
350-00-52230-303-000		OPERATING EXP.-OFFICE SUPPLIES TIE	29.97
		025472988	
350-00-52230-303-000		OPERATING EXP.-OFFICE SUPPLIES SHIRTS	2,427.54
		025349924	

Dated From: From Account:  
 Thru: Thru Account:

Voucher Nbr	Check Date	Payee	Amount
350-00-52230-303-000		OPERATING EXP.-OFFICE SUPPLIES	224.97
		TROUSERS 025437730	
350-00-52230-303-000		OPERATING EXP.-OFFICE SUPPLIES	43.60
		POLO 025437753	
350-00-52230-303-000		OPERATING EXP.-OFFICE SUPPLIES	224.97
		TROUSERS 025461831	
<b>Total</b>			<b>5,170.76</b>

8/31/2023 HAWKINS, INC.

CHEMICALS

660-00-53610-000-826		CHEMICALS	3,924.89
		CHEMICALS 6553780	
600-00-53700-000-630		CHEMICALS FOR WATER	394.94
		WATER CHEMICALS 6553779	
600-00-53700-000-630		CHEMICALS FOR WATER	323.94
		WATER CHEMICALS 6566905	
<b>Total</b>			<b>4,643.77</b>

8/31/2023 HERITAGE PUBLISHING CO. INC.

DOOR TAGS

100-00-52100-310-000		OFFICE SUPPLIES POLICE	425.00
		DOOR TAGS	
<b>Total</b>			<b>425.00</b>

8/31/2023 HYDROCORP

CROSS CONNECTION CONTROL

600-00-53700-000-682		CONTRACTUAL SERVICES	513.00
		CROSS CONNECTION CONTROL 0074020-IN	
600-00-53700-000-682		CONTRACTUAL SERVICES	609.00
		CROSS CONNECTION CONTROL 0073773-IN	
<b>Total</b>			<b>1,122.00</b>

8/31/2023 KROEGER, MIKE

CLOTHING ALLOWANCE

100-00-53270-130-000		EMPLOYEE BENEFITS	47.48
		CLOTHING ALLOWANCE	
<b>Total</b>			<b>47.48</b>

8/31/2023 NORTH CENTRAL LABORATORIES, INC.

CHEMICALS LAB/SEWER

ALL Checks by Payee  
GENERAL CHECKING & MONEY MARKET

ACCT

Dated From:  
Thru:

From Account:  
Thru Account:

Voucher Nbr	Check Date	Payee	Amount
630-00-54100-000-630		LAB CHEMICALS	435.31
		NITRATE/PHOSPHATE/DESICCANT	492000
630-00-54100-000-630		LAB CHEMICALS	195.40
		SLUDGE JUDGE ULTRA	491705
660-00-53610-000-826		CHEMICALS	349.43
		PHOSPHORUS/BB-200	491705
<b>Total</b>			<b>980.14</b>

8/31/2023 OZAUKEE COUNTY HWY. DEPT.  
DIESEL FUEL-DPW/FIRE

100-00-53240-351-000		GASOLINE/DIESEL HWY EQUIPMENT	330.81
		DIESEL FUEL	BILL0032798
350-00-52280-812-000		AMBULANCE FUEL/UTILITIES	222.15
		DIESEL FUEL-AMBULANCE	BILL0032801
350-00-52230-302-000		OPERATING EXPENSE-FUEL	186.74
		DIESEL FUEL-FIRE	BILL0032801
<b>Total</b>			<b>739.70</b>

8/31/2023 PARKSIDE AUTO CENTER, INC.  
VEHICLE REPAIRS

100-00-53240-350-000		REPAIR/MAINTENANCE HWY EQUIPME	93.29
		OIL CHANGE/TIRE ROTATION	16926
100-00-53240-350-000		REPAIR/MAINTENANCE HWY EQUIPME	883.92
		MISS-FIRE ISSUES-04 GMC	16886
<b>Total</b>			<b>977.21</b>

8/31/2023 PORT PUBLICATIONS  
PUBLIC NOTICE-VARIANCE/ZONING

100-00-51420-320-000		ADMIN PUBLICATIONS, DUES	55.77
		PUBLIC NOTICE-VARIANCE	00174058
100-00-51420-320-000		ADMIN PUBLICATIONS, DUES	132.14
		PUBLIC NOTICE-ZONING CODE	00174161
<b>Total</b>			<b>187.91</b>

8/31/2023 PORT WASHINGTON SENIOR CENTER  
SENIOR CENTER DUES-12 MEMBERS

100-00-55200-390-000		OTHER - TREE LIGHTING	595.00
		SENIOR CENTER DUES-12 MEMBERS	
<b>Total</b>			<b>595.00</b>

ALL Checks by Payee  
GENERAL CHECKING & MONEY MARKET

ACCT

Dated From: From Account:  
Thru: Thru Account:

Voucher Nbr	Check Date	Payee	Amount
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	8/31/2023	RABUCK, RICK	
		EQUIPMENT PARTS	
100-00-53240-350-000		REPAIR/MAINTENANCE HWY EQUIPME PWR RTD BELT/O'REILLY 8/15/23	84.38
100-00-53240-350-000		REPAIR/MAINTENANCE HWY EQUIPME POWER PLUG/SOCKET/BRUSH/O'REILLY 8/30/23	28.95
		Total	113.33
<hr/>			
	8/31/2023	SABEL MECHANICAL, LLC.	
		REMOVE/INSTALL PUMP	
660-00-53610-000-852		OUTSIDE SERVICES EMPLOYED REMOVE/INSTALL PUMP	5,515.82
		230478	
		Total	5,515.82
<hr/>			
	8/31/2023	SHERWIN-WILLIAMS CO.	
		PAINT/SUPPLIES	
100-00-53300-350-000		REPAIR/MAINTENANCE STREETS INV FLUOR GREEN MARKING PAINT	125.88
		6598-6	
100-00-53300-350-000		REPAIR/MAINTENANCE STREETS GRAY PRIMER/SAF YELLOW	90.72
		6081-3	
100-00-53300-350-000		REPAIR/MAINTENANCE STREETS HANDICAP BL	160.68
		6353-6	
		Total	377.28
<hr/>			
	8/31/2023	SPECTRUM BUSINESS	
		FD INTERNET	
350-00-52280-801-000		AMBULANCE EXP-UTILITIES FD INTERNET	269.01
		0021708080923	
		Total	269.01
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	8/31/2023	STRAND ASSOCIATES, INC.	
		ENGINEERING SERVICES	
400-00-53100-210-000		HWY. & STREET ENGINEERING BUSINESS PARK EXPANSION	2,957.84
		0200334	
400-00-53100-210-000		HWY. & STREET ENGINEERING BUSINES PARKCSM/TID 3 MAP	1,086.55
		0200333	
		Total	4,044.39
<hr/>			
	8/31/2023	SUPER SUDS FREDONIA	
		CAR WASH-PD	

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ACCT

Dated From:  
Thru:

From Account:  
Thru Account:

Voucher Nbr	Check Date	Payee	Amount
100-00-52100-390-000		SUPPLIES/EXPENSES POLICE	500.00
		CAR WASH-PD	1055
<b>Total</b>			<b>500.00</b>
8/31/2023 TNT Service			
VEHICLE REPAIRS			
100-00-53240-350-000		REPAIR/MAINTENANCE HWY EQUIPME	672.17
		DRAIN/FILL CRANKCASE-03 STERLING	9942
<b>Total</b>			<b>672.17</b>
8/31/2023 USA BLUE BOOK			
BARRICADES			
100-00-53300-350-000		REPAIR/MAINTENANCE STREETS	95.95
		PLASTIC A FRAME-2 BOARD	INV00098580
<b>Total</b>			<b>95.95</b>
8/31/2023 VERONA SAFETY SUPPLY, INC.			
BIOHAZARD BAG/TRAFFIC CONES			
100-00-53300-390-000		SUPPLIES/EXPENSES STREET MAINT	12.48
		BIOHAZARD BAG	82352
100-00-53300-350-000		REPAIR/MAINTENANCE STREETS	308.04
		TRAFFIC CONES	82205
<b>Total</b>			<b>320.52</b>
8/31/2023 WE ENERGIES			
GAS/ELECTRIC SERVICE			
100-00-51600-220-000		ELECTRIC VILLAGE HALL	541.56
		FGC-ELECTRIC	4712013552
100-00-51600-223-000		GAS VILLAGE HALL	75.65
		FGC GAS	4712013552
100-00-55200-220-000		ELECTRIC PARKS	22.42
		MARIE KRAUSE PARK	4710118699
660-00-53610-000-827		OTHER OPERATING	31.12
		HMTR WAST WATER-GAS	4710583516
350-00-52230-302-100		OPERATING EXPENSE-GAS/OIL	28.07
		HMTR-201 S MILW-GAS	4708830271
100-00-52100-223-000		GAS UTILITY POLICE	9.57
		416 FREDONIA AVE	4710577102

ALL Checks by Payee  
GENERAL CHECKING & MONEY MARKET

ACCT

Dated From:  
Thru:

From Account:  
Thru Account:

Voucher Nbr	Check Date	Payee	Amount
100-00-53270-223-000		GAS BUILDINGS (SHOP)	28.76
		GARAGE-420 WHEELER AVE-GAS	4710615558
660-00-53610-000-821		FUEL & POWER EXPENSE	64.02
		LIFT STATION-954 RIDGEWAY-ELECTRIC	4710517582
660-00-53610-000-827		OTHER OPERATING	13.33
		LIFT STATION-954 RIDGEWAY-GAS	4710517582
100-00-55200-220-000		ELECTRIC PARKS	26.23
		REGAL DR-ELECTRIC	4710529879
350-00-52230-302-400		OPERATING EXPENSE-ELECTRIC	950.35
		FIRE STATION-ELECTRIC	4708794201
100-00-55200-220-000		ELECTRIC PARKS	27.87
		FIREMANS PARK-AREA LIGHTING	4708849178
100-00-53270-220-000		ELECTRIC BUILDINGS/GROUNDS	216.64
		MAINT BLDG 420 WHEELER	4710948375
<b>Total</b>			<b>2,035.59</b>

8/31/2023 WEX BANK

UNLEADED FUEL DPW/PD

100-00-53240-351-000		GASOLINE/DIESEL HWY EQUIPMENT	819.27
		UNLEADED FUEL DPW	91212773
100-00-52100-350-000		REPAIR/MAINTENANCE POLICE	89.29
		UNLEADED FUEL PD	91212773
<b>Total</b>			<b>908.56</b>

8/31/2023 WILLIAM/REID

CERLIC CALIBRATION LENS

660-00-53610-000-833		MAINTENANCE-WWTP EQUIPMENT	367.34
		CERLIC CALIBRATION LENS	60318
<b>Total</b>			<b>367.34</b>

8/31/2023 WISCONSIN DOCUMENT IMAGING

COPIES

100-00-51600-400-000		TECHNOLOGY VILLAGE HALL	20.50
		COPIES	220161
<b>Total</b>			<b>20.50</b>

8/31/2023 WISCONSIN HUMANE SOCIETY

STRAY DOGS

9/05/2023 10:23 AM

In Progress Checks - Full Report - ALL  
ALL Checks by Payee  
GENERAL CHECKING & MONEY MARKET

Page: 8  
ACCT

Dated From: From Account:  
Thru: Thru Account:

Voucher Nbr	Check Date	Payee	Amount
100-00-52100-390-000		SUPPLIES/EXPENSES POLICE	50.00
		STRAY DOGS	2635
			Total
			50.00
		Grand Total	34,909.44

9/05/2023 10:23 AM

In Progress Checks - Full Report - ALL

Page: 9

ALL Checks by Payee

ACCT

GENERAL CHECKING & MONEY MARKET

Dated From:  
Thru:

From Account:  
Thru Account:

	Amount
<hr/>	
Total Expenditure from Fund # 100 - GENERAL FUND	7,826.60
Total Expenditure from Fund # 350 - FIRE DEPARTMENT	7,881.08
Total Expenditure from Fund # 351 - PARAMEDIC	1,065.78
Total Expenditure from Fund # 400 - TID NO. 3	4,044.39
Total Expenditure from Fund # 600 - WATER UTILITY	2,009.93
Total Expenditure from Fund # 630 - LABORATORY	630.71
Total Expenditure from Fund # 660 - SEWER UTILITY	11,450.95
Total Expenditure from all Funds	34,909.44





