

Village of Colfax  
Streets Committee Meeting  
Tuesday, May 29, 2018  
5:30 p.m. at Village Hall  
613 Main Street, Colfax, WI

## Agenda

1. Call to Order
2. Roll Call
3. Chip Sealing Streets Cost Estimate
4. Curb & Gutter Cost Highway 40/University
5. High Street Patch
6. Roosevelt Street
7. Cedar Street – Legion Dr. to Third Ave
8. Other Business
9. Adjourn

Any person who has a qualifying disability as defined by the American With Disabilities Act that requires the meeting or materials at the meeting to be in an accessible location or format must contact: Lynn Niggemann Administrator-Clerk-Treasurer's Office, 613 Main Street, Colfax, (715) 962-3311 by 2:00 p.m. the day prior to the meeting so that and necessary arrangements can be made to accommodate each request.

**\*\*\*\*\*It is possible that members of and possibly a quorum of members of the governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information- no action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice.\*\*\*\*\***

**May 29, 2018 Streets Committee Meeting**

**Chip Sealing Streets**

**Estimated Cost- \$10,000**

Willow, Elm, Bremer, Park, 5<sup>th</sup>, 4<sup>th</sup>, 3<sup>rd</sup>, Roosevelt, Pine, 1<sup>st</sup>, Evergreen, Ash, Birch

**Curb & Gutter Repairs– Hwy 40/University**

**Estimated Cost - \$30,000**

**High Street Patch**

**Estimated Cost - \$3,941**

Break in the main, Street opening

**River Street**

**Estimated Cost - \$1,494**

Near CTL and the alley. Small repair

**Railroad Avenue - Pulverize . . .**

**Section by the Funeral Home**

**Estimate Cost \$34,675**

**Section by Cenex**

**Estimate Cost \$20,925**

**Section by Railroad Museum**

**Estimate Cost \$10,358**

**Cedar Street**

**Estimate Cost \$22,390**

Remove and haul existing blacktop, stripe off & stock pile the base, haul out materials, lay base, finish, pave 3".

CAPITAL IMPROVEMENT PROGRAM 2016  
Colfax, Wisconsin

	Watermain		Watermain		Sanitary Sewer		Sanitary Sewer		Roadway Work		Roadway Work		Roadway Work		Subtotal Construction Costs		Project Total
	Contingency	Engineering	Contingency	Engineering	Contingency	Engineering	Contingency	Engineering	Contingency	Engineering	Contingency	Engineering	Contingency	Engineering	Contingency	Engineering	
3rd Avenue	\$ 64,300	\$ 6,400	\$ 9,332	\$ 80,032	\$ 50,900	\$ 5,100	\$ 7,009	\$ 63,009	\$ 223,300	\$ 22,300	\$ 32,459	\$ 278,059	\$ 338,500	\$ 33,800	\$ 48,800	\$ 421,100	
Roosevelt	\$ 36,400	\$ 3,600	\$ 6,000	\$ 46,000	\$ 27,300	\$ 2,700	\$ 4,500	\$ 34,500	\$ 131,800	\$ 13,200	\$ 21,700	\$ 166,700	\$ 195,500	\$ 19,500	\$ 32,200	\$ 247,200	
Dunn	\$ 6,300	\$ 600	\$ 1,000	\$ 7,900	\$ 3,200	\$ 300	\$ 500	\$ 4,000	\$ 136,700	\$ 13,700	\$ 22,600	\$ 173,000	\$ 146,200	\$ 14,600	\$ 24,100	\$ 184,900	

Notes:

3rd Avenue  
Based on actual design quantities, and historical bid prices  
Year of design engineering in 2015; need to deduct \$23,000 from the total shown above.  
Construction engineering in 2015.  
Contingency is estimated at 10%-slightly high, but helps account for volatility price of oil

Roosevelt and Dunn  
Based on conceptual design  
10% Contingency  
15% Engineering

## **INDIVIDUAL PROJECT SUPPLEMENT TO MASTER AGREEMENT FOR PROFESSIONAL SERVICES**

This is an Individual Project Supplement dated March 16, 2018 which is an attachment to the Master Agreement dated May 23, 2005 between Village of Colfax (OWNER) and Ayres Associates Inc (CONSULTANT).

Project: 2018 Street & Utility Improvement Project – Roosevelt Street

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### **PROJECT DESCRIPTION**

The project consists of engineering design services, bidding assistance, and construction phase services for the 2018 Village of Colfax Street & Utility Improvement Project. The project will consist of the following:

1. Roosevelt Street from 3<sup>rd</sup> Avenue to 5<sup>th</sup> Avenue (excluding intersections of 3<sup>rd</sup> and 4<sup>th</sup> Avenues), 650 foot reconstruction of street and utilities (sanitary sewer, watermain, and storm sewer).

