

VILLAGE PRESIDENT
Seth Speiser

VILLAGE CLERK
Jerry Menard

VILLAGE TRUSTEES
Mathew Trout
Dean Pruett
Lisa Meehling
Ray Matchett, Jr.
Mike Blaies
Denise Albers

VILLAGE OF FREEBURG

FREEBURG MUNICIPAL CENTER
14 SOUTHGATE CENTER, FREEBURG, IL 62243
PHONE: (618) 539-5545 • FAX: (618) 539-5590
Web Site: www.freeburg.com

VILLAGE ADMINISTRATOR
Tony Funderburg

VILLAGE TREASURER
Bryan A. Vogel

PUBLIC WORKS DIRECTOR
John Tolan

POLICE CHIEF
Stanley Donald

VILLAGE ATTORNEY
Weilmuenster & Keck, P.C.

October 10, 2016

NOTICE
MEETING OF THE PUBLIC PROPERTY COMMITTEE
(Streets/Municipal Center/Pool/Parks & Recreation)
(Albers/Matchett/Meehling/Trout)

A Public Property Committee Meeting of the Village of Freeburg will be held at the Municipal Center, Executive Board Room, on **Wednesday, October 12, 2016 at 6:00 p.m.**

PUBLIC PROPERTY COMMITTEE MEETING AGENDA

SWIMMING POOL:

- A. Old Business
 - 1. Pool/Storm Shelter/St. Clair County Parks Grant
- B. New Business

- A. Old Business
 - 1. Approval of September 14, 2016 Minutes
 - 2. MFT/Ditch on N. Main
 - 3. Drainage Problem Areas/Stormwater Run-Off
 - 4. E. Apple Issues
 - 5. Borger Drainage Issue
 - 6. Hill Mine Road Repair
- B. New Business
 - 1. Customer Issues

C. General Concerns

D. Public Participation

E. Adjourn

At said Public Property Committee Meeting, the Village Trustees may vote on whether or not to hold an Executive Session to discuss potential litigation [5 ILCS, 120/2 - (c)(11)]; the selection of a person to fill a public office [5 ILCS, 120/2 - (c) (3)]; personnel [5 ILCS, 120/2 - (c) (1)]; or real estate transactions [5 ILCS, 120/2-(c)(5)].

VILLAGE PRESIDENT
Seth Speiser

VILLAGE CLERK
Jerry Menard

VILLAGE TRUSTEES
Mathew Trout
Dean Pruett
Lisa Meehling
Ray Matchett, Jr.
Mike Blaies
Denise Albers

VILLAGE OF FREEBURG

FREEBURG MUNICIPAL CENTER
14 SOUTHGATE CENTER, FREEBURG, IL 62243
PHONE: (618) 539-5545 • FAX: (618) 539-5590
Web Site: www.freeburg.com

Public Property Committee Meeting
Streets/Municipal Center/Pool/Parks & Recreation
(Albers/Matchett/Meehling/Trout)
Wednesday, September 14, 2016 at 6:00 p.m.

VILLAGE ADMINISTRATOR
Tony Funderburg

VILLAGE TREASURER
Bryan A. Vogel

PUBLIC WORKS DIRECTOR
John Tolan

POLICE CHIEF
Stanley Donald

VILLAGE ATTORNEY
Weilmuenster & Keck, P.C.

The meeting of the Public Property Committee was called to order at 6:34 p.m. on Wednesday, September 14, 2016, in the Municipal Center by Chairperson Denise Albers. Members present were Chairperson Denise Albers, Trustee Ray Matchett, Trustee Lisa Meehling, Trustee Matt Trout, Mayor Seth Speiser, Village Clerk Jerry Menard (absent), Trustee Mike Blaies, Trustee Dean Pruett, Public Works Director John Tolan, Village Administrator Tony Funderburg and Office Manager Julie Polson.

POOL: A. OLD BUSINESS:

1. Pool/Storm Shelter/St. Clair County Parks Grant: Administrator Funderburg advised we will receive \$29,000 for the playground grant. He is going to write another one from MEPRD for a different surface. He would like to have the poured in place rubber. John advised we had seeded and placed straw down then received 5 inches of rain right after that.

B. NEW BUSINESS: None.

STREETS: A. OLD BUSINESS:

1. Approval of August 10, 2016 Minutes: Trustee Matt Trout motioned to approve the August 10, 2016 minutes and Trustee Lisa Meehling seconded the motion. All yea, the motion carried.
2. MFT/Ditch on N. Main: John advised MFT is going fine, and we will see more movement for the ditch on Main in November/December.
3. Drainage Problem Areas/Southgate Drive/Stormwater Run-Off: Everything looked okay.
4. E. Apple Issues: Nothing new.
5. Borger Drainage Issue: Both Tony and Denise drove by this home and Tony said everything inside the moat is full, everything else was fine. If we do anything, the drainage needs to be taken out from the foundation. Tony suggested asking the football team for their help with this. We don't want to agree to anything until the homeowners move the drainage away from the foundation.