## FREDONIA ZONING BOARD OF APPEALS MEETING MINUTES

Wednesday, August 23, 2023 – 6:00 PM

Fredonia Government Center - Board Room

242 Fredonia Avenue, Fredonia, Wisconsin

1. Chairman Weyker called the meeting to order at 6:00PM followed by the Pledge of Allegiance.
2. Members Present: Chairman Weyker, Member Donald, Member Rodgers  
Member Fatla, Member Redmond.  
Members Absent: Member Polzin, Member Quade  
Staff Present: Administrator Jenkins, Attorney Woodward, Clerk Johnson,  
Inspector Derler  
Public Present: Applicants Brad and Melissa Sherman, Jessica Risse, interested  
members of the public.
3. Consent Agenda:
  - a) **Motion to Approve Minutes from the December 15, 2022 Zoning Board of Appeals Meeting** made by Member Donald.  
Seconded by Chairman Weyker.  
Passed by unanimous vote.
4. Public Hearing:
  - a) **Report by Zoning Administrator on a Variance Request for Property Address 328 Deer Meadow Dr. Fredonia, WI, 53021 (Parcel Number 090800017000):** Administrator Jenkins reviewed Applicant Sherman's process to date, outlined the ways in which he believed Mr. Sherman's application met with legal standards, and recommended the Board to approve Mr. Sherman's request for a variance
  - b) **A Public Hearing for the Purpose of Hearing Public Comment on and Reaction to a Requested Variance.**  
**Property Address: 328 Deer Meadow Dr. Fredonia, WI, 53021 (Parcel Number 090800017000)**

**Variance Requested: Village of Fredonia Zoning Code § 575-83. Accessory uses, buildings or structures. Applicant wishes to construct a play structure five feet from property line.**

**Applicant: Bradley Sherman, 328 Deer Meadow Dr. Fredonia, WI.**

**Agent: Same**

**Applicant Bradley Sherman**, stated that he first contacted the Village in May and was assured by Inspector Derler that no permits were needed to build a child's playset on his property. After approximately seven weeks of building, Administrator Jenkins and Inspector Derler stopped by to investigate an allegation of a fence being constructed. Mr. Sherman was informed that he would need to request a variance to build the playset close to the lot line. Mr. Sherman said that his was a 1/3 acre lot, and the required 25 foot setback was unreasonable. He added that he had already invested a significant amount of money in construction supplies, and to stop building would be a financial hardship. He was careful to build his playset within the dimensions allowable for a shed. Mr. Sherman turned in a petition signed by neighbors in support of the playset, highlighted a letter written in support of the playset, and requested a 4 foot setback.

**Jessica Risse** stated that her property value would be adversely affected by the size and construction of the playset, and that the style of the play set was not consistent with the character of the neighborhood. Ms. Risse said that the playset obstructed views from her home. She felt that, as construction costs exceeded \$500.00, a building permit should have been required and that there was no justification presented to support granting a variance. Ms. Risse expressed frustration that trees had been planted on the lot line.

**Jim Russel** stated that he can see rooflines over the top of the play set and had no issue with it being built.

**Linda Mitchell** quoted Zoning Ordinance 575-124. She stated that when her daughter (Ms. Risse) first moved to the property, the Sherman's garden had been planted over the lot line onto Ms. Risse's property. She stated that Mr. Sherman had trespassed onto the Risse property to maintain trees. Ms. Mitchell has observed other playsets in the Village adhering to the required 25 foot setback. Ms. Mitchell was concerned that there were trees and now a playset on easements that may prohibit access by emergency vehicles and that the size of the playset was unsafe for children to play on. She said that construction continued after the Village required Mr. Sherman to apply for a variance.

**Linda Holstadt** can see the playset from her property and stated that her children are friends with the Sherman children. They are excited to play on the completed playset.

**Natalie Eippert** can see the Sherman's back yard. She has watch construction progress and is happy to see children playing outside.

**Angela Tremont** views the neighborhood from her backyard. She stated the set does not impact her sightlines and that the trees the Sherman's have planted are nice to look at.

**Jason Genser** can see the playset from his kitchen window and stated it does not impact his life. He highlighted that Mr. Sherman built the set within the allowable dimensions for a shed within the Village.

**Motion to close the Public Hearing** made by Member Redmond.

Seconded by Member Donald.

Passed by unanimous vote.

**Motion to Approve Variance Request for Property Address 328 Deer Meadow Dr. Fredonia, WI, 53021 (Parcel Number 090800017000)** made by Member Donald.

Seconded by Member Rodgers.

Member Redmond requested Mr. Sherman's playset plans. Attorney Woodward asked that Mr. Sherman submit his drawings for inclusion into the record of proceedings. Administrator Jenkins clarified that the Board is only considering requested setback, not the size of the play set itself. Attorney Woodward cautioned the Board that they were not to consider whether the playset was good for the neighborhood, but whether the testimony has supported the legal standards required in granting a variance, and offered to answer questions the Board may have. Member Donald stated that Mr. Sherman did his due diligence by contacting Village Hall before beginning construction, and that Mr. Sherman was given incorrect information by Village staff. He suggested that staff review the Village's outdated Zoning Code. Chairman Weyker called for a vote.

Passed by unanimous vote.

6. **Items for Future Consideration:** None

7. **Correspondence:** None

8. **Motion to adjourn** made by Chairman Weyker.  
Seconded by Member Donald.

Passed by unanimous vote.

DRAFT

Completed?	Project Description	Department	Cost	Funds Allocated	2024 - Borrowed	2024 - Cash	2025 - Borrowed	2025 - Cash	2026 - Borrowed	2026 - Cash	2027 - Borrowed	2027 - Cash	2028
	Splash Pad	Parks	\$ 200,000.00	ARPA		\$ 100,000.00							
	Meadowbrook/Wheeler Culvert	PW	\$ 150,000.00	Capital Fund	\$ 75,000.00	\$ 75,000.00							
	Skidsteer	PW	\$ 60,000.00	Capital Fund	\$ 60,000.00								
	Ford 2014 DPW Squad - Replace w/ Pickup	PW	\$ 45,000.00	Capital Fund	\$ 45,000.00								
	Highland St - Street	PW	\$ 499,100.00	Capital Fund	\$ 499,100.00								
	Highland St - Water	Water	\$ 438,000.00	Water	\$ 438,000.00								
	Highland St - Sewer	Sewer	\$ 238,700.00	Sewer	\$ 238,700.00								
	Cameras - FD, Hall, DPW, Marshal	ALL	\$ 15,000.00	Multiple		\$ 15,000.00							
	Highland Dr Sidewalk	PW	\$ 10,500.00	Capital Fund		\$ 10,500.00							
	Boardroom Microphones	Village Hall	\$ 10,000.00	Capital Fund		\$ 10,000.00							
	Zero Turn mower 72" Ferris	Parks	\$ 28,000.00	Capital Fund		\$ 28,000.00							
	Village Computer Updates +1 Laptop	Village Hall	\$ 12,000.00	Capital Fund		\$ 12,000.00							
	Welcome Signs	Village Hall	\$ 10,000.00	Capital Fund		\$ 10,000.00							
	Park Tables x6 + Garbage	Parks	\$ 10,000.00	Parks		\$ 10,000.00							
	Trash Pump New	Sewer	\$ 28,000.00	Sewer			\$ 28,000.00						
	Replacement Wastewater Generator	Sewer	\$ 150,000.00	Sewer			\$ 150,000.00						
	GMC 3500 Mini dump 04	PW	\$ 80,000.00	Capital Fund			\$ 80,000.00						
	Freedom Park Sign & Bathroom	Parks	\$ 100,000.00	Capital Fund			\$ 100,000.00						
	Fire Command Vehicle 656	Fire	\$ 55,000.00	Capital Fund			\$ 55,000.00						
	Marshall's Office Roof	PD	\$ 50,000.00	Capital Fund			\$ 50,000.00						
	Pick up-No plow 93	PW	\$ 45,000.00	Capital Fund			\$ 45,000.00						
	UTV with Cab and plow new	Parks	\$ 25,000.00	Capital Fund				\$ 25,000.00					
	Sampler	WWTP	\$ 10,200.00	Sewer				\$ 10,200.00					
	Director Car - '14	PW	\$ 8,000.00	Capital Fund				\$ 8,000.00					
	Well 2 Rehab - 10 Yr Maintenance	Water	\$ 100,000.00	Water					\$ 100,000.00				
	Glass Sludge Storage - 30 Yr Maintenance	Sewer	\$ 90,000.00	Sewer					\$ 90,000.00				
	New Marshal Office Squad	Marshals	\$ 50,000.00	Capital Fund					\$ 50,000.00				
	Bucket Truck 98	PW	\$ 125,000.00	Capital Fund					\$ 125,000.00				
	Case Loader w/plow/wing	PW	\$ 175,000.00	Capital Fund					\$ 175,000.00				
	Plan Optimization Upgrade to Extend Aeration	Water	\$ 3,500,000.00	Water					\$ 3,500,000.00				
	Plow Truck 06	PW	\$ 250,000.00	Capital Fund					\$ 250,000.00		\$ 125,000.00		
	Clarifier Replacement	Sewer	\$ 160,000.00	Sewer					\$ 160,000.00				
	Mini-excavator	PW	\$ 30,000.00	Capital Fund						\$ 30,000.00			
	Generator DPW Addition	PW	\$ 45,000.00	Capital Fund						\$ 45,000.00			
	Muni Parking Lot (Slurry Seal) - 118 Filmore	PW	\$ 4,000.00	Capital Fund						\$ 4,000.00			
	Muni Parking Lot - Stoney Creek (Recon)	PW	\$ 20,000.00	Capital Fund						\$ 20,000.00			
	Wheeler Ave - Street	PW	\$ 221,900.00	Capital Fund							\$ 221,900.00		
	Wheeler Ave - Water	Water	\$ 127,750.00	Water							\$ 127,750.00		
	Wheeler Ave - Sewer	Sewer	\$ 266,000.00	Sewer							\$ 266,000.00		
	Pick up-with plow 12	PW	\$ 55,000.00	Capital Fund							\$ 55,000.00		
	East Wing Addition on FGC for Storage	PW	\$ 250,000.00	Capital Fund							\$ 250,000.00		
	Fire Ladder Truck 660	Fire	\$ 1,500,000.00	Capital Fund							\$ 750,000.00		\$ 750,000.00
					\$ 1,355,800.00	\$ 95,500.00	\$ 508,000.00	\$ 43,200.00	\$ 4,325,000.00	\$ 99,000.00	\$ 1,045,650.00	\$ -	\$ -



## Request for Board Consideration

<b>Item Description:</b> Separating out “Food Truck” from Transient Merchant permitting process	
<b>Report Prepared By:</b> Administrator Jenkins	
<b>Report Date:</b> 08/30/2023	<b>Meeting Date:</b> 09/07/2023
<b>Strategic Priority?</b>	
<ul style="list-style-type: none"> <li>★ Smart Residential, Industrial, or Commercial Growth               <ul style="list-style-type: none"> <li>○ Responsible Fiscal Priority</li> <li>○ Supports Public Safety and Infrastructure</li> <li>○ Encourages Open Communication and Collaboration</li> <li>○ Strong Sense of Community</li> </ul> </li> </ul>	
<b>Fiscal Summary:</b> None	
<b>Budget Line Item:</b> None	
<b>Wisconsin Statute or Local Ordinance:</b> Local Ordinance Section 514	
<b>Background Analysis:</b> Earlier this year it was discovered that the Village Ordinances have no means by which a food truck could be recognized as a legally operating business without following the guidelines for a transient merchant, which included monthly permitting, fees, and approval. After discussion by the Village Board, Administration was tasked to create a way to allow food trucks without being as restrictive.	
<b>Staff Comments:</b> Attorney Woodward, Clerk Johnson, and Administrator Jenkins worked together to create the new Ordinance language and separate permit process that would allow this streamlined process for food trucks.	
<b>Administrator’s Recommendation:</b> Approve	
<b>Action Requested:</b> Motion to Approve Ordinance 2023-8: Pertaining to the Permitting of Food Truck.	
<b>Attachments:</b>	
<ol style="list-style-type: none"> <li>1. Ordinance 2023-8: Pertaining to the Permitting of Food Trucks.</li> <li>2. Proposed Mobile Food Establishment Permit Application</li> </ol>	

**ORDINANCE 2023-8**  
**AMENDING § 514: PERTAINING TO THE PERMITTING OF FOOD TRUCKS**

The Village Board of the Village of Fredonia does ordain as follows:

- 1. That Section 514-1 of the Code of Ordinances be amended to add the text shown in underlining:**

It shall be unlawful for any transient merchant, food truck, direct seller or charitable solicitor to engage in direct sales or solicitation activities within the Village of Fredonia without being registered for that purpose as provided herein.