### **ATTACHMENT A - SCOPE OF SERVICES**

#### **ARTICLE 1 - BASIC SERVICES**

TOPOGRAPHIC SURVEY PHASE – Previously completed

PLAN PREPARATION PHASE

Preliminary Plans & Specifications:

1. Prepare preliminary plans and specifications for review by the Village of Colfax Street and Utility Committee and Village staff. Village review comments will be incorporated into the final plans. It is anticipated that the preliminary plans and specifications will be reviewed once prior to preparation of final construction plans and specifications.
2. Project will use the Village of Colfax standard road and utility details and specifications. The typical street section is anticipated to consist of curb and gutter roadway approximately 36 feet wide (face-of-curb to face-of-curb).
3. Storm sewer is anticipated to connect to and utilize the recently constructed system at the 3<sup>rd</sup> Avenue and 4<sup>th</sup> Avenue intersections.
4. The existing watermain will be removed and replaced with a new 8 inch watermain.
5. The existing 8 inch sanitary sewer will be removed and replaced with a new 8 inch sanitary sewer.
6. Prepare preliminary schedule of quantities and opinion of probable construction costs.
7. Meet with OWNER to review preliminary plans, specifications, and opinion of probable construction costs. OWNER comments will be incorporated into the final plans.

Final Plans & Specifications:

1. Prepare construction plans and specifications incorporating comments from OWNER review of preliminary plans and specifications.

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Attachments A, B, and C

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2. Update preliminary schedule of quantities and opinion of probable construction costs.
3. Meet with OWNER to review final plans, specifications, and opinion of probable construction costs.

PRE-CONSTRUCTION AND BIDDING PHASE – Future date (Scope & Fee based on 2019 Construction)

The project design phase will be completed and bidding put on hold until such time that the OWNER chooses. After Authorization to proceed with the Bidding Phase, CONSULTANT shall:

1. Assist OWNER with preparation of WDNR watermain permit application.
2. Assist OWNER with preparation of WDNR sanitary permit application.
3. Assist OWNER with preparation of WDNR Water Resources Application for Project Permits (Construction storm water runoff) application and associated storm water management and erosion control plan.
4. Meet with OWNER to review final plans, specifications, and opinion of probable construction costs.
5. Prepare for review and approval by OWNER, its legal counsel and other advisors contract agreement forms, general conditions and supplementary conditions, and (where appropriate) bid forms, invitations to bid and instructions to bidders (all of which shall be consistent with the forms and pertinent guide sheets prepared by the Engineers Joint Contract Documents Committee), and assist in the preparation of other related documents.
6. Assist OWNER in advertising for and obtaining bids for construction, materials, equipment and services; and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre-bid conferences and receive and process deposits for Bidding Documents.
7. Answer questions from the contractors during the bidding process.
8. Issue addenda as appropriate to interpret, clarify or expand the Bidding Documents.
9. Consult with and advise OWNER as to the acceptability of subcontractors, suppliers and other persons and organizations proposed by the prime contractor(s) (herein called "Contractor(s)") for those portions of the work as to which such acceptability is required by the Bidding Documents.
10. Consult with OWNER concerning and determine the acceptability of substitute materials and equipment proposed by Contractor(s) when substitution prior to the award of contracts is allowed by the Bidding Documents.
11. Attend the bid opening, prepare bid tabulations, assist OWNER in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment and services.

CONSTRUCTION PHASE – Future date (Scope & Fee based on 2019 Construction)

During the Construction Phase:

1. General Administration of Construction Contract. CONSULTANT shall consult with and advise OWNER and act as OWNER's representative as provided in Articles 1 through 17, inclusive, of the Standard General Conditions of the Construction Contract, C-700 (2007 edition) of the Engineers Joint Contract Documents Committee. The extent and limitations of the duties, responsibilities and authority of CONSULTANT as assigned in said Standard General Conditions shall not be modified, except to the extent provided hereinafter and except as CONSULTANT may otherwise agree in writing. All of OWNER's instructions to Contractor(s) will be issued through CONSULTANT who will have authority to act on behalf of OWNER to the extent provided in said Standard General Conditions except as otherwise provided in writing.

2. Visits to Site and Observation of Construction. In connection with observations of the work of Contractor(s) while it is in progress:

CONSULTANT shall make visits to the site at intervals appropriate to the various stages of construction as CONSULTANT deems necessary in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of Contractor(s)' work. Based on information obtained during such visits and on such observations, CONSULTANT shall endeavor to determine in general if such work is proceeding in accordance with the Contract Documents and CONSULTANT shall keep OWNER informed of the progress of the work.