Mayor Speiser asked the status of Charlie Kaiser's culver and John advised he has it on the list, and also said we need to cut down about 5 trees.

B. NEW BUSINESS:

1. Financing of Leaf Truck: Tony advised we will have the information to finance the leaf truck on the agenda for Monday's meeting. The first payment was made out of this budget.
2. 2017 Ford Explorer: Tony said we are looking at the purchase of a 2017 Ford Explorer which would be used by him and anyone that needs it. We would purchase it at the State bid price in white. The committee wanted to add the strobe lights, all weather mats and the trailer tow package.

Trustee Matt Trout motioned to approve the purchase of a 2017 Ford Explorer and Trustee Lisa Meehling seconded the motion. All voting yea, the motion carried.

Street Committee Meeting Minutes
Wednesday, September 14, 2016

Page 1 of 2

VILLAGE BOARD OF TRUSTEES MEETINGS ARE HELD ON THE FIRST AND THIRD MONDAY OF EVERY MONTH

3. St. Joseph School Race Like a Hawk 5K Run Request: Request was approved.
 4. TWM Proposal for Hill Mine Road: Tony met with TWM regarding this issue. Tony advised we need to see the school's storm plans for the site/drainage design. Trustee Meehling suggested the schools call Rhutasel to get them. John believes we can you MFT money next year and use TWM. Tony suggested we could add parking in for soccer and softball and ask the schools to share in the cost. The committee asked for TWM to put some costs together and see what kind of money we are talking about to fix this problem.
- C. GENERAL CONCERNS:** John said he received complaints about the flags at the Village Park not being lowered for 9/11. He will look for a locking system that can be placed down low on the pole. Trustee Matt Trout directed the bill be sent to the Chamber. We will ask the Veteran's Group to take over the lowering of the flags. John advised he is going to continue the mosquito spraying for a while. He requested we advertise for part-time help with the leaves and other work.

A request was received to install a stop sign at Temple/Edison. It is time to move radar sign.

D. PUBLIC PARTICIPATION: None.

E. ADJOURN: *Trustee Matt Trout motioned to adjourn the meeting at 6:52 p.m. and Trustee Lisa Meehling seconded the motion. All voting yea, the motion carried.*



Julie Polson
Office Manager



Contract Agreement for Transportation Engineering Services

For some projects **Thouvenot, Wade & Moerchen, Inc.** may use this more simplified Contract Agreement to confirm the work authorized by a client and then to proceed with that work. Although the format is designed to help your understanding, this agreement is a legal and binding contract between two parties, **TWM INC.**, and you as the **CLIENT**. When you see the words "us", "we", and "our" they generally mean **TWM INC.** When you see the words "you" or "your", they generally refer to you as the **CLIENT**. Often these projects begin with a telephone call to our office. Therefore, please read this Agreement carefully. It confirms our conversation, our understanding of the work you desire, and the terms and conditions under which we will do that work.

1. SCOPE OF SERVICES. You requested that we perform all of the following tasks:

A. Topographic Survey

- *Collect topographic survey information of the Hill Mine Rd. from Illinois 13 to Tank Rd.*
- *Collect drainage structure, storm sewer, and culvert information for any structures within the limits.*
- *Note this scope does not include a boundary survey.*

B. Drainage Study

- *Use the survey information in conjunction with other available information to analyze the existing drainage facilities and identify any deficiencies.*
- *Recommend proposed improvements in order to correct the deficiencies to the greatest extent practical.*
- *Prepare Opinion of Probable Construction Cost for the proposed improvements*

C. Contract Plans and Specifications

- *Coordinate the improvements with IDOT, as necessary.*
- *Prepare Contract Plans and Specifications for the proposed improvements.*
- *Prepare Engineer's Estimate of Cost based on the final project scope.*
- *Assist the Village with various tasks during the advertisement/bidding phase.*
- *Note this scope does not include any land acquisition services (temporary easements or right-of-way acquisition). It is assumed that the Village will obtain any necessary land rights for the project.*

D. Construction Phase Services

- *Provide Construction Stakeout of the proposed improvements*
- *Provide Construction Observation/Documentation of the proposed improvements*
- *Provide Material Testing (if required) via a sub-consultant*

E. Other Services

- *Complete Boundary Survey (if required)*
- *Prepare Land Acquisition Documents (if required)*
- *Other Tasks as assigned by the Village*

2. PROJECT LOCATION. This project is located at **Hill Mine Rd.** (See attached Aerial). Throughout the term of this Contract, you agree to obtain and grant to us and our personnel, reasonable and necessary nonexclusive access to the project site and property so that we can fulfill our Scope of Services. While on the project site and property, our personnel will make every reasonable effort to protect that property and to comply with applicable safety procedures, including those specifically communicated to us by you. You understand that the use of surveying or other equipment may unavoidably cause some minor damage to trees, shrubs, crops or sod, the correction of which is not a part of this Contract.