- 2. That Section 514-2 of the Code of Ordinances be amended to add the following definition:**

**FOOD TRUCK**

A mobile retail food establishment, or a transient retail food establishment, that prepares, serves, or sells any meals, as those terms are defined by Wis. Admin. Code § ATCP 75.04.

- 3. That Section 514-2 of the Code of Ordinances be amended to alter the following definition by adding the language shown in underlining:**

**TRANSIENT MERCHANT**

Any individual who engages in the retail sale of merchandise at any place in this state temporarily, and who does not intend to become a permanent merchant of such place. For purposes of this section, sale of merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of value for the price received. For purposes of this chapter, the term "transient merchant" shall include direct sellers and solicitors seeking donations or funds for an organization, unless excepted. The term "transient merchant" does not include a food truck.

- 4. That Section 514-10 of the Code of Ordinances be created to read as follows:**

514-10 Food truck registration and regulations.

- A.** Permit required. No person or entity shall make retail sales to the public from a food truck without first submitting a permit application to the Village Clerk, which shall contain the following information:

1. Name, address and telephone number of the person, firm, association or corporation that owns and/or operates the food truck;
2. Name, address, and date of birth of the person who will be responsible for the operation of the food truck within the Village (the “manager”);
3. Make, model and license number of any vehicle to be used by the food truck;
4. Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's food truck business within the last five years, the nature of the offense and the place of conviction;
5. If known, the location(s) and schedule(s) on which the food truck intends to operate within the Village.

The applicant shall further present to the Village Clerk for examination the applicant's Wisconsin seller's permit, the Manager's driver's license, state identification card, or passport, and a valid food establishment license for the food truck issued by the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) or by a Wisconsin local health department acting as an agent to the State.

- B.** The Clerk shall issue the food truck permit, which shall be valid for one calendar year or the remainder thereof, when the applicant has provided all information required by (A) and if all of the following are true:
1. The application contains no material omissions or materially inaccurate statements;
  2. No complaints of a material nature have been received against the applicant in the Village or in any other location where applicant conducted similar business;
  3. Neither the applicant nor the Manager has been convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to operate a food truck; or
  4. The applicant has previously failed to comply with any applicable provision of the Municipal Code.
- C.** Revocation of registration may be had under the procedures set forth in § 514-9. Appeals may be had as set forth in § 514-6.
- D.** No food truck shall conduct retail sales upon private property without the consent of the underlying private property owner.
- E.** No food truck shall conduct retail sales upon private property zoned for residential purposes without first seeking and obtaining any relevant zoning approvals or permits.



- F. No food truck shall conduct retail sales upon a public highway directly abutting a residentially zoned parcel except for (a) sales of pre-packaged single servings of frozen desserts between the hours of 10:00 a.m. and 9:00 p.m. or (b) as may be specifically applied for and authorized in advance by the Village Board and in conformance with such restrictions as the Village Board may impose.

PASSED AND ADOPTED by the Village Board of the Village of Fredonia, Ozaukee County, Wisconsin this 7<sup>th</sup> day of September, 2023.

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Daniel Gehrke, Village President

ATTEST:

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Michelle Johnson, Village Clerk



## Mobile Food Truck License

### Application

242 Fredonia Ave  
 PO Box 159  
 Fredonia, Wisconsin 53021  
 (262) 692-9125  
<https://www.fredoniawi.gov/>

**Fee: \$300.00 Annual**

Exemptions: Village-Hosted Festivals and Private Events

### **Applicant's Information**

Name:
Driver's License Number:
Date of Birth:
Permanent Address:
Phone Number:
Email:

### **Employer's Information**

Employer's Name:
Employer's Address:
Employer's Phone Number:
Length of Service with Employer:

### **Description of Activities**

Describe the nature of business to be conducted, merchandise offered, and method of delivery:
Make, model, licence plate number, VIN number, and color of vehicle being used:
Location of vending vehicle or cart: <i>(Please include written authorization from property owner)</i>
Address and phone number where Applicant may be reached for at least seven days after leaving this village:
Have you ever been convicted of any crime or ordinance violation within the last five years?    Yes    No If yes, please explain the nature of the offense:
Do you have any pending charges against you:    Yes    No Please describe the nature of these charges:
Length of time necessary to complete work in the Village:
Hours of the day you will be working in the Village:

**SEE REVERSE FOR ADDITIONAL INFORMATION.**

**Please provide with your application:**

- **Valid Driver’s License** or some other proof of identity as may reasonably be required.
- **A state certificate of examination and approval from the sealer of weights and measures** where applicant’s business requires use of weighting and measuring devices approved by state authority.
- **A state health officer’s certificate** where applicant’s business involves the handling of food or clothing and is required to be certified under state law. Such certificate is to state that the applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for registration is made.
- **WI Seller’s Permit**
- **Vehicle Certificate of Registration**
- **Written authorization from owner of property where vehicle will be parked (if necessary)**

**Registration:**

- Every member of the applicant’s group must fill out a separate registration form. The primary applicant will pay the registration fee.
- License is not transferable.
- Mobile Vendors shall comply with all applicable local, state and federal law.
- The applicant must provide the Village Clerk with the completed registration form of each new hire within thirty (30) days of hiring.

**Please read carefully:**

I declare under penalty of perjury that all of the above information is true and correct to the best of my knowledge and belief. I acknowledge that I have read and understand the rules and regulations pertaining to the conduct of transient merchants, mobile merchants, and solicitors in the Village of Fredonia. I further agree to appoint the Village Clerk as my agent to accept service or process in any civil action brought against me arising out of any sale, service performed or solicitation by me in connection with the direct sales or solicitation activities in the event I cannot, after reasonable effort, be served personally. I voluntarily grant the Village of Fredonia the right to investigate the statements I have made in this application. I understand the Village of Fredonia will be doing a background check on each applicant pursuant to Chapter 514 of the Village’s Code of Ordinances.

Applicant Signature:		Date:	
Village Clerk Signature:		Date:	
Date Received:	Check Number:		
Date Issued:	Date of Expiration:		



## Request for Board Consideration

<b>Item Description:</b> Eliminating the Architectural Control Board and Providing Its Authority to the Planning Commission and Altering the Fence Permitting Process.	
<b>Report Prepared By:</b> Trustee Haas	
<b>Report Date:</b> 08/30/2023	<b>Meeting Date:</b> 09/07/2023
<b>Strategic Priority?</b> <ul style="list-style-type: none"> <li>★ Smart Residential, Industrial, or Commercial Growth</li> <li>○ Responsible Fiscal Priority</li> <li>○ Supports Public Safety and Infrastructure</li> <li>○ Encourages Open Communication and Collaboration</li> <li>○ Strong Sense of Community</li> </ul>	
<b>Fiscal Summary:</b>	
<b>Budget Line Item:</b>	
<b>Wisconsin Statute or Local Ordinance:</b> 19-13(D) and 575-109	
<b>Background Analysis:</b> Currently the Village Planning Commission, by ordinance, has the authority to conduct both site plan and architectural review (575-109 (F)). Having an ARC Board is a duplication of these duties. By removing the ARC Board the Village can streamline approval processes for developments of all sizes.	
<b>Staff Comments:</b> “As this is a policy decision for the Board, the amount of oversight that is desired will be up to the Board” –Admin Jenkins	
<b>Administrator’s Recommendation:</b> Policy Decision	
<b>Action Requested:</b> Motion To Approve Ordinance 2023-7: Eliminating the Architectural Control Board and Providing Its Authority to the Planning Commission and Altering the Fence Permitting Process.	
<b>Attachments:</b> 1. Ordinance 2023-7: Eliminating the Architectural Control Board and Providing Its Authority to the Planning Commission and Altering the Fence Permitting Process.	

**VILLAGE OF FREDONIA**

**ORDINANCE \_\_\_2023-7\_\_\_\_\_**

**ELIMINATING THE ARCHITECTURAL CONTROL BOARD  
AND PROVIDING ITS AUTHORITY TO THE PLANNING COMMISSION  
AND ALTERING FENCE PERMIT PROCESS**

**WHEREAS**, the Village of Fredonia has established an “Architectural Control Board” with the stated purpose of “promot[ing] compatible development aesthetics and stability of property values and to prevent impairment or depreciation of existing developments;” and

**WHEREAS**, the Village of Fredonia has a Planning Commission with the powers and duties set forth by Wisconsin Statute and Village Code; and

**WHEREAS**, the stated purpose of the Architectural Control Board overlaps with the powers and duties of the Planning Commission; and

**WHEREAS**, many area municipalities use their Planning Commission for site plan and architectural review purposes;

**THEREFORE**, the Village Board of the Village of Fredonia do ordain as follows:

**1. That Section 19-13(D) of the Village Code of Ordinances is created to read as follows:**

D. Site plan and architectural review.

For the purpose of promoting compatible development, stability of property values, fostering the attractiveness and functional utility of the community as a place to live and work, preserving the character and quality of the built environment by maintaining the integrity of those areas which have a discernible character or are of a special historic significance, protecting certain public investments in the area, and raising the level of community expectations for the quality of its environment, the Planning Commission is empowered to hear applications for permission to erect, move, reconstruct, extend, alter or change the exterior of any structure; to deny or conditionally approve such application; and take any other necessary action in furtherance of such duties.

**2. That all references to “Architectural Control Board” in the following sections of the Code shall be struck and replaced with “Planning Commission”:**

200-3(C)(5), 200-14(D), 575-16(C), 575-16(E), 575-17(E), 575-18(E), 575-19(C), 575-19(E), 575-20(E), 575-21(E), 575-22(E), 575-23(F), 575-27(F), 575-28(F), 575-29(G), 575-30(F), 575-31(F), 575-32(C).

**3. That Section 575-109(F)(2)(a) be amended by deleting the language struck through:**

(a) Site plan and architectural review. The Planning Commission considers applications and approves, denies or conditionally approves the proposal. Following Planning Commission action, the Village Board is informed of the Planning Commission decision. ~~Once Planning Commission approval is achieved, the item requires Architectural Control Board review and approval.~~

**4. That existing Section 575-109(6) of the Code, entitled “Appeals,” be renumbered to 575-109(7), and that a new section 575-109(6) be created as follows:**

(6) Procedure. Building plans requiring architectural review shall be reviewed at a public meeting. The Planning Commission shall schedule a reasonable time and place for the meeting and cause notice to be mailed to the applicant, the Zoning Administrator, the Building Inspector, and any other parties in interest at least five days prior to the meeting. The applicant may appear in person, by agent, or by attorney. The Planning Commission shall not approve any application unless it finds by a preponderance of the evidence that the proposal comports with the standards set forth in sub. (4). The findings of the Planning Commission shall be indicated in the minutes of its proceedings.

**5. That Section 575-109(3) of the Code be amended to add the language shown in underlining:**

[23] A description of all proposed materials to be used.

**6. That Section 575-110 of the Code be repealed and recreated as follows:**

§ 575-110 Permit or Planning Commission review required.

No structure shall be erected, moved, reconstructed, extended, enlarged, or have its exterior altered or changed without either (a) a permit issued by the Building Inspector or Zoning Administrator or (b) the review and approval of the Planning Commission as set forth in section 575-109(3)-(7).

**7. That Article V of Section 19 of the Code of Ordinances, “Architectural Control Board,” is hereby repealed in its entirety.**

**8. That Section 575-86(H) concerning fence permits be repealed and recreated as follows:**

H. Permits required; process for approval.

1. No person shall construct or maintain any fence without first obtaining a fence permit from the Building Inspector. Application for such a permit shall be made on the form prescribed for that purpose, which shall require the applicant to

provide a site plan showing property lines, fence location, any structures on the property, and details of fence construction including materials and color.

2. If the Building Inspector is satisfied the proposed fence conforms with this section, the Building Inspector shall issue the fence permit. If the Building Inspector is not so satisfied, the Building Inspector shall refer the permit application to the Planning Commission, which shall decide whether the permit may be issued. The Clerk shall make any necessary notifications to the applicant.

PASSED AND ADOPTED by the Village Board of the Village of Fredonia, Ozaukee County, Wisconsin, this 7th day of September, 2023.