3. Defective Work. During such visits and on the basis of such observations, CONSULTANT may disapprove of or reject Contractor(s)' work while it is in progress if CONSULTANT believes that such work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the Project as reflected in the Contract Documents. Neither this authority nor CONSULTANT's good faith judgment to reject or not reject any work shall subject CONSULTANT to any liability or cause of action to Contractor, subcontractors, or any other suppliers or persons performing work on the Project.
4. Construction Staking. CONSULTANT shall provide construction staking as detailed in the construction documents to locate the work which, in CONSULTANT's judgement, is necessary to enable Contractor to proceed.
5. Interpretations and Clarifications. CONSULTANT shall issue necessary interpretations and clarifications of the Contract Documents and in connection therewith prepare work directive changes and change orders as required.
6. Shop Drawings. CONSULTANT shall review (and take other appropriate action in respect of) Shop Drawings (as that term is defined in the aforesaid Standard General Conditions), samples and other data which Contractor(s) are required to submit, but only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents. Such reviews and approvals or other action shall not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto.
7. Substitutes. CONSULTANT shall evaluate and determine the acceptability of substitute materials and equipment proposed by Contractor(s).
8. Inspections and Tests. CONSULTANT shall have authority, as OWNER's representative, to require special inspection or testing of the work, and shall receive and review all certificates of inspections, testings and approvals required by laws, rules, regulations, ordinances, codes, orders or the Contract Documents (but only to determine generally that their content complies with the requirements of, and the results certified indicate compliance with, the Contract Documents).
9. Disputes between OWNER and Contractor. CONSULTANT shall act as initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work thereunder and make decisions on all claims of OWNER and Contractor(s) relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work. CONSULTANT shall not be liable for the results of any such interpretations or decisions rendered in good faith.

10. Applications for Payment. Based on CONSULTANT's on-site observations as an experienced and qualified design professional, on information provided by the Resident Project Representative and on review of applications for payment and the accompanying data and schedules:

CONSULTANT shall determine the amounts owing to Contractor(s) and recommend in writing payments to Contractor(s) in such amounts. Such recommendations of payment will constitute a representation to OWNER, based on such observations and review, that the work has progressed to the point indicated, and that, to the best of CONSULTANT's knowledge, information and belief, the quality of such work is generally in accordance with the Contract Documents (subject to an evaluation of such work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in recommendation). In the case of unit price work, CONSULTANT's recommendations of payment will include final determinations of quantities and classifications of such work (subject to any subsequent adjustments allowed by the Contract Documents).

By recommending any payment CONSULTANT will not thereby be deemed to have represented that exhaustive, continuous or detailed reviews or examinations have been made by CONSULTANT to check the quality or quantity of Contractor(s)' work as it is furnished and performed beyond the responsibilities specifically assigned to CONSULTANT in this Agreement and the Contract Documents. CONSULTANT's review of Contractor(s)' work for the purposes of recommending payment will not impose on CONSULTANT responsibility to supervise, direct or control such work or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto or Contractor(s) compliance with laws, rules, regulations, ordinances, codes or orders applicable to their furnishing and performing the work. It will also not impose responsibility on CONSULTANT to make any examination to ascertain how or for what purposes any Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any of the work, materials or equipment has passed to OWNER free and clear of any lien, claims, security interests or encumbrances, or that there may not be other matters at issue between OWNER and CONTRACTOR that might affect the amount that should be paid.

11. Contractor(s)' Completion Documents. CONSULTANT shall receive and review maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection, tests and approvals which are to be assembled by Contractor(s) in accordance with the Contract Documents (but such review will only be to determine that their content complies with the requirements of, and in the case of certificates of inspection, tests and approvals the results certified indicate compliance with, the Contract Documents); and shall transmit them to OWNER with written comments.
12. Project Closeout. CONSULTANT shall conduct a preliminary walk-through to determine if the work is substantially complete and a final walk-through to determine if the completed work is acceptable so that CONSULTANT may recommend, in writing, final payment to Contractor(s) and may give written notice to OWNER and the Contractor(s) that the work is acceptable (subject to any conditions therein expressed), but any such recommendation and notice will be subject to the limitations expressed in paragraph 9.
13. Limitation of Responsibilities. CONSULTANT shall not be responsible for the acts or omissions of any Contractor, or of any subcontractor or supplier, or any of the Contractor(s)' or subcontractor's or supplier's agents or employees or any other persons (except CONSULTANT's

own employees and agents) at the site or otherwise furnishing or performing any of the Contractor(s)' work; however, nothing contained in paragraphs 1.6.1 thru 1.6.11 inclusive, shall be construed to release CONSULTANT from liability for failure to properly perform duties and responsibilities assumed by CONSULTANT in the Contract Documents.