3. INFORMATION WE NEED FROM YOU. We need you to provide to us with some specific information so we can perform our Scope of Services. That includes:

- Any plans/plats for the roadway or adjacent developments including the school.



4. **PROPOSED SCHEDULE.** We will not begin to work on this project until you accept this Contract and return it to us with your signature. We estimate we will be able to complete the design work by December 2016. However, we obviously do not control the schedule by which regulatory agencies review or approve plans. Through this Contract you acknowledge that, as well as your understanding that regulatory agencies may also require subsequent revision to the plans.
5. **INSURANCE.** We carry insurance protection from claims under the Workman's Compensation Act, general liability, automobile liability and other risks. We will provide you with evidence of those coverages if you request that we do so.
6. **QUALIFICATIONS.** We employ Licensed / Registered Land Surveyors, Licensed Professional Engineers, and Licensed Structural Engineers. When appropriate, our work will be performed by or under the direct supervision of one of those professionals and when applicable, documents submitted to you or on your behalf will bear the seal of the respective Surveyor or Engineer and certification to that effect.
7. **FEES.** Our services will be provided in accordance with the following:

We will provide the services outlined above as follows:

- A. Topographic Survey - Lump Sum Fee of **\$4,000**
 - B. Drainage Study - Lump Sum Fee of **\$6,000**
 - C. Contract Documents - Lump Sum Fee of **\$7,500**
 - D. Construction Phase Services will be provided at our **Hourly Rates**, as listed in our current **Schedule of Fees**, which is attached to this agreement. You will be billed for the number of hours it takes to complete this work multiplied by the fee for the job classification of each person working those hours.
 - E. Other Services will be provided at our **Hourly Rates**, as listed in our current **Schedule of Fees**, which is attached to this agreement. You will be billed for the number of hours it takes to complete this work multiplied by the fee for the job classification of each person working those hours.
8. **BILLING & PAYMENT.** We will bill you on a monthly basis for any services under the **Scope of Services** above, as well as for any additional services you requested, and any reimbursable costs we have provided to date. If you have a question about or disagree with any portion of any invoice, you should notify us in writing within fifteen (15) calendar days of receipt of the invoice, specifically describing the reason for your dispute. We will then work towards resolving any issue with you within thirty (30) calendar days. You must pay the full amount of the invoice unless a portion of the invoice is in dispute, and in that case you must pay any portion of the invoice that is not in dispute while we work to answer your questions or resolve any issue you have raised.

Our payment terms require that the full amount of our services be paid within 30 days of invoice. If payment for services we provide to you is not received by us within thirty (30) calendar days of the invoice date, you agree that while we are not obligated to do so, we have the right to charge interest at a rate of up to one and one-half (1½) percent (or the maximum allowable by law, whichever is lower) on the PAST DUE amount each month it remains past due. We also reserve the right to file a lien against your property.

9. **SPECIFIC TERMS & CONDITIONS.** In addition to the General Terms and Conditions below, please note the following:
- You are responsible for paying any permit and / or application fees, any fees required by municipal ordinance, code, or other regulatory agency, and any fees for activities including but not limited to legal recordation or title report.
 - If any staking is required as part of this project and you ask that we reset survey stakes because previous stakes are damaged or destroyed by vandals or others, we will charge you extra for the additional time required.
 - You agree, to the fullest extent permitted by law, to indemnify and hold us harmless from any claim, liability or cost (including reasonable attorney's fees and costs of defense) should you fail or refuse to comply with any local, state or federal ordinance, code, law or other regulation as they apply to this project, or should your other consultants, subconsultants, contractors or subcontractors, fail or refuse to comply with any local, state or federal ordinance, code, law or other regulation as they apply to this project, and an injury, claim or loss arises or is alleged as a result.



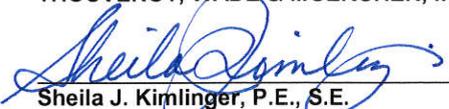
- Although we provide many different professional services, those that you have requested are listed above. We have no obligation to provide services to you beyond those listed, or to offer advice or direction on any other matters.

ACCEPTANCE. Assuming that this document accurately reflects our conversation and the terms under which we are to perform this work, please sign at this page, keep a copy for your records and return or mail the original signature copy to us. We will begin work when we have received the signed agreement and retainer.

This Agreement and the **General Terms and Conditions** below, as well as any other attachments comprise the final and complete agreement between you and us. It supersedes any prior communication, representation, or agreement, whether oral or written, relating to the subject matter of this Agreement. By signing this Agreement, you acknowledge that you have read the document thoroughly, have had any questions explained and are satisfied. Amendments to this Agreement will not be binding unless made in writing and signed by both of us.