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Daniel Gehrke, Village President

ATTEST:

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Michelle Johnson, Village Clerk



## Request for Board Consideration

<b>Item Description:</b> Sunset the Technology Committee	
<b>Report Prepared By:</b> R. Abegglen	
<b>Report Date:</b> 8/29/23	<b>Meeting Date:</b> 09/07/2023
<b>Strategic Priority?</b> <ul style="list-style-type: none"> <li>○ Smart Residential, Industrial, or Commercial Growth</li> <li>★ Responsible Fiscal Priority</li> <li>○ Supports Public Safety and Infrastructure</li> <li>○ Encourages Open Communication and Collaboration</li> <li>○ Strong Sense of Community</li> </ul>	
<b>Fiscal Summary:</b> By eliminating the Tech committee fewer meetings will occur that use Village time and resources.	
<b>Budget Line Item:</b> N/A	
<b>Wisconsin Statute or Local Ordinance:</b> 132-4 (B)	
<b>Background Analysis:</b> Now that we have a full-time staff to research needs and contact vendors, the Tech Committee is no longer needed. If a certain trustee has specialized expertise, they can be consulted on an individual basis or at board meetings.	
<b>Staff Comments:</b> “As this is a policy decision for the Board, the amount of oversight that is desired will be up to the Board” –Admin Jenkins	
<b>Administrator’s Recommendation:</b> None – Policy Decision	
<b>Action Requested:</b> Motion to Approve Ordinance 2023-10: Amending 132-4 Standing Committees.	
<b>Attachments:</b> 1. Draft Ordinance 2023-10 Standing Committees	



**ORDINACE 2023-10**

**AMENDING THE VILLAGE OF FREDONIA CODE OF ORDINANCES  
TITLE 132 VILLAGE BOARD  
SECTION 4 B – STANDING COMMITTEES**

The Village Board of the Village of Fredonia does ordain as follows:

Section 132-4 B is amended by deleting the struck-through text:

§ 132-4 **Standing committees.**

B. Committees established. The following standing committees are established:

- (1) Public Works and Utility (Sewer, Water)/Tree Board Committee.
- (2) Finance and Budget Committee.
- (3) Public Safety Committee.
- (4) Parks and Recreation Committee.
- ~~(5) Tech Committee (Cable TV).~~

PASSED AND ADOPTED by the Village Board of the Village of Fredonia, Ozaukee County,  
Wisconsin this 7<sup>th</sup> day of September, 2023.

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Daniel Gehrke, Village President

ATTEST:

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Michelle Johnson, Village Clerk



## Request for Board Consideration

<b>Item Description:</b> Approval of Geotechnical Contract for Industrial Park TID #3	
<b>Report Prepared By:</b> Administrator Jenkins	
<b>Report Date:</b> 09/05/2023	<b>Meeting Date:</b> 09/07/2023
<b>Strategic Priority?</b> <ul style="list-style-type: none"> <li>★ Smart Residential, Industrial, or Commercial Growth</li> <li>○ Responsible Fiscal Priority</li> <li>○ Supports Public Safety and Infrastructure</li> <li>○ Encourages Open Communication and Collaboration</li> <li>○ Strong Sense of Community</li> </ul>	
<b>Fiscal Summary:</b> \$19,988 Expensed to the TID #3 Fund	
<b>Budget Line Item:</b> 400-00-53400-820-000 "Storm Water"	
<b>Wisconsin Statute or Local Ordinance:</b> N/A	
<b>Background Analysis:</b> A geotechnical study is performed whenever large amount of dirt, soil, and fill are moved on a site or on/off a site. The results of this helps to determine the quality of the soil, any contaminates, and proper management of stormwater. This study is also a requirement by the DNR.	
<b>Staff Comments:</b> Staff reviewed four proposals with Strand Engineering, and determined that ECS Midwest, LLC would net us the most cost-effective testing for the number of drill samples being taken.	
<b>Administrator's Recommendation:</b> Approve	
<b>Action Requested:</b> Motion to Approve Geotechnical Contract for Industrial Park TID #3	
<b>Attachments:</b> <ol style="list-style-type: none"> <li>1. Geotechnical Bid Summary Sheet</li> <li>2. Agreement from ECS Midwest, LLC</li> </ol>	

<b>Firm</b>	GESTRA	PSI	ECS	Terracon
<b>Cost</b>	\$24,928	\$28,245.00	\$19,988	\$19,990
<b>Number of Borings at Site</b>	21	30	29	18
<b>Number of Borings at Hillcrest</b>	3	6	6	6
<b>Total Footage</b>	525	920	797	350
<b>Cost per Footage</b>	\$47.48	\$30.70	\$25.08	\$57.11
<b>Preliminary Report Submittal Date</b>	10/16/2023	10/9/2023	10/18/2023	10/9/2023
<b>Final Report Submittal Date</b>	10/30/2023	10/27/2023	10/25/2023	10/23/2023
<b>Includes Private Locates</b>	No	No, \$200/hr	No, Additional \$750	Yes
<b>Will Provide Certificate of Insurance</b>	Yes	Yes	Yes	Yes
<b>Site Restoration</b>	No	No	No	No



# ECS Midwest, LLC

Proposal for Subsurface Exploration and Geotechnical Engineering Services

## Proposed Business Park Expansion

State Highway 57 and Meadowlark Lane  
Fredonia, Wisconsin

ECS Proposal Number 42:3525-GP

August 22, 2023





August 22, 2023

Mr. Christopher Jenkins  
Village of Fredonia  
242 Fredonia Avenue  
Fredonia, WI 53201  
Email: [cjenkins@village.fredonia.wi.us](mailto:cjenkins@village.fredonia.wi.us)

Cc: Isak Fruchtman – Strand Associates, Inc.  
Email: [Isak.Fruchtman@strand.com](mailto:Isak.Fruchtman@strand.com)

ECS Proposal No. 42:3525-GP

Reference: Proposal for Subsurface Exploration and Geotechnical Engineering Services  
**Proposed Business Park Expansion**  
State Highway 57 and Meadowlark Lane  
Fredonia, Wisconsin

Dear Mr. Jenkins:

As requested, ECS Midwest, LLC (ECS) is pleased to present the following proposal for providing subsurface exploration and geotechnical engineering services for the above referenced project. This proposal outlines our understanding of the project, the proposed scope of services, activity schedule, fees, and authorization requirement.

In preparing this proposal, we have reviewed the Request for Proposal and discussed the overall project with Strand Associates. We have also reviewed the available geologic and geotechnical information for the site vicinity in our files.

## PROJECT BACKGROUND

### Existing Site Conditions

The project site is located northwest of State Highway 57 and Meadowlark Lane in the Village of Fredonia, Ozaukee County, Wisconsin. The subject property is bounded to the north by farmland, to the south by Meadowlark Lane, to the east by State Highway 57, and to the west by industrial developments. The site is predominately undeveloped farmland. A wooded area is present in the northwest corner of the site and a wetland in the southwest corner. Based on the Proposed Grading plan, undated provided with the request for proposal, the site topography is rolling, and the approximate site surface elevations range from EL. 820 to EL. 862 feet.

The stockpile borrow site is located at the north side of Fredonia within the Hillcrest subdivision north of Deer Meadow Drive.

## Project Description

We understand the proposed project will include the design of a 62-acre business park expansion. The expansion includes construction of infrastructure such as roadway pavement, sanitary sewer, watermain and sanitary sewer utilities, and stormwater management areas. Also included is the development of six parcels into turnkey lots for private industrial development.

**Utilities:** It is understood the underground pipes will be open-cut and backfilled with granular material compacted via mechanical compaction methods. ECS understands the depth of underground pipes is estimated to be up to approximately 12 feet below the proposed grade. The utilities are understood to include 1,340 LF of sanitary sewer, 2,820 LF of watermain, and 2,200 LF of storm sewer.

**Pavement:** The development will also include approximately 2,180 LF of paved roadway with a 36-foot-wide urban cross section. The design traffic was not provided to us.

**Stormwater Management Area:** The development will also have two clay lined stormwater management (SWM) ponds. One pond will be in the north outlot and one pond in the south outlot.

**Buildings:** it is understood six parcels ranging in size from 2.5 to 10.51 acres are proposed for industrial developments. At the time this proposal was written, the structure locations, loads and finished floor elevations (FFE) were not available.

We anticipate the structure will be supported by a conventional spread footing foundation system. The settlement tolerance of the proposed structure was not provided. Based on similar type construction we estimate the maximum tolerable settlement is 1 inch total and ½ inch differential.

**Site Grading:** ECS understands approximately 18 feet of fill and 27 feet of cut will be needed to develop the site. The grading will include approximately 2,700 LF of drainage swale.

**Stockpiles:** The Owner is considering importing the material from three stockpiles located within the Hillcrest subdivision on the north side of the Village of Fredonia to the Business Park Expansion site for use as fill material. The stockpiles are generally located north of Deer Meadow Drive, between North Milwaukee Street and Emerald Hills Drive.

***Estimates and presumptions were made in the formation of our scope of services. If different information becomes available and/or the design criteria are changed, we would be pleased to revise our scope of services.***

## SCOPE OF SERVICES

To evaluate the subsurface conditions for the proposed development, a subsurface exploration consisting of a series of Standard Penetration Test (SPT) borings will be performed.

Our integrated services will include drilling borings by drilling crews based on instructions provided by ECS. Our services will also include laboratory testing of representative soil samples, and engineering analyses presented in a site-specific engineering report. Our proposed scope of services includes:

## Field Exploration

- The boring locations will be field marked utilizing a handheld GPS unit. Elevations will be estimated from the Proposed Grading plan and Hillcrest Subdivision Stockpiles plan provided with the request for proposal. If more precise location of the borings or ground elevations at the boring locations is desired, we recommend a surveyor be retained.
- Digger's Hotline will be contacted to mark utilities. Note Digger's Hotline typically only marks up to property lines. Private utilities should be marked by the owner/client prior to the exploration. ECS and its subcontractors will not be responsible for damage to utilities the location of which has not been made aware to us. ECS has included optional scope to subcontract a private utility locator to help identify utilities within the area of the proposed borings. Refer to the **Optional Services** section below for more details.
- Mobilize a track-mounted rotary drilling rig to the site.
- Perform 35 test borings to depths of 20 to 30 feet, for a total of 797 lineal feet of drilling. The general locations of the proposed borings are indicated in the figures below. The following tables list the number and location of the test borings proposed.

PROPOSED BUSINESS PARK BORINGS		
Boring Locations	Number of Borings	Boring Depth(s) (feet)
Roadway/Utility	7	25
	5	20
Parcels	13	20
SWM Areas	2	26
	2	20

PROPOSED STOCKPILE BORINGS		
Boring Locations	Number of Borings	Boring Depth(s) (feet)
Stockpile 1	2	30
Stockpile 2	2	30
Stockpile 3	2	25

The borings will be advanced to the proposed depths below the existing ground surface unless auger refusal causes them to be terminated at a shallower depth.





**Proposed Business Park Boring Locations**





### Proposed Stockpile Boring Locations

- Perform Standard Penetration Tests (SPTs) at 2½-foot intervals to a depth of 15 feet and then 5-foot intervals to the boring termination depth. Continuous sampling is planned at the SWM boring locations.
- Measure depth of free groundwater observed within each borehole at the time of drilling and prior to backfilling.

- Upon completion of subsurface exploration drilling, we will backfill each borehole excavation according to Wisconsin Administrative Code NR141 and mound the excess spoils over the test boring location(s).

Complete rights-of-entry and access to the site are expected to be provided for us as a function of this proposal.

This proposal does not include the use of special OSHA or hazardous drilling techniques or drill crew protection. The client must inform ECS of known environmental site conditions which could affect the health and safety of the drill crew.

Upon completion of drilling operations, the collected representative samples will be returned to our laboratory for further identification and testing.

### Laboratory Services

- Visual classification of the collected soil samples by a geotechnical engineer based on ASTM D2488 (visual-manual) procedure.
- Visual classification of the soil samples retained from the stormwater device area test borings by a Certified Soil Tester based on USDA procedure as required by WDNR Standard 1002 will also be performed.
- Perform basic index laboratory testing, which may include natural moisture content tests (ASTM D2216) and calibrated hand penetrometer resistance tests, on select cohesive soil samples.
- Perform up to 6 particle size distribution analyses (ASTM D422 and/or D1140) or Atterberg limits tests (ASTM D4318), as appropriate.
- Perform up to 3 organic content tests by the loss on ignition method (ASTM D2974).

The results of the laboratory tests will be plotted on the boring logs and/or included on separate test report pages. Additional laboratory testing recommended by ECS will be in accordance with our typical rates and after your authorization.

### Report

A written geotechnical engineering report that presents our findings and recommendations will be prepared after completion of laboratory testing and geotechnical engineering analyses. The geotechnical engineering report will be provided electronically as a PDF and will include the following:

- A review of readily available published soils mapping and/or geologic information.
- Observations from our site reconnaissance and/or available satellite imagery including current site conditions, surface features, and surface topographic conditions.
- A description of the field exploration and laboratory tests performed.