14. After the project is complete, the CONSULTANT shall prepare a set of reproducible record prints of Drawings showing those changes made during the construction process, based on the marked-up prints, drawings and other data furnished by Contractor(s) to CONSULTANT and which CONSULTANT considers significant. In that record drawings are based on information provided by others, CONSULTANT cannot and does not warrant their accuracy.

## **ARTICLE 2 - ADDITIONAL SERVICES**

CONSULTANT will furnish additional services only upon written authorization from OWNER.

Services NOT included:

1. Permit and submittal fees.
2. Assisting with Special Assessments including report, hearing, etc.
3. Geotechnical investigation and analysis.
4. Wetland permitting or mitigation services.
5. Private utility relocation or related work.
6. Traffic control planning, other than normal road closure to through traffic or detour planning.

## **ARTICLE 3 - OWNER'S RESPONSIBILITIES**

OWNER shall do the following in a timely manner so as not to delay the services of CONSULTANT:

1. Designate in writing a person to act as OWNER's representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define OWNER's policies and decisions with respect to CONSULTANT's services for the Project.
2. Provide all criteria and full information as to OWNER's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the Project.
3. Place at CONSULTANT's disposal all available pertinent information including previous reports and any other data relative to design or construction of the Project.



## ATTACHMENT B - PERIOD OF SERVICES

### ARTICLE 4 - PERIOD OF SERVICES

The professional services provided by CONSULTANT are anticipated to proceed according to the following schedule assuming Owner executes this agreement within 60 days of the agreement date:

<u>Professional Service</u>	<u>Anticipated Completion</u>
Topographic Survey	Completed
Preliminary Design Phase	0-45 days from executed agreement
Preliminary Plan Review by Owner	45-60 days from executed agreement
Final Design Phase	60-90 days from executed agreement
Final Design Review by Owner	90-105 days from executed agreement
Final Plans & Specification to Owner	120 days from notice to proceed
Pre-Construction & Bidding Phase	Future date TBD (Scope & Fee valid only for 2019 Construction)
Construction Phase	Future date TBD (Scope & Fee valid only for 2019 Construction)

## ATTACHMENT C - COMPENSATION AND PAYMENTS

### ARTICLE 5 - COMPENSATION AND PAYMENTS

#### DESIGN PHASE

CONSULTANT shall perform this phase of services for a lump sum fee of **\$28,000**.

#### PRE-CONSTRUCTION & BIDDING PHASE

CONSULTANT shall perform this phase of services for a lump sum fee of **\$6,850**.

#### CONSTRUCTION PHASE

CONSULTANT shall perform construction phase services on an hourly basis plus reimbursable expenses.

The Construction Phase services estimated fees are based on the following:

- Staking sanitary sewer, storm sewer, watermain and curb and gutter one time, with the contractor responsible for any re-staking due to his actions. Estimated 4 survey crew days.
- Full-time construction observation during utility construction and part-time observation for street construction. Estimated 110 hours.
- Construction duration of no more than 60 calendar days from "Notice to Proceed."

The estimated fees for construction phase services are **\$22,500**.

CONSULTANT may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but shall not exceed the total estimated compensation amount unless approved in writing by OWNER.

IN WITNESS WHEREOF, the parties hereto have made and executed this Individual Project Supplement as of the day and year first written above.

Village of Colfax  
OWNER

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Signature)

(Typed Name)

(Title)

(Date)

Ayres Associates Inc  
CONSULTANT

*Lisa A. Fleming*

Lisa Fleming

Manager, Municipal Services

March 16, 2018

Ayres Associates Inc  
CONSULTANT

(Signature)

(Typed Name)

(Title)

(Date)

*Gareth Shambeau*

Gareth Shambeau, PE

Civil Engineer

March 16, 2018

## **ATTACHMENT D - TERMS AND CONDITIONS**

This is an attachment to the Master Agreement dated May 23, 2005 between Village of Colfax (OWNER) and Ayres Associates Inc (CONSULTANT).

### **ARTICLE 6 - CONSTRUCTION COST AND OPINIONS OF COST**

#### **6.1 Construction Cost**

The construction cost of the entire Project (herein referred to as "Construction Cost") means the total cost to OWNER of those portions of the entire project designed and specified by CONSULTANT, but it will not include CONSULTANT's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to, properties unless this Agreement so specifies, nor will it include OWNER's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project or the cost of other services to be provided by others to OWNER pursuant to Attachment A.