THOUVENOT, WADE & MOERCHEN, INC.

VILLAGE OF FREEBURG



Sheila J. Kirmlinger, P.E., S.E.
Manager, Transportation Department

10/5/16
Date

Seth Speiser
Mayor

Date

4940 Old Collinsville Road
 Swansea, IL 62226
 Phone: (618) 624-4488
 Fax: (618) 624-6688

14 Southgate Center
 Freeburg, Illinois 62243
 Office: (618) 539-5545
 Fax: (618) 539-5590



LOCATION MAP



GENERAL TERMS AND CONDITIONS

GOVERNING LAW. Because of our corporate headquarters location, this Contract, its validity, interpretation and performance, will be governed by the laws of the State of Illinois.

TITLES. The paragraph titles used in this Contract, and in any attachments, are only for general reference and are not part of the Contract.

TERMINATION. Either you or we may terminate this Contract at any time with or without cause upon giving the other party thirty (30) calendar day's prior written notice. Regardless of who initiates termination, within thirty (30) calendar days of such termination you agree to pay us for all services rendered and all costs incurred up to the date of termination.

SUSPENSION OF SERVICES. If you suspended work on the project for more than thirty (30) calendar days in the aggregate, we are obviously entitled to compensation for the services we performed and the charges we incurred prior to that suspension. Upon resumption, we may also be entitled to a fair adjustment to our fees to help offset the resulting demobilization and remobilization costs, as well as a fair adjustment in the project schedule because of the suspension. You also agree that we are entitled to be paid, and that you will pay us, for all the services we provide to you, even if you subsequently decide not to proceed with your project.

DEFINITIONS. Sometimes people assume the meaning of specific words commonly used in the construction industry, but that presumed meaning may not be accurate. For the purposes of this Contract, and unless otherwise specified in this Contract, you agree with us that the following words, and their derivative words or phrases, will have the meaning indicated below:

- **CERTIFY, CERTIFICATION:** A statement of our opinion, to the best of our professional knowledge, information and belief, and based on observed conditions. Any such statement of opinion does not constitute a warranty, either express or implied. You understand that our certification does not relieve you or your contractors of any responsibility or obligation they may have by industry custom or under any contract.
- **COST ESTIMATE:** An opinion of probable construction cost made by us. If we provide a cost estimate or an opinion of probable construction cost, you recognized that we have no control over the actual costs of labor, equipment or materials, or over the methods used by contractors and bidders to determine prices or bidding. Any opinion of probable construction costs is therefore based upon our reasonable professional judgment, experience, and the data available to us at the time, and does not constitute a warranty, express or implied, that any bids or the negotiated price of the work will not vary from your budget or from that opinion of probable cost previously prepared by us.
- **DAY, DAYS:** The term "day" means a calendar day of 24 hours. The term "days" means consecutive calendar days of 24 hours each, or any fraction of a single day.
- **INSPECT, INSPECTION:** The visual observation of the Work involved in this project as it is being constructed, in order to permit us, as experienced and qualified professionals, to determine that the Work, when completed by the Contractor, generally conforms to the plans, specifications and Contract Documents. If we make any such inspections for you, you agree that we are not guaranteeing, and that we have no authority or control over, the Contractor's performance or his failure to perform the Work in accordance with the Contract Documents. We also have no responsibility for the means, methods, techniques, sequences or procedures selected by the Contractor, or for the Contractor's safety precautions and programs, or for the failure of the Contractor to comply with any laws or regulations relating to performing or furnishing the Work under their Contract.
- **RECORD DOCUMENTS:** Drawings prepared by us upon the completion of construction. These are typically based upon marked-up drawings and other data furnished to us by the Contractor and / or others showing significant changes in the Work made during construction. Some refer to these as "as-builts", but because Record Documents are prepared using unverified information provided by others, we don't make any warranty as to the absolute accuracy or completeness of the drawings we prepare, and in fact because of the source of the information we use, the drawings we provide to you may not accurately reflect what was built.
- When you see the words "us", "we", and "our" they generally refer to TWM INC., as well as our officers, partners, employees, agents and subconsultants.
- When you see the words "you" or "your", they generally refer to you as the CLIENT, as well as your officers, partners, employees, agents and subconsultants.

SCOPE OF SERVICES. Both you and we have agreed to a list of Basic Services that we will provide to you at an agreed upon price. Those services are listed in the Scope of Services section. Services not specifically listed in this section are excluded from the scope of our work and we therefore assume no responsibility to perform those services. If you ask us to perform additional services we will do so at our prevailing fee schedule. On some projects we are asked to provide only surveying or construction staking services, or to design only specific aspects of the project, while someone else provides those aspects of the design not provided by us. This may be the case in a "design-build" project as well, where the contractor provides some "design" services. In all such cases you agree that we have no responsibility, and accept no responsibility, for any design performed by others, or for detecting errors in their design, or for bringing any such possible errors to your attention.