- Records of the field exploration (test boring logs) prepared in accordance with the local standard practice for geotechnical engineering. A boring location diagram will be included.
- Description of the subsurface materials encountered along with groundwater conditions observed. Generalized subsurface cross-sections/profiles may be included that graphically represent the subsurface conditions.
- Recommendations for seismic site class in accordance with Chapter 20 of ASCE 7 as required by the International Building Code (IBC).
- Geotechnical-related design information for support of the proposed utilities, such as depth of water, anticipated excavation difficulties, and anticipated depth of suitable bearing material.
- Roadway pavement subgrade design parameters (i.e., CBR and modulus of subgrade reaction) will be provided and estimated based on the classification and index properties of the anticipated pavement subgrade soil and engineering judgment. Recommendations for pavement subgrade preparation and pavement drainage considerations will also be included. Recommendations for preliminary pavement design can also be provided if the site-specific traffic in 18-kip ESALS is provided.
- Evaluation of the subsurface conditions encountered at the SWM basin boring locations regarding estimates of seasonal high groundwater table, bedrock depths and estimates of infiltration rates as noted in the Wisconsin Department of Natural Resources Conservation Practice Standard 1002 and NRCS will be provided. Preparation of Soil and Site Evaluation-Storm Form SBD-10793 by a Certified Soil Tester per SPS 382.365 and 385, Wis. Adm. Code, and WDNR Standard 1002 for borings located in the SWM basin areas. In addition, reuse of on-site soil as clay liner material as noted in the Wisconsin Department of Natural Resources Conservation Practice Standard 1001 and NRCS will be discussed.
- Preliminary recommended allowable soil bearing pressure(s) for conventional shallow foundations (spread footings) and estimates of predicted foundation settlement. If the subsurface conditions preclude the economical use of a conventional shallow foundation system, we can provide additional recommendations for suitable intermediate foundations, ground improvement options or deep foundations. An estimate to provide these additional recommendations, if needed such as in the case of multiple alternatives, can be provided for your approval prior to proceeding.
- Preliminary recommendations for slab-on-grade floor slabs, including recommendations for subgrade improvements, estimated modulus of subgrade reaction and under slab drainage recommendations, as necessary.

- Evaluation of the on-site soil characteristics encountered in the soil borings, and a discussion regarding the suitability of the on-site materials for reuse as engineered fill to support grade slabs and pavements. We will also include compaction recommendations and generally suitable material guidelines. Ground water concerns relative to the planned construction, if any, will be summarized.
- Recommendations for additional testing and/or consultation that might be required to complete the geotechnical assessment and related geotechnical engineering for this project.

### Geotechnical Review of Plans and Specifications

- A total of 4 hours for reviewing plans and specifications has been allotted. Additional hours, if required, will be on a unit cost basis. It is understood the review is tentatively scheduled for November 2023.

### Evidence of Insurance

- A certificate of insurance with the Village of Fredonia and Strand Associates, Inc. to be listed as additional insureds will be provided.

### OPTIONAL SERVICES

There are other services ECS can conduct that may benefit your project. We have provided a summary of these optional services below for your consideration.

#### Private Utility Clearance

Our subcontracted driller will contact Digger's Hotline to locate underground utilities at the site, but our experience indicates Digger's Hotline will not locate utilities beyond the point of distribution (meters or gauge points) on private property. We will locate the test borings/pits to avoid underground utilities indicated by Digger's Hotline but will not be responsible for private utilities not pointed out to us by the landowner or client prior to drilling activities. ***If private utilities are a concern, we can provide a private utility line locator to reduce owner/client liability.*** Please read the following section on private utility locator services. *[If desired, indicate your request for private utility locate services on the attached Proposal Acceptance sheet.]*

Contracting a private utility locator service is not a guarantee all utilities within a work site will be identified but is offered to lower the risk of the owner/client. ECS and our clients have had past success in avoiding utility conflicts by augmenting Digger's Hotline with a private utility locator service. Private utility locator services can identify utility alignments that incorporate significant iron content in the conduit materials. However, private utilities possessing the higher likelihood of not being easily identifiable, beyond the point of distribution, include all utilities not containing significant ferrous (iron) content (examples would include but not be limited to most sanitary sewer alignments, copper or PVC water lines, fiber optic lines without tracer ribbons, copper electric lines with no surface exposure, drainage tiles/pipes, and irrigation lines).

Where a private locator service identifies a potential risk not traceable through conventional methods, ECS will notify the client and work to resolve the issue. Additional costs related to the resolution of these potential utility conflicts will be invoiced per our unit rates, or as negotiated and approved at the time of the occurrence.

### SITE DEPARTURE CONDITIONS

Please note that some disturbance to off-pavement, gravel covered, grass covered areas might occur. We will attempt to limit such disturbance; however, we have not budgeted for site repairs such as but not limited to filling of tire ruts, seeding of lawn areas, etc. If necessary, additional site repairs can be provided at an additional cost. The client must communicate areas that are not to be disturbed in advance of field operations.

Settlement of borehole backfill (or expansion where bentonite is used) can occur over time and create a hazard, which should be carefully monitored by the client and/or property owner. We have not included a cost for monitoring the boreholes after the completion of drilling activities.

Typically, we will not provide site repairs beyond what is outlined above unless specifically contracted.

### FEE

ECS will provide the described Scope of Services for a **lump sum fee of \$19,988**, plus any optional services authorized.

Optional Services:

- Private Utility Locator                      \$750

ECS expects the soil borings to be performed during normal work hours (Monday - Friday, 7am to 5pm). Prices presented in this proposal are valid for 90 days from the date of this proposal.

If additional services/fees are requested or required based on differing site conditions, unreported contaminated materials, access issues (i.e., snow cover, soft subgrades, etc.) or difficult drilling conditions (i.e., SPT blow counts greater than 50 blows/foot or fill materials containing debris, etc.) we will contact your office (or assigned representative) for verbal and written authorization to proceed with the additional services.

*Our proposal is based on commercial rates and does not include prevailing, union or Davis-Bacon wages. If prevailing, union, or Davis-Bacon wages are applicable on the project, we reserve the right to adjust our rates accordingly.*

## SCHEDULE

We expect the client will assist in the coordination of our access to the site with the current site owners/occupants. After authorization to proceed and notification that the appropriate on-site personnel and property owner(s) have been informed, our approximate schedule would be as follows:

- Mobilize to the Site Approximately 3 weeks after written notice to proceed
- Drilling Operations Approximately 8 to 9 working days
- Laboratory Testing Approximately 5 days after drilling
- Report Approximately 1 week

***For time budget purposes, the entire scope is estimated to take about 7 weeks from initial authorization through final report submission.*** The actual time from initial authorization through final report submission will depend on weather conditions, site access, utility clearance and drill crew availability. Verbal comments on findings can typically be provided 3 to 5 days after drilling completion, if requested.

## CLOSING

If other items are required because of unexpected field conditions or because of a request for additional services, you will be informed of our intentions for your review and authorization before modifying or expanding the extent of our services.

Our "Terms and Conditions of Service," which are included as an attachment to this letter, is an integral part of our proposal. Our insurance carrier requires that we receive written authorization prior to initiation of our services, and a signed contract prior to the release of any deliverables.

***Your acceptance of this proposal may be indicated by signing and returning a copy of the Proposal Acceptance Form to us.*** If you prefer to issue a separate purchase order or other written authorization, please reference this proposal as part of the contract documents. We are pleased to have this opportunity to offer our services and look forward to working with you on the project.

Respectfully submitted,

ECS Midwest, LLC



Darin Maciolek, P.E.  
Principal, Geotechnical Dept. Manager  
[DMaciolek@ecslimited.com](mailto:DMaciolek@ecslimited.com)



Charles Gresser, P.E.  
Office Manager  
[cgresser@ecslimited.com](mailto:cgresser@ecslimited.com)

Enclosures: Proposal Acceptance Form  
Terms and Conditions of Service  
Important Information about This Geotechnical Engineering Proposal

**PROPOSAL ACCEPTANCE FORM**

Proposal No.: 42:3525-GP  
Scope of Services: Subsurface Exploration and Geotechnical Engineering Services  
Project: Proposed Business Park Expansion  
Location: State Highway 57 and Meadowlark Lane, Fredonia, Wisconsin

Please complete this page and return a copy to ECS to indicate acceptance of this proposal and to initiate services on the above-referenced project. By signing, the signatory indicates they have read the accompanying Terms and Conditions of Service and agree to be bound by such Terms and Conditions of Service.

**BILLING INFORMATION**

(Please Print or Type)

Invoice Delivery Preference:  Electronic (email)  Hardcopy (USPS)

**Invoice Addressee**

**Report Addressee**

<b>Contact Name:</b>	_____	_____
<b>Contact Company:</b>	_____	_____
<b>Title:</b>	_____	_____
<b>Email Address:</b>	_____	_____
<b>Mailing Address</b>	_____	_____
<b>City, State, Zip:</b>	_____	_____
<b>Telephone No.:</b>	_____	_____

Client Project/Account Number: \_\_\_\_\_

Special Conditions for Invoice: \_\_\_\_\_  
\_\_\_\_\_

**(Please select "Yes" to indicate acceptance of service or "No" to decline)**

<b>Geotechnical Subsurface Exploration &amp; Report (\$19,988):</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Private Utility Line Locator (\$750):	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**Accepted by:**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

**Title:**  
\_\_\_\_\_

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







CLIENT: Village of Fredonia

## ECS MIDWEST, LLC TERMS AND CONDITIONS OF SERVICE

The professional services (the "Services") to be provided by ECS MIDWEST, LLC ["ECS"] pursuant to the Proposal shall be provided in accordance with these Terms and Conditions of Service ("Terms"), including any addenda as may be incorporated or referenced in writing shall form the Agreement between ECS and Client.

- 1.0 INDEPENDENT CONSULTANT STATUS** - ECS shall serve as an independent professional consultant to CLIENT for Service on the Project, identified above, and shall have control over, and responsibility for, the means and methods for providing the Services identified in the Proposal, including the retention of Subcontractors and Subconsultants
- 2.0 SCOPE OF SERVICES** - It is understood that the fees, reimbursable expenses and time schedule defined in the Proposal are based on information provided by CLIENT and/or CLIENT'S contractors and consultants. CLIENT acknowledges that if this information is not current, is incomplete or inaccurate, if conditions are discovered that could not be reasonably foreseen, or if CLIENT orders additional services, the scope of services will change, even while the Services are in progress.
- 3.0 STANDARD OF CARE**
  - 3.1 In fulfilling its obligations and responsibilities enumerated in the Proposal, ECS shall be expected to comply with, and its performance evaluated considering, the standard of care expected of professionals in the industry performing similar services on projects of like size and complexity at that time in the region (the "Standard of Care"). Nothing contained in the Proposal, the agreed-upon scope of Services, these Terms and Conditions of Service or any ECS report, opinion, plan or other document prepared by ECS shall constitute a warranty or guaranty of any nature whatsoever.**
  - 3.2** CLIENT understands and agrees that ECS will rely on the facts learned from data gathered during performance of Services as well as those facts provided by the CLIENT. CLIENT acknowledges that such data collection is limited to specific areas that are sampled, bored, tested, observed and/or evaluated. Consequently, the CLIENT waives any and all claims based upon erroneous facts provided by the CLIENT, facts subsequently learned or regarding conditions in areas not specifically sampled, bored, tested, observed or evaluated by ECS.
  - 3.3** If a situation arises that causes ECS to believe compliance with CLIENT'S directives would be contrary to sound engineering practices, would violate applicable laws, regulations or codes, or will expose ECS to legal claims or charges, ECS shall so advise CLIENT. If ECS' professional judgment is rejected, ECS shall have the right to terminate its Services in accordance with the provisions of Section 25.0, below.
  - 3.4** If CLIENT decides to disregard ECS' recommendations with respect to complying with applicable Laws or Regulations, ECS shall determine if applicable law requires ECS to notify the appropriate public officials. CLIENT agrees that such determinations are ECS' sole right to make.
- 4.0 CLIENT DISCLOSURES**
  - 4.1** Where the Scope of Services requires ECS to penetrate a Site surface, CLIENT shall furnish and/or shall direct CLIENT'S consultant(s) or agent(s) to furnish ECS information identifying the type and location of utility lines and other man-made objects known, suspected, or assumed to be located beneath or behind the Site's surface. ECS shall be entitled to rely on such information for completeness and accuracy without further investigation, analysis, or evaluation.
  - 4.2** "Hazardous Materials" shall include but not be limited to any substance that poses or may pose a present or potential hazard to human health or the environment whether contained in a product, material, by-product, waste, or sample, and whether it exists in a solid, liquid, semi-solid or gaseous form. CLIENT shall notify ECS of any known, assumed, or suspected regulated, contaminated, or other similar Hazardous Materials that may exist at the Site prior to ECS mobilizing to the Site.
  - 4.3** If any Hazardous Materials are discovered or are reasonably suspected by ECS after its Services begin, ECS shall be entitled to amend the scope of Services and adjust its fees to reflect the additional work or personal protective equipment and/or safety precautions required by the existence of such Hazardous Materials.
- 5.0 INFORMATION PROVIDED BY OTHERS** - CLIENT waives, releases and discharges ECS from and against any claim for damage, injury or loss allegedly arising out of or in connection with errors, omissions, or inaccuracies in documents and other information in any form provided to ECS by CLIENT or CLIENT'S agents, contractors, or consultants, including such information that becomes incorporated into ECS documents.
- 6.0 CONCEALED RISKS** - CLIENT acknowledges that special risks are inherent in sampling, testing and/or evaluating concealed conditions that are hidden from view and/or neither readily apparent nor easily accessible, e.g., subsurface conditions, conditions behind a wall, beneath a floor, or above a ceiling. Such circumstances require that certain assumptions be made regarding existing conditions, which may not be verifiable without expending additional sums of money or destroying otherwise adequate or serviceable portions of a building or component thereof. Accordingly, ECS shall not be responsible for the verification of such conditions unless verification can be made by simple visual observation. Client agrees to bear any and all costs, losses, damages and expenses (including, but not limited to, the cost of ECS' Additional Services) in any way arising from or in connection with the existence or discovery of such concealed or unknown conditions.
- 7.0 RIGHT OF ENTRY/DAMAGE RESULTING FROM SERVICES**
  - 7.1** CLIENT warrants that it possesses the authority to grant ECS right of entry to the Site for the performance of Services. CLIENT hereby grants ECS and its subcontractors and/or agents, the right to enter from time to time onto the property

in order for ECS to perform its Services. CLIENT agrees to indemnify and hold ECS harmless from any claims arising from allegations that ECS trespassed or lacked authority to access the Site.

- 7.2** CLIENT warrants that it possesses all necessary permits, licenses and/or utility clearances for the Services to be provided by ECS except where ECS' Proposal explicitly states that ECS will obtain such permits, licenses, and/or utility clearances.
- 7.3** ECS will take reasonable precautions to limit damage to the Site and its improvements during the performance of its Services. CLIENT understands that the use of exploration, boring, sampling, or testing equipment may cause minor, but common, damage to the Site. The correction and restoration of such common damage is CLIENT'S responsibility unless specifically included in the ECS' Proposal.
- 7.4** CLIENT agrees that it will not bring any claims for liability or for injury or loss against ECS arising from (i) procedures associated with the exploration, sampling or testing activities at the Site, (ii) discovery of Hazardous Materials or suspected Hazardous Materials, or (iii) ECS' findings, conclusions, opinions, recommendations, plans, and/or specifications related to discovery of contamination.
- 8.0 UNDERGROUND UTILITIES**
  - 8.1** ECS shall exercise the Standard of Care in evaluating client-furnished information as well as information readily and customarily available from public utility locating services (the "Underground Utility Information") in its effort to identify underground utilities. The extent of such evaluations shall be at ECS' sole discretion.
  - 8.2** CLIENT recognizes that the Underground Utility Information provided to or obtained by ECS may contain errors or be incomplete. CLIENT understands that ECS may be unable to identify the locations of all subsurface utility lines and man-made features.
  - 8.3** CLIENT waives, releases, and discharges ECS from and against any claim for damage, injury or loss allegedly arising from or related to subterranean structures (pipes, tanks, cables, or other utilities, etc.) which are not called to ECS' attention in writing by CLIENT, not correctly shown on the Underground Utility Information and/or not properly marked or located by the utility owners, governmental or quasi-governmental locators, or private utility locating services as a result of ECS' or ECS' subcontractor's request for utility marking services made in accordance with local industry standards.
- 9.0 SAMPLES**
  - 9.1** Soil, rock, water, building materials and/or other samples and sampling by-products obtained from the Site are and remain the property of CLIENT. Unless other arrangements are requested by CLIENT and mutually agreed upon by ECS in writing, ECS will retain samples not consumed in laboratory testing for up to sixty (60) calendar days after the issuance of any document containing data obtained from such samples. Samples consumed by laboratory testing procedures will not be stored.
  - 9.2** Unless CLIENT directs otherwise, and excluding those issues covered in Section 10.0, CLIENT authorizes ECS to dispose of CLIENT'S non-hazardous samples and sampling or testing process by-products in accordance with applicable laws and regulations.
- 10.0 ENVIRONMENTAL RISKS**
  - 10.1** When Hazardous Materials are known, assumed, suspected to exist, or discovered at the Site, ECS will endeavor to protect its employees and address public health, safety, and environmental issues in accordance with the Standard of Care. CLIENT agrees to compensate ECS for such efforts.
  - 10.2** When Hazardous Materials are known, assumed, or suspected to exist, or discovered at the Site, ECS and/or ECS' subcontractors will exercise the Standard of Care in containerizing and labeling such Hazardous Materials in accordance with applicable laws and regulations, and will leave the containers on Site. CLIENT is responsible for the retrieval, removal, transport and disposal of such contaminated samples, and sampling process byproducts in accordance with applicable law and regulation.
  - 10.3** Unless explicitly stated in the Scope of Services, ECS will neither subcontract nor arrange for the transport, disposal, or treatment of Hazardous Materials. At CLIENT'S written request, ECS may assist CLIENT in identifying appropriate alternatives for transport, off-site treatment, storage, or disposal of such substances, but CLIENT shall be solely responsible for the final selection of methods and firms to provide such services. CLIENT shall sign all manifests for the disposal of substances affected by contaminants and shall otherwise exercise prudence in arranging for lawful disposal.
  - 10.4** In those instances where ECS is expressly retained by CLIENT to assist CLIENT in the disposal of Hazardous Materials, samples, or wastes as part of the Proposal, ECS shall do so only as CLIENT'S agent (notwithstanding any other provision of this AGREEMENT to the contrary). ECS will not assume the role of, nor be considered a generator, storer, transporter, or disposer of Hazardous Materials.
  - 10.5** Subsurface sampling may result in unavoidable cross-contamination of certain subsurface areas, as when a probe or excavation/boring device moves through a contaminated zone and links it to an aquifer, underground stream, pervious soil stratum, or other hydrous body not previously contaminated, or connects an uncontaminated zone with a contaminated zone. Because sampling is an essential element of the Services indicated herein, CLIENT agrees this risk cannot be eliminated. Provided such services were performed in accordance with the Standard of Care, CLIENT waives, releases and discharges ECS from and against any claim for damage, injury, or loss allegedly arising from or related to such cross-contamination.