TIMELINESS OF PERFORMANCE; DELAYS. We will perform our services with due and reasonable diligence consistent with sound professional practices. However, we are not responsible for delays caused by factors beyond our reasonable control, including but not limited to delays because of strikes, lockouts, work slowdowns or stoppages, accidents, acts of God, failure of any governmental or other regulatory authority to act in a timely manner, your failure to furnish timely information or approve or disapprove of our services or work product promptly, or delays caused by your faulty performance or by Contractors at any level. When such delays beyond our reasonable control occur, you agree that we are not responsible for damages, nor shall we be deemed to be in default of this Contract.

CERTIFICATIONS, GUARANTEES, & WARRANTIES. We will not be required to sign any documents, no matter who makes the request, which would result in our having to certify, guarantee, or warrant the existence of conditions, when we did not observe the existence of those conditions and can not otherwise determine their existence. You agree not to make the resolution of any dispute with us, or the payment of any amount due to us, in any way contingent upon our signing any such certification. In addition, we will not be required to execute any documents subsequent to the signing of this Contract that in any way might, in our sole judgment, increase our contractual or legal obligations or risks, or the availability or cost of our professional or general liability insurance.

INFORMATION PROVIDED BY OTHERS. We may need you to provide to us with some specific information so we can perform our Scope of Services. Typically that at least includes a current title insurance commitment or title insurance policy pertaining to the subject property so that we can determine the legal description of the property and the easements, covenants, conditions and restrictions encumbering it. You are also obligated to provide us with any additional information available to you or to your other consultants or contractors that might be applicable, necessary or helpful to us in performing our Scope of Services. With all such information you acknowledge that we have to trust the accuracy, completeness and sufficiency of information when it is provided by you or someone else. Still, there are a number of possible reasons why the information may not be accurate, including that errors or omissions may have occurred in the information when assembled and provided by you, or you may fail to produce all the necessary or appropriate documents or information. Even so, you agree that for any information provided by you or others, we are entitled to rely upon it, and to assume that it is accurate, complete, and in compliance with applicable rules, regulations, codes and laws. You therefore also agree, to the fullest extent permitted by law, to indemnify and hold us harmless from any claim, liability or cost (including reasonable attorney's fees and costs of defense) should you provide documents or other information for our use, and an injury, claim or loss arises or is alleged based upon errors, omissions, inaccuracies or code violations contained within the information you or someone else provides.



GENERAL TERMS AND CONDITIONS (CONTINUED)

UNDERGROUND UTILITIES & SUBSURFACE CONDITIONS. Our Scope of Services may require that we indicate the location of underground utilities on our survey or plans. If so, we will request that the location of those underground utilities be identified by surface markings. We do this by calling J.U.L.I.E. (State of Illinois) or DIG-RITE (State of Missouri) or any other appropriate "one-call" utility location service. You also agree to provide us with any information you might have about easements, pipelines, personal communication cables, or any subsurface conditions that might not otherwise be known or located. We then prepare our survey / plans indicating the locations of existing underground utilities, as they have been marked, or disclosed by you. However, you again recognize and understand that in order for us to provide this service, we are dependent upon information provided by others, and that the information upon which we must rely may contain errors or be incomplete for a number of reasons, including: 1) joint utility location services or their member companies may refuse to locate buried utilities during the design phase of a project; 2) the actual location of utilities sometimes deviates from the surface location marked by joint location services; 3) not all utilities are members of joint location services and therefore may not be notified by them, and; 4) member utilities may not respond to all requests for utility location. You should also recognize and understand that surface location markings do not identify the depth of underground utilities. You therefore agree, to the fullest extent permitted by law, to indemnify and hold us harmless from any claim, liability or cost (including reasonable attorney's fees and costs of defense) should the markings provided by a utility location service prove inaccurate or incomplete, and property damage, injury or economic loss arises or is alleged because of a contractor's reliance on underground utility information contained in plans prepared by us.

While we will indicate subsurface utilities on our plans and surveys in a manner consistent with the ordinary standard of care, unless specifically required to do so in the Scope of Services, we will not excavate, uncover or inspect actual underground utilities to indicate a more precise location, condition or capacity, or to try to determine the existence of any subsurface condition that might impact the eventual construction of the project.

STANDARD OF CARE. Services provided by us under this Contract will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

Both you and we owe a duty of care to the public that requires both of us to conform to applicable codes, standards, regulations and ordinances, principally to protect the public health and safety. You will make no request of us that, in our reasonable opinion, would be contrary to our professional responsibilities to protect the public. You will take all actions and render all reports required of you in a timely manner. Should you fail or refuse to take any required actions or render any required notices to appropriate public authorities in a timely manner, you agree that we have the right to exercise our professional judgment in reporting to appropriate public officials or taking other necessary action. You agree to take no action against us or attempt to hold us liable in any way for carrying out what we reasonably believe to be our public responsibility. You also agree that in this situation, we have the right to immediately terminate this Contract and cease providing services, without the notice we would normally provide under the Termination or Suspension of Services sections of this Contract.

In order to minimize frivolous lawsuits, you will make no claim for professional negligence against us, either directly or in a third party claim, unless you have first provided us with a written certification executed by an independent professional currently practicing in the same discipline as us and licensed in the State of Illinois. This certification shall: a) contain the name and license number of the certifier; b) specify each and every act or omission that the certifier contends is a violation of the standard of care expected of a professional performing professional services under similar circumstances; and c) state in complete detail the basis of the certifier's opinion that each such act or omission constitutes such a violation. This certificate shall be provided to us not less than thirty (30) calendar days prior to the institution of any claim.

JOBSITE SAFETY. Our employees will perform their work in a safe manner and in accordance with applicable rules and regulations. We are responsible for the safety of our own employees on the jobsite but will follow instructions of the General Contractor when those employees are in an area of the jobsite controlled by the General Contractor. Both you and we agree that the General Contractor is solely responsible for jobsite safety, and you agree that it is your responsibility to make that evident to your General Contractor. Neither our professional activities, nor the presence of our employees or subconsultants at a construction site, will relieve the General Contractor or any other entity of their responsibility for jobsite safety or for their obligations, duties, and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the Work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. Neither we nor any of our employees has the authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. You also agree that in order to further protect all of us, you, we, and any subconsultants we employ, will be indemnified and made additional insureds under the General Contractor's general liability insurance policy, endorsed under ISO Form CG 20 10 11 85, unless a different form is proposed and accepted by us.

UNAUTHORIZED CHANGES. In the event you allow, authorize, consent to or approve of anyone else making changes to any plans, specifications or other construction documents prepared by us, and those changes are not approved in writing by us, you recognize that said changes and the results thereof are not our responsibility. You therefore agree, to the fullest extent permitted by law, to indemnify and hold us harmless from any claim, liability or cost (including reasonable attorney's fees and costs of defense) should you, or any of your agents or representatives other than us, make unauthorized changes to drawings and data provided by us.

SUPPLANTING DESIGN PROFESSIONAL. If, for any reason, we do not complete all the services contemplated by this Contract, we cannot be certain of the accuracy, completeness or workability of any documents prepared by us, especially if they are used, changed, or completed by you or someone else. Since the accuracy of any such documents would no longer be in our control, we also can not be held responsible for assuring that accuracy. Accordingly, you agree, to the fullest extent permitted by law, to indemnify and hold us harmless from any claim, liability, or cost (including reasonable attorney's fees and defense costs) for injury or loss arising or alleged because of such use or completion, or for any unauthorized changes made by any party to any documents prepared by us. Nothing in this paragraph indemnifies us from our own negligence or breach of our obligations under this Contract.

DEFECTS IN SERVICE. Should you discover what you suspect to be a defect in our work or services, you agree to promptly report that suspicion to us as soon as you become aware of it, so that we can investigate and take measures to correct any such defect and to minimize the consequences of it. You further agree to impose a similar notification requirement on all your contractors, and that they do so with all subcontractors, at any level. The intent is to avoid the potentially higher cost of change orders by identifying and correcting any such defects as early as possible. Therefore, failure by you or your contractors or subcontractors to notify us as required in this section, will limit our cost of remedying any such defects to the sum that remedy would have cost had we been given prompt notification.

BETTERMENT. Betterment, or unjust enrichment, means that a person, who is negatively impacted because of an alleged error, recoups not only their actual losses caused by the error, but gains an advantage or profit because of it. This Contract does not allow betterment or unjust enrichment. Therefore, if due to an oversight by us, any required item or component of the project is omitted from the project construction documents, our responsibility is limited to the cost over and above what it would have cost you had the component or item been designed, specified and constructed in the first place: in other words, not the cost of the item itself, but only the premium cost to add the omitted item out of normal sequence.

CONSEQUENTIAL DAMAGES. Notwithstanding any other provision of the Contract, you or we will not be liable to the other for any consequential damages incurred due to the fault of the other party, regardless of the nature of this fault or whether it was committed by you or us, or by your or our employees, agents, subconsultants, or subcontractors. Consequential damages include, but are not limited to, loss of use and loss of profit.



GENERAL TERMS AND CONDITIONS (CONTINUED)

OWNERSHIP OF INSTRUMENTS OF SERVICE. All reports, plans, specifications, computer files, field data, notes and other documents prepared by us are instruments of the professional services we provide. They are not products. This is an important distinction when considering the implications of "product liability" versus "professional liability". We therefore shall be deemed the owner and author of said drawings and data, and shall retain all rights to them, including all statutory and other reserved rights, the right to reuse specific design elements created by us, and the ownership of the copyright imbedded therein.