- 10.6 CLIENT understands that a Phase I Environmental Site Assessment (ESA) is conducted solely to permit ECS to render a professional opinion about the likelihood of the site having a Recognized Environmental Condition on, in, beneath, or near the Site at the time the Services are conducted. No matter how thorough a Phase I ESA study may be, findings derived from its conduct are highly limited and ECS cannot know or state for an absolute fact that the Site is unaffected or adversely affected by one or more Recognized Environmental Conditions. CLIENT represents and warrants that it understands the limitations associated with Phase I ESAs.
- 11.0 OWNERSHIP OF DOCUMENTS**
- 11.1 ECS shall be deemed the author and owner (or licensee) of all documents, technical reports, letters, photos, boring logs, field data, field notes, laboratory test data, calculations, designs, plans, specifications, reports, or similar documents and estimates of any kind furnished by it [the "Documents of Service"] and shall retain all common law, statutory and other reserved rights, including copyrights. CLIENT shall have a limited, non-exclusive license to use copies of the Documents of Service provided to it in connection with the Project for which the Documents of Service are provided until the completion of the Project.
- 11.2 ECS' Services are performed and Documents of Service are provided for the CLIENT'S sole use. CLIENT understands and agrees that any use of the Documents of Service by anyone other than the CLIENT, its licensed consultants and its contractors is not permitted. CLIENT further agrees to indemnify and hold ECS harmless for any errors, omissions or damage resulting from its contractors' use of ECS' Documents of Service.
- 11.3 CLIENT agrees to not use ECS' Documents of Service for the Project if the Project is subsequently modified in scope, structure or purpose without ECS' prior written consent. Any reuse without ECS' written consent shall be at CLIENT'S sole risk and without liability to ECS or to ECS' subcontractor(s). CLIENT agrees to indemnify and hold ECS harmless for any errors, omissions or damage resulting from its use of ECS' Documents of Service after any modification in scope, structure or purpose.
- 11.4 CLIENT agrees to not make any modification to the Documents of Service without the prior written authorization of ECS. To the fullest extent permitted by law, CLIENT agrees to indemnify, defend, and hold ECS harmless from any damage, loss, claim, liability or cost (including reasonable attorneys' fees and defense costs) arising out of or in connection with any unauthorized modification of the Documents of Service by CLIENT or any person or entity that acquires or obtains the Documents of Service from or through CLIENT. CLIENT represents and warrants that the Documents of Service shall be used only as submitted by ECS.
- 12.0 SAFETY**
- 12.1 Unless expressly agreed to in writing in its Proposal, CLIENT agrees that ECS shall have no responsibility whatsoever for any aspect of site safety other than for its own employees. Nothing herein shall be construed to relieve CLIENT and/or its contractors, consultants or other parties from their responsibility for site safety. CLIENT also represents and warrants that the General Contractor is solely responsible for Project site safety and that ECS personnel may rely on the safety measures provided by the General Contractor.
- 12.2 In the event ECS assumes in writing limited responsibility for specified safety issues, the acceptance of such responsibilities does not and shall not be deemed an acceptance of responsibility for any other non-specified safety issues, including, but not limited to those relating to excavating, trenching, shoring, drilling, backfilling, blasting, or other construction activities.
- 13.0 CONSTRUCTION TESTING AND REMEDIATION SERVICES**
- 13.1 CLIENT understands that construction testing and observation services are provided to reduce, but cannot eliminate, the risk of problems arising during or after construction or remediation. CLIENT agrees that the provision of such Services does not create a warranty or guarantee of any type.
- 13.2 Monitoring and/or testing services provided by ECS shall not in any way relieve the CLIENT'S contractor(s) from their responsibilities and obligations for the quality or completeness of construction as well as their obligation to comply with applicable laws, codes, and regulations.
- 13.3 ECS has no responsibility whatsoever for the means, methods, techniques, sequencing or procedures of construction selected, for safety precautions and programs incidental to work or services provided by any contractor or other consultant. ECS does not and shall not have or accept the authority to supervise, direct, control, or stop the work of any contractor or consultant or any of their subcontractors or subconsultants.
- 13.4 ECS strongly recommends that CLIENT retain ECS to provide construction monitoring and testing services on a full-time basis to lower the risk of defective or incomplete Work being installed by CLIENT'S contractor(s). If CLIENT elects to retain ECS on a part time basis for any aspect of construction monitoring and/or testing, CLIENT accepts the risks that a lower level of construction quality may occur, and that defective or incomplete work may result, and not be detected by ECS' part time monitoring and testing. Unless the CLIENT can show that the error or omission is contained in ECS' reports, CLIENT waives, releases and discharges ECS from and against any other claims for errors, omissions, damages, injuries, or loss alleged to arise from defective or incomplete work that was monitored or tested by ECS on a part time basis. Except as set forth in the preceding sentence, CLIENT agrees to indemnify and hold ECS harmless from all damages, costs, and attorneys' fees, for any claims alleging errors, omissions, damage, injury or loss allegedly resulting from Work that was monitored or tested by ECS on a part time basis.
- 14.0 CERTIFICATIONS** - CLIENT may request, or governing jurisdictions may require, ECS to provide a "certification" regarding the Services provided by ECS. Any "certification" required of ECS by the CLIENT or jurisdiction(s) having authority over some or all aspects of the Project shall consist of ECS' inferences and professional opinions based on the limited sampling, observations, tests, and/or analyses performed by ECS at discrete locations and times. Such "certifications" shall constitute ECS' professional opinion of a condition's existence, but ECS does not guarantee that such condition exists, nor does it relieve other parties of the responsibilities or obligations such parties have with respect to the possible existence of such a condition. CLIENT agrees it cannot make the resolution of any dispute with ECS or payment of any amount due to ECS contingent upon ECS signing any such "certification."
- 15.0 BILLINGS AND PAYMENTS**
- 15.1 Billings will be based on the unit rates, plus travel costs, and other reimbursable expenses as stated in the Professional Fees section of the Proposal. Any Estimate of Professional Fees stated in these Terms shall not be considered as a not-to-exceed or lump sum amount unless otherwise explicitly stated. CLIENT understands and agrees that even if ECS agrees to a lump sum or not-to-exceed amount, that amount shall be limited to number of hours, visits, trips, tests, borings, or samples stated in the Proposal.
- 15.2 CLIENT agrees that all Professional Fees and other unit rates shall be adjusted annually to account for inflation based on the most recent 12-month average of the Consumer Price Index (CPI-U) for all items as established by www.bls.gov when the CPI-U exceeds an annual rate of 2.0%.
- 15.3 Should ECS identify a Changed Condition(s), ECS shall notify the CLIENT of the Changed Condition(s). ECS and CLIENT shall promptly and in good faith negotiate an amendment to the Scope of Services, Professional Fees, and time schedule.
- 15.4 CLIENT recognizes that time is of the essence with respect to payment of ECS' invoices, and that timely payment is a material consideration for this agreement. All payment shall be in U.S. funds drawn upon U.S. banks and in accordance with the rates and charges set forth in the Professional Fees. Invoices are due and payable upon receipt.
- 15.5 If CLIENT disputes all or part of an invoice, CLIENT shall provide ECS with written notice stating in detail the facts of the dispute within fifteen (15) calendar days of the invoice. CLIENT agrees to pay the undisputed amount of such invoice promptly.
- 15.6 ECS reserves the right to charge CLIENT an additional charge of one-and-one-half (1.5) percent (or the maximum percentage allowed by Law, whichever is lower) of the invoiced amount per month for any payment received by ECS more than thirty (30) calendar days from the date of the invoice, excepting any portion of the invoiced amount in dispute. All payments will be applied to accrued interest first and then to the unpaid principal amount. Payment of invoices shall not be subject to unilateral discounting or set offs by the CLIENT.
- 15.7 CLIENT agrees that its obligation to pay for the Services is not contingent upon CLIENT'S ability to obtain financing, zoning, approval of governmental or regulatory agencies, permits, final adjudication of a lawsuit, CLIENT'S successful completion of the Project, settlement of a real estate transaction, receipt of payment from CLIENT'S client, or any other event unrelated to ECS provision of Services. Retainage shall not be withheld from any payment, nor shall any deduction be made from any invoice on account of penalty, liquidated damages, or other sums incurred by CLIENT. It is agreed that all costs and legal fees including actual attorney's fees, and expenses incurred by ECS in obtaining payment under this Agreement, in perfecting or obtaining a lien, recovery under a bond, collecting any delinquent amounts due, or executing judgments, shall be reimbursed by CLIENT.
- 15.8 Unless CLIENT has provided notice to ECS in accordance with Section 16.0 of these Terms, payment of any invoice by the CLIENT shall mean that the CLIENT is satisfied with ECS' Services and is not aware of any defects in those Services.
- 16.0 DEFECTS IN SERVICE**
- 16.1 CLIENT, its personnel, its consultants, and its contractors shall promptly inform ECS during active work on any project of any actual or suspected defects in the Services so to permit ECS to take such prompt, effective remedial measures that in ECS' opinion will reduce or eliminate the consequences of any such defective Services. The correction of defects attributable to ECS' failure to perform in accordance with the Standard of Care shall be provided at no cost to CLIENT. However, ECS shall not be responsible for the correction of any deficiency attributable to CLIENT-furnished information, the errors, omissions, defective materials, or improper installation of materials by CLIENT's personnel, consultants or contractors, or work not observed by ECS. The CLIENT shall compensate ECS for the costs of correcting such defects.
- 16.2 Modifications to reports, documents and plans required because of jurisdictional reviews or CLIENT requests shall not be defects. CLIENT shall compensate ECS for the provision of such Services.
- 17.0 INSURANCE** - ECS represents that it and its subcontractors and subconsultants maintain Workers Compensation insurance, and that ECS is covered by general liability, automobile and professional liability insurance policies in coverage amounts it deems reasonable and adequate. ECS shall furnish certificates of insurance upon request. The CLIENT is responsible for requesting specific inclusions or limits of coverage that are not present in the ECS insurance package. The cost of such inclusions or coverage increases, if available, will be at the expense of the CLIENT.
- 18.0 LIMITATION OF LIABILITY**
- 18.1 CLIENT AGREES TO ALLOCATE CERTAIN RISKS ASSOCIATED WITH THE PROJECT BY LIMITING ECS' TOTAL LIABILITY TO CLIENT ARISING FROM ECS' PROFESSIONAL LIABILITY, I.E. PROFESSIONAL ACTS, ERRORS, OR OMISSIONS AND FOR ANY AND ALL CAUSES INCLUDING NEGLIGENCE, STRICT LIABILITY, BREACH OF CONTRACT, OR BREACH OF WARRANTY, INJURIES, DAMAGES, CLAIMS, LOSSES, EXPENSES, OR CLAIM EXPENSES (INCLUDING REASONABLE ATTORNEY'S FEES) RELATING TO PROFESSIONAL SERVICES PROVIDED UNDER THIS AGREEMENT TO THE FULLEST EXTENT PERMITTED BY LAW. THE ALLOCATION IS AS FOLLOWS.**
- 18.1.1 If the proposed fees are \$10,000 or less, ECS' total aggregate liability to CLIENT shall not exceed \$20,000, or the total fee received for the services rendered, whichever is greater.
- 18.1.2 If the proposed fees are more than \$10,000, ECS' total aggregate liability to CLIENT shall not exceed \$50,000, or two (2) times the total fee for the services rendered, whichever is greater.
- 18.2 CLIENT agrees that ECS shall not be responsible for any injury, loss or damage of any nature, including bodily injury and property damage, arising directly or indirectly, in whole or in part, from acts or omissions by the CLIENT, its employees, agents, staff, consultants, contractors, or subcontractors to the extent such injury, damage, or loss is caused by acts or omissions of CLIENT, its employees, agents, staff,

- consultants, contractors, subcontractors or person/entities for whom CLIENT is legally liable.
- 18.3 CLIENT agrees that ECS' liability for all non-professional liability arising out of this agreement, or the services provided because of the Proposal, be limited to \$500,000.
- 19.0 INDEMNIFICATION**
- 19.1 Subject Section 18.0, ECS agrees to hold harmless and indemnify CLIENT from and against damages arising from ECS' negligent performance of its Services, but only to the extent that such damages are found to be caused by ECS' negligent acts, errors or omissions, (specifically excluding any damages caused by any third party or by the CLIENT.) ECS does not waive any limitations it may have on its liability under the Illinois Workers Compensation Act, or any other statute.
- 19.2 To the fullest extent permitted by Law, CLIENT agrees to indemnify, and hold ECS harmless from and against any and all liability, claims, damages, demands, fines, penalties, costs and expenditures (including reasonable attorneys' fees and costs of litigation defense and/or settlement) ["Damages"] caused in whole or in part by the negligent acts, errors, or omissions of the CLIENT or CLIENT'S employees, agents, staff, contractors, subcontractors, consultants, and clients, provided such Damages are attributable to: (a) the bodily injury, personal injury, sickness, disease and/or death of any person; (b) the injury to or loss of value to tangible personal property; or (c) a breach of these Terms. The foregoing indemnification shall not apply to the extent such Damage is found to be caused by the sole negligence, errors, omissions or willful misconduct of ECS.
- 19.3 It is specifically understood and agreed that in no case shall ECS be required to pay an amount of Damages disproportional to ECS' culpability. **IF CLIENT IS A HOMEOWNER, HOMEOWNERS' ASSOCIATION, CONDOMINIUM OWNER, CONDOMINIUM OWNER'S ASSOCIATION, OR SIMILAR RESIDENTIAL OWNER, ECS RECOMMENDS THAT CLIENT RETAIN LEGAL COUNSEL BEFORE ENTERING INTO THIS AGREEMENT TO EXPLAIN CLIENT'S RIGHTS AND OBLIGATIONS HEREUNDER, AND THE LIMITATIONS, AND RESTRICTIONS IMPOSED BY THIS AGREEMENT. CLIENT AGREES THAT FAILURE OF CLIENT TO RETAIN SUCH COUNSEL SHALL BE A KNOWING WAIVER OF LEGAL COUNSEL AND SHALL NOT BE ALLOWED ON GROUNDS OF AVOIDING ANY PROVISION OF THIS AGREEMENT.**
- 19.4 **IF CLIENT IS A RESIDENTIAL BUILDER OR RESIDENTIAL DEVELOPER, CLIENT SHALL INDEMNIFY AND HOLD HARMLESS ECS AGAINST ALL CLAIMS OR DEMANDS DUE TO INJURY OR LOSS INITIATED BY ONE OR MORE HOMEOWNERS, UNIT-OWNERS, OR THEIR HOMEOWNER'S ASSOCIATION, COOPERATIVE BOARD, OR SIMILAR GOVERNING ENTITY AGAINST CLIENT WHICH RESULTS IN ECS BEING BROUGHT INTO THE DISPUTE.**
- 19.5 **IN NO EVENT SHALL THE DUTY TO INDEMNIFY AND HOLD ANOTHER PARTY HARMLESS UNDER THIS SECTION 19.0 INCLUDE THE DUTY TO DEFEND.**
- 20.0 CONSEQUENTIAL DAMAGES**
- 20.1 CLIENT shall not be liable to ECS and ECS shall not be liable to CLIENT for any consequential damages incurred by either due to the fault of the other or their employees, consultants, agents, contractors or subcontractors, regardless of the nature of the fault or whether such liability arises in breach of contract or warranty, tort, statute, or any other cause of action. Consequential damages include, but are not limited to, loss of use and loss of profit.
- 20.2 ECS shall not be liable to CLIENT, or any entity engaged directly or indirectly by CLIENT, for any liquidated damages due to any fault, or failure to act, in part or in total by ECS, its employees, agents, or subcontractors.
- 21.0 SOURCES OF RECOVERY**
- 21.1 All claims for damages related to the Services provided under this agreement shall be made against the ECS Entity contracting with the CLIENT for the Services, and no other person or entity. CLIENT agrees that it shall not name any affiliated entity including parent, peer, or subsidiary entity or any individual officer, director, or employee of ECS, specifically including its professional engineers and geologists.
- 21.2 In the event of any dispute or claim between CLIENT and ECS arising out of in connection with the Project and/or the Services, CLIENT and ECS agree that they will look solely to each other for the satisfaction of any such dispute or claim. Moreover, notwithstanding anything to the contrary contained in any other provision herein, CLIENT and ECS' agree that their respective shareholders, principals, partners, members, agents, directors, officers, employees, and/or owners shall have no liability whatsoever arising out of or in connection with the Project and/or Services provided hereunder. In the event CLIENT brings a claim against an affiliated entity, parent entity, subsidiary entity, or individual officer, director or employee in contravention of this Section 21, CLIENT agrees to hold ECS harmless from and against all damages, costs, awards, or fees (including attorneys' fees) attributable to such act.
- 22.0 THIRD PARTY CLAIMS EXCLUSION** - CLIENT and ECS agree that the Services are performed solely for the benefit of the CLIENT and are not intended by either CLIENT or ECS to benefit any other person or entity. To the extent that any other person or entity benefits from the Services, such benefit is purely incidental and such other person or entity shall not be deemed a third-party beneficiary to the AGREEMENT. No third-party shall have the right to rely on ECS' opinions rendered in connection with ECS' Services without written consent from both CLIENT and ECS, which shall include, at a minimum, the third-party's agreement to be bound to the same Terms and Conditions contained herein and third-party's agreement that ECS' Scope of Services performed is adequate.
- 23.0 DISPUTE RESOLUTION**
- 23.1 In the event any claims, disputes, and other matters in question arising out of or relating to these Terms or breach thereof (collectively referred to as "Disputes"), the parties shall promptly attempt to resolve all such Disputes through executive negotiation between senior representatives of both parties familiar with the Project. The parties shall arrange a mutually convenient time for the senior representative of each party to meet. Such meeting shall occur within fifteen (15) days of either party's written request for executive negotiation or as otherwise mutually agreed.
- Should this meeting fail to result in a mutually agreeable plan for resolution of the Dispute, CLIENT and ECS agree that either party may bring litigation.
- 23.2 CLIENT shall make no claim (whether directly or in the form of a third-party claim) against ECS unless CLIENT shall have first provided ECS with a written certification executed by an independent engineer licensed in the jurisdiction in which the Project is located, reasonably specifying each and every act or omission which the certifier contends constitutes a violation of the Standard of Care. Such a certificate shall be a precondition to the institution of any judicial proceeding and shall be provided to ECS thirty (30) days prior to the institution of such judicial proceedings.
- 23.3 Litigation shall be instituted in a court of competent jurisdiction in the county or district in which ECS' office contracting with the CLIENT is located. The parties agree that the law applicable to these Terms and the Services provided pursuant to the Proposal shall be the laws of the State of Wisconsin but excluding its choice of law rules. Unless otherwise mutually agreed to in writing by both parties, CLIENT waives the right to remove any litigation action to any other jurisdiction. Both parties agree to waive any demand for a trial by jury.
- 24.0 CURING A BREACH**
- 24.1 A party that believes the other has materially breached these Terms shall issue a written cure notice identifying its alleged grounds for termination. Both parties shall promptly and in good faith attempt to identify a cure for the alleged breach or present facts showing the absence of such breach. If a cure can be agreed to or the matter otherwise resolved within thirty (30) calendar days from the date of the termination notice, the parties shall commit their understandings to writing and termination shall not occur.
- 24.2 Either party may waive any right provided by these Terms in curing an actual or alleged breach; however, such waiver shall not affect future application of such provision or any other provision.
- 25.0 TERMINATION**
- 25.1 CLIENT or ECS may terminate this agreement for breach of these terms, non-payment, or a failure to cooperate. In the event of termination, the effecting party shall notify the other party in writing and termination shall become effective fourteen (14) calendar days after receipt of the termination notice.
- 25.2 Irrespective of which party shall affect termination, or the cause therefore, ECS shall promptly render to CLIENT a final invoice and CLIENT shall immediately compensate ECS for Services rendered and costs incurred including those Services associated with termination itself, including without limitation, demobilizing, modifying schedules, and reassigning personnel.
- 26.0 TIME BAR TO LEGAL ACTION** - Unless prohibited by law, and notwithstanding any Statute that may provide additional protection, CLIENT and ECS agree that a lawsuit by either party alleging a breach of this agreement, violation of the Standard of Care, non-payment of invoices, or arising out of the Services provided hereunder, must be initiated in a court of competent jurisdiction no more than two (2) years from the time the party knew, or should have known, of the facts and conditions giving rise to its claim, and shall under no circumstances shall such lawsuit be initiated more than three (3) years from the date of substantial completion of ECS' Services.
- 27.0 ASSIGNMENT** - CLIENT and ECS respectively bind themselves, their successors, assigns, heirs, and legal representatives to the other party and the successors, assigns, heirs and legal representatives of such other party with respect to all covenants of these Terms. Neither CLIENT nor ECS shall assign these Terms, any rights thereunder, or any cause of action arising therefrom, in whole or in part, without the written consent of the other. Any purported assignment or transfer, except as permitted above, shall be deemed null, void and invalid, the purported assignee shall acquire no rights because of the purported assignment or transfer and the non-assigning party shall not recognize any such purported assignment or transfer.
- 28.0 SEVERABILITY** - Any provision of these Terms later held to violate any law, statute, or regulation, shall be deemed void, and all remaining provisions shall continue in full force and effect. CLIENT and ECS shall endeavor to quickly replace a voided provision with a valid substitute that expresses the intent of the issues covered by the original provision.
- 29.0 SURVIVAL** - All obligations arising prior to the termination of the agreement represented by these Terms and all provisions allocating responsibility or liability between the CLIENT and ECS shall survive the substantial completion of Services and the termination of the agreement.
- 30.0 TITLES; ENTIRE AGREEMENT**
- 30.1 The titles used herein are for general reference only and are not part of the Terms and Conditions.
- 30.2 These Terms and Conditions of Service together with the Proposal, including all exhibits, appendixes, and other documents appended to it, constitute the entire agreement between CLIENT and ECS. CLIENT acknowledges that all prior understandings and negotiations are superseded by this agreement.
- 30.3 CLIENT and ECS agree that subsequent modifications to the agreement represented by these shall not be binding unless made in writing and signed by authorized representatives of both parties.
- 30.4 All preprinted terms and conditions on CLIENT'S purchase order, Work Authorization, or other service acknowledgement forms, are inapplicable and superseded by these Terms and Conditions of Service.
- 30.5 CLIENT'S execution of a Work Authorization, the submission of a start work authorization (oral or written) or issuance of a purchase order constitutes CLIENT'S acceptance of this Proposal and its agreement to be fully bound by the foregoing Terms. If CLIENT fails to provide ECS with a signed copy of these Terms or the attached Work Authorization, CLIENT agrees that by authorizing and accepting the services of ECS, it will be fully bound by these Terms as if they had been signed by CLIENT.