ELECTRONIC MEDIA / FILES. Data transferred in electronic format is easily altered, even unintentionally; therefore creating the possibility that unwanted errors might be introduced into the data via the transfer process. These errors might result from incompatible software or hardware settings; from damage to the electronic media; from electrical charges; from unauthorized changes made by you or another party; or from similar events. It is generally difficult to determine when and how such errors were first introduced, and therefore who is responsible for the change. Like our paper documents, electronic data are instruments of the professional services we provide. They are not products. As such, we normally do not provide clients with drawings or other data as electronic files.

DISPUTE RESOLUTION. Should any disagreement or conflict arise between you and us in relation to this Contract during or following the completion of the project, we both agree to work diligently to try to amicably resolve our differences. We both agree to first do so through informal discussion and agreement, using the court system only as a last resort. However, nothing in this Section prohibits us from proceeding with any legal action necessary to enforce the payment provisions of this Contract, should you fail to pay for services rendered by us.

STATUTES OF REPOSE. Any legal action by either you or us against the other arising out of or in any way connected with the services to be performed under this Contract, is barred after any statute of limitation set by state law, or after five (5) years have passed from the date the project or project phase is substantially completed, whichever is shorter, and under no circumstances will any such claim be initiated by either you or us beyond those dates. In the event this Contract is terminated early, the date of Contract termination will be used in place of a substantial completion date.

THIRD PARTY BENEFICIARIES. Nothing contained in this Contract should be interpreted to create a contractual relationship with, or a cause of action in favor of, a third party against either you or us. Our services under this Contract are being performed solely for your benefit, and no other entity shall have any claim against us because of this Contract or the performance or nonperformance of services under this Contract. You agree to include a provision in all your contracts with contractors and other entities involved in this project to carry out the intent of this Section.

FAILURE TO PAY FOR SERVICES PROVIDED. Failure to make payment to us in accordance with the terms herein is a material breach of this Contract. If payment for services we provide to you is not received by us within thirty (30) calendar days of the invoice date, you agree that while we are not obligated to do so, we have the right to charge interest at a rate of up to one and one-half (1½) percent (or the maximum allowable by law, whichever is lower) on the PAST DUE amount each month it remains past due. Any payments you then make will first be applied to the accrued interest and then to the unpaid principal. In addition we may take additional actions, which may include:

- **SUSPENSION OF SERVICES.** We may suspend performance of services by giving you five (5) calendar days' notice. If we do so, we have no liability whatsoever to you for any costs or damages as a result of such suspension caused by any breach of this Contract.
- **TERMINATION OF SERVICES.** We may terminate this Contract. Payment remains due for services provided regardless of termination of this Contract by either of us.
- **MECHANICS LIEN.** We may file a lien against your property to protect our financial interests under this Contract.
- **LEGAL ACTION.** We may file suit against you to enforce the payment provisions of this Contract.

In the event that we find it necessary or prudent to file a lien or take legal action in order to enforce the payment provisions of this contract, you agree to compensate us for our cost of doing so. Among others things, those costs include our time, at current billing rates, and the expenses we incur in our collection efforts. They also include reasonable attorney's fees, court costs and related expenses incurred by us. You agree that in addition to any judgment or settlement sums due, you will pay these fees, costs and expenses to us.

GENERAL INDEMNIFICATIONS. You agree, to the fullest extent permitted by law, to indemnify, defend and hold us (as well as our officers, directors, employees and their heirs and assigns, and any individuals and entities we retain for performance of the services under this Contract, including but not limited to our subconsultants and their officers, directors, employees, heirs and assigns) harmless from and against liability for all claims, losses, damages and expenses, including reasonable attorneys' fees, to the extent such claims, losses, damages, or expenses are caused by your negligent acts, errors or omissions in connection with the Project, or those of your contractors, subcontractors or other consultants, or anyone for whom you are legally liable.

You are not obligated to indemnify us in any manner whatsoever for our own negligence. We are not obligated to indemnify you in any manner whatsoever for your own negligence. In the event claims, losses, damages or expenses are caused by the joint or concurrent negligence of both of us, they shall be borne by each party in proportion to each party's negligence.

LIMITATION OF LIABILITY. The potential risks of the project, in recognition of the relative benefits to both you and us, have been allocated in such a manner that you agree, to the fullest extent permitted by law, to limit our liability, and the liability of our subconsultants, to you, and to all construction contractors and subcontractors on the project, for any and all claims, losses, costs, and damages of any nature whatsoever, or claims or expenses from any cause or causes. **As such, unless a higher limit is requested by you and agreed to by us, the total aggregate liability for us and our subconsultants to all those named, defaults to, and shall not exceed, \$2,500.** This limitation applies regardless of cause of action or legal theory, pled or asserted. You also agree that you will not seek damages in excess of the contractually agreed limitations indirectly through suits with other parties who may join us as a third party defendant.

Limitations on liability and indemnities in this Contract are business understandings between you and us and shall apply to all the different theories of recovery, including breach of contract or warranty, tort (including negligence), strict or statutory liability, or any other cause of action. However, these limitations on liability and indemnities will not apply to any losses or damages that have been found by a trier of fact to have been caused by our sole or gross negligence or our willful misconduct.

SEVERABILITY AND SURVIVAL. If any provision of this Contract is later held unenforceable for any reason it will be deemed void, but all remaining provisions will continue in full force and effect. Notwithstanding completion or termination of this Contract for any reason, your rights, duties and obligations, as well as ours, will survive the completion of the work or the termination of the Contract, and remain in full force and effect until they are fulfilled.

ENTIRE AGREEMENT. This Contract contains the entire agreement between you and us and supersedes any prior understanding or agreements, whether verbal or in writing, in relation to this project and the specific Scope of Services outlined in this Contract.

ATTACHMENT FOLLOWS: CURRENT SCHEDULE OF FEES



ATTACHMENT II – SCHEDULE OF INSURANCE

The following reflects TWM Inc.'s Insurance Coverage and Limits in effect as of Jan 1st, 2016.

General Liability Insurance - The Hartford Insurance Company

- **Commercial General Liability Insurance** - on a broad-form occurrence basis with limits of \$1,000,000 per each occurrence and \$2,000,000 in the general aggregate.
- **Contractual Liability**
- **Cross Liability**

Automobile Liability Insurance - The Hartford Insurance Company

- **Automobile Liability Insurance** - personal injury and property damage with combined single limits (each accident) of \$1,000,000.

Excess / Umbrella Liability - The Hartford Insurance Company

- **Excess / Umbrella Liability** – on a broad-form occurrence basis with limits of \$10,000,000 per occurrence and in the aggregate.

Worker's Compensation Insurance - The Hartford Insurance Company / USL & H – All States

- **Worker's Compensation Insurance** – as required by statute, including Employers' Liability, with limits of:
 - \$1,000,000 each accident
 - \$1,000,000 disease – each employee
 - \$1,000,000 disease – policy limit

Professional Liability Practice Policy – Hall & Company – Ace American Insurance Company

- **A/E Professional Liability Insurance Policy** – with limits of \$2,000,000 per claim and \$2,000,000 in the annual aggregate.

THOUVENOT, WADE & MOERCHEN, INC.
SCHEDULE OF FEES

Principal	\$157.00
Senior Engineer	\$153.00
Project Engineer V	\$150.00
Project Engineer IV	\$137.00
Project Engineer III	\$122.00
Project Engineer II	\$112.00
Project Engineer I	\$104.00
Project Manager IV	\$139.00
Project Manager III	\$127.00
Project Manager II	\$113.00
Project Manager I	\$93.00
Senior Structural Engineer	\$159.00
Structural Engineer V	\$150.00
Structural Engineer IV	\$145.00
Structural Engineer III	\$121.00
Structural Engineer II	\$117.00
Structural Engineer I	\$114.00
Survey Crew (3 man crew)	\$217.00
Survey Crew (2 man crew)	\$168.00
Survey Crew (2 man crew w/Robotics or GPS)	\$182.00
Survey Crew (1 man w/Robotics or GPS)	\$131.00
Survey Crew (1 man w/3D Scanner)	\$185.00
Engineer III	\$93.00
Engineer II	\$90.00
Engineer I	\$83.00
Surveyor IV	\$127.00
Surveyor III	\$113.00
Surveyor II	\$101.00
Surveyor I	\$85.00
Management Construction Engineering Services	\$113.00
Construction Observation (Non-Professional Engineer)	\$94.00
3D Scanning Technician	\$87.00
Technician V	\$83.00
Technician IV	\$79.00
Technician III	\$72.00
Technician II	\$68.00
Technician I	\$62.00
Jr. Technician	\$38.00
Senior Electrical Designer	\$112.00
Senior Transportation Designer	\$109.00
Data Systems Manager	\$98.00
Cad Manager	\$94.00
Cad Designer III	\$84.00
Cad Designer II	\$79.00
Cad Designer I	\$68.00
Accountant II	\$98.00
Accountant I	\$71.00
Word Processing	\$63.00
Air & Vacuum Testing 2 Technicians w/ Equipment	\$187.00
Live Sewer Testing	\$249.00
Mandrel Testing 2 Technicians w/ Equipment	\$172.00
Live Sewer Testing	\$232.00
Video Testing 1 Technician w/ Equipment	\$199.00
2 Technicians w/Equipment	\$272.00
Outside Services (Consultants, Delivery Service, Express Mail, etc.)	At Cost plus 15%
Commercial Travel, Meals, Lodging & Other Expenses	At Cost
4 X 4 Polaris (per Day)	\$66.00
Travel (Non local) per Mile at current GSA rate.	