## Important Information about This

# Geotechnical Engineering Proposal

Subsurface problems are a principal cause of construction delays, cost overruns, claims, and disputes.

While you cannot eliminate all such risks, you can manage them. The following information is provided to help.

### Participate in Development of the Subsurface Exploration Plan

Geotechnical engineering begins with the creation of an effective subsurface exploration plan. This proposal starts the process by presenting an initial plan. While that plan may consider the unique physical attributes of the site and the improvements you have in mind, it probably does not consider your unique goals, objectives, and risk management preferences. Subsurface exploration plans that are finalized without considering such factors presuppose that clients' needs are unimportant, or that all clients have the same needs. *Avoid the problems that can stem from such assumptions* by finalizing the plan and other scope elements directly with the geotechnical engineer you feel is best qualified for the project, along with the other project professionals whose plans are affected by the geotechnical engineer's findings and recommendations. If you have been told that this step is unnecessary; that client preferences do not influence the scope of geotechnical engineering service or that someone else can articulate your needs as well as you, you have been told wrong. No one else can discuss your geotechnical options better than an experienced geotechnical engineer, and no one else can provide the input you can. Thus, while you certainly are at liberty to accept a proposed scope "as is," recognize that it could be a unilateral scope developed without direct client/engineer discussion; that authorizing a unilateral scope will force the geotechnical engineer to accept all assumptions it contains; that assumptions create risk. *Manage your risk. Get involved.*

### Expect the Unexpected

The nature of geotechnical engineering is such that planning needs to *anticipate the unexpected*. During the design phase of a project, more or deeper borings may be required, additional tests may become necessary, or someone associated with your organization may request a service that was not included in the final scope. During the construction phase, additional services may be needed to respond quickly to unanticipated conditions. In the past, geotechnical engineers commonly did whatever was required to oblige their clients' representatives and safeguard their clients' interests, taking it on faith that their clients wanted them to do so. But some, evidently, did not, and refused to pay for legitimate extras on the ground that the engineer proceeded without proper authorization, or failed to submit notice in a timely manner, or failed to provide proper documentation. *What are your preferences? Who is permitted to authorize additional geotechnical services on your project? What type of documentation do you require? To whom should it be sent? When? How?* By addressing these and similar issues sooner rather than later, you and your geotechnical engineer will be prepared for the unexpected, to help prevent molehills from growing into mountains.

### Have Realistic Expectations; Apply Appropriate Preventives

The recommendations included in a geotechnical engineering report are *not final*, because they are based on opinions that can be verified only during construction. For that reason, most geotechnical engineering proposals offer the construction observation services that permit the geotechnical engineer of record to confirm that subsurface conditions are what they were expected to be, or to modify recommendations when actual conditions were not anticipated. *An offer to provide construction observation*

*is an offer to better manage your risk.* Clients who do not take advantage of such an offer; clients who retain a second firm to observe construction, can create a high-risk “Catch-22” situation for themselves. *The geotechnical engineer of record cannot assume responsibility or liability for a report’s recommendations when another firm performs the services needed to evaluate the recommendations’ adequacy.* The second firm is also likely to disavow liability for the recommendations, because of the substantial and possibly uninsurable risk of assuming responsibility for services it did not perform. Recognize, too, that no firm other than the geotechnical engineer of record can possibly have as intimate an understanding of your project’s geotechnical issues. As such, reliance on a second firm to perform construction observation can elevate risk still more, because its personnel may not have the wherewithal to recognize subtle, but sometimes critically important unanticipated conditions, or to respond to them in a manner consistent with your goals, objectives, and risk management preferences.

### **Realize That Geoenvironmental Issues Have Not Been Covered**

The equipment, techniques, and personnel used to perform a geoenvironmental study differ significantly from those used to perform a geotechnical study. *Geoenvironmental services are not being offered in this proposal. The report that results will not relate any geoenvironmental findings, conclusions, or recommendations.* Unanticipated environmental problems have led to numerous project failures. If you have not yet obtained your own geoenvironmental information, ask your geotechnical consultant for risk management guidance. *Do not rely on an environmental report prepared for someone else.*

### **Obtain Professional Assistance To Deal with Mold**

Diverse strategies can be applied during building design, construction, operation, and maintenance to prevent significant amounts of mold from growing on indoor surfaces. To be effective, all such strategies should be devised for the express purpose of mold prevention, integrated into a comprehensive plan, and executed with diligent oversight by a professional mold prevention consultant. Because just a small amount of water or moisture can lead to the development of severe mold infestations, a number of mold prevention strategies focus on keeping building surfaces dry. While groundwater, water infiltration, and similar issues may be addressed as part of the geotechnical engineering study described in this proposal, the geotechnical engineer who would lead this project ***is not*** a mold prevention consultant; ***none of the services being offered have been designed or proposed for the purpose of mold prevention.***

### **Have the Geotechnical Engineer Work with Other Design Professionals and Constructors**

Other design team members’ misinterpretation of a geotechnical engineering report has resulted in costly problems. Manage that risk by having your geotechnical engineer confer with appropriate members of the design team before finalizing the scope of geotechnical service (as suggested above), and, again, after submitting the report. *Also retain your geotechnical engineer to review pertinent elements of the design team members’ plans and specifications.*

Reduce the risk of unanticipated conditions claims that can occur when constructors misinterpret or misunderstand the purposes of a geotechnical engineering report. Use appropriate language in your contract documents. Retain your geotechnical engineer to participate in prebid and preconstruction conferences, and to perform construction observation.

### **Read Responsibility Provisions Closely**

Clients, design professionals, and constructors who do not recognize that geotechnical engineering is far less exact than other engineering disciplines can develop unrealistic expectations. Unrealistic expectations can lead to disappointments, claims, and disputes. To help reduce the risk of such outcomes, geotechnical engineers commonly include a variety of explanatory provisions in their proposals. Sometimes labeled “limitations,” many of these provisions indicate where geotechnical engineers’ responsibilities begin and end, to help others recognize their own responsibilities and risks, thus to encourage more effective scopes of service. *Read this proposal’s provisions closely.* Ask questions. Your geotechnical engineer should respond fully and frankly.

### **Rely on Your Geotechnical Engineer for Additional Assistance**

Membership in the Geoprofessional Business Association (GBA) exposes geotechnical engineers to a wide array of risk management techniques that can be of genuine benefit to everyone involved with a construction project. Confer with a GBA-member geotechnical engineer for more information. Confirm a firm’s membership in GBA by contacting GBA directly or at its website.



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**MID-MORAINES MUNICIPAL ASSOCIATION DINNER MEETING**  
**WEDNESDAY, SEPTEMBER 27, 2023**

**Host Community: Village of Thiensville**

**Location:** Shully's Cuisine & Events  
146 Green Bay Road  
Thiensville, WI 53092  
Phone Number – 262-242-6633

**Speaker:** Our Speakers will be Ms. Riti Grover, Executive Director of the Monarch Library System and Ms. Heather Fischer, Public Information Specialist of the Monarch Library System. Their Presentation will be an update on what is happening in the System And also an explanation on how the system works.

**Dinner:** Buffet Dinner including Mixed Greens Salad, Served with Sides of Ranch and Balsamic Vinaigrette, Fresh Rolls with Butter, Cheddar Mashed Potatoes, Fresh Vegetable Medley, Grilled and Sliced Chicken Breast served with White Wine Mushroom Cream Sause, Dessert and Coffee Station including Individual Chocolate Mousse and Regular and Decaf Coffee.

**Cost:** \$30.00

**Schedule:** Social Hour: 6:00 – 6:30 p.m.  
Roll Call of Communities 6:30 p.m.  
Dinner: 6:50 p.m.  
Speaker: 7:30 p.m.

**Please forward reservations and payments to:**  
Marlyss Thiel  
Mid-Moraine Municipal Association  
601 Kettle Moraine Dr.  
Slinger, WI 53086

**Reservation Deadline: Friday, September 16, 2023.**

cc: Area Legislators