#### **6.2 Opinions of Probable Cost**

6.2.1 Because CONSULTANT has no control over the cost of labor, materials, equipment or services furnished by others, or over Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, CONSULTANT's opinions of probable Total Project Costs and Construction Cost provided for herein are to be made on the basis of CONSULTANT's experience, qualifications and judgment as an experienced and qualified professional, familiar with the construction industry; but CONSULTANT cannot and does not guarantee that proposals, bids or actual Project or Construction Costs will not vary from opinions of probable cost. If prior to the Bidding or Negotiating Phase OWNER wishes greater assurance as to Total Project or Construction Costs, OWNER shall employ an independent cost estimator.

### **ARTICLE 7 - GENERAL CONSIDERATIONS**

#### **7.1 Standard of Performance**

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

## **7.2 Reuse of Documents**

All documents including Drawings and Specifications prepared or furnished by CONSULTANT (and independent professional associates and subconsultants) pursuant to this Agreement are instruments of service and CONSULTANT shall retain an ownership and property interest therein whether or not the Project is completed. OWNER may make and retain copies for information and reference in connection with use and occupancy of the Project by OWNER and others; however, such documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other project. Any reuse without written verification or adaptation by CONSULTANT for the specific purpose intended will be at OWNER's sole risk and without liability or legal exposure to CONSULTANT, or to independent professional associates or subconsultants, and OWNER shall indemnify and hold harmless CONSULTANT and independent professional associates and subconsultants from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle CONSULTANT to further compensation at rates to be agreed upon by OWNER and CONSULTANT.

## **7.3 Electronic Files**

7.3.1 OWNER and CONSULTANT agree that any electronic files furnished by either party shall conform to the specifications agreed to at the time this Agreement is executed and listed elsewhere. Any changes to the electronic specifications by either OWNER or CONSULTANT are subject to review and acceptance by the other party. Additional services by CONSULTANT made necessary by changes to the electronic file specifications shall be compensated for as Additional Services.

7.3.2 Electronic files furnished by either party shall be subject to an acceptance period of 60 days during which the receiving party agrees to perform appropriate acceptance tests. The party furnishing the electronic file shall correct any discrepancies or errors detected and reported within the acceptance period. After the acceptance period, the electronic files shall be deemed to be accepted and neither party shall have any obligation to correct errors or maintain electronic files.

7.3.3 OWNER is aware that differences may exist between the electronic files delivered and the printed hard-copy documents. In the event of a conflict between the hard-copy documents prepared by CONSULTANT and electronic files, the hard-copy documents shall govern.

## **7.4 Insurance**

CONSULTANT shall procure and maintain insurance for protection from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom. Requirements for insurance are amended and supplemented as indicated in Attachment E.

## **7.5 Termination**

The obligation to provide further services under this Agreement may be terminated by either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

## **7.6 Controlling Law**

This Agreement is to be governed by the law of the place of business of CONSULTANT at the address hereinbefore stated.

## **7.7 Successors and Assigns**

7.7.1 OWNER and CONSULTANT each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and CONSULTANT (and to the extent permitted by paragraph 7.7.2 the assigns of OWNER and CONSULTANT) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

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

7.7.3 Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than OWNER and CONSULTANT, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and CONSULTANT and not for the benefit of any other party.

## **7.8 Dispute Resolution**

7.8.1 Negotiation. OWNER and CONSULTANT agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to exercising their rights under the dispute resolution provision below or other provisions of this Agreement, or under law.

7.8.2 Mediation. If direct negotiations fail, OWNER and CONSULTANT agree that they shall submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof to mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association effective on the date of this Agreement prior to exercising other rights under law.

## **7.9 Exclusion of Special, Indirect, Consequential, and Liquidated Damages**

CONSULTANT shall not be liable, in contract or tort or otherwise, for any special, indirect, consequential, or liquidated damages including specifically, but without limitation, loss of profit or revenue, loss of capital, delay damages, loss of goodwill, claim of third parties, or similar damages arising out of or connected in any way to the Project or this Agreement.

### **7.10 Betterment**

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

## ATTACHMENT E - INSURANCE

This is an attachment to the Master Agreement dated May 23, 2005 between Village of Colfax (OWNER) and Ayres Associates Inc (CONSULTANT).

### ARTICLE 8 - INSURANCE

#### 8.1 Workers' Compensation

Workers' Compensation insurance covering the CONSULTANT for any and all claims which may arise against the CONSULTANT because of Workers' Compensation and Occupational Disease Acts shall be carried. The Employer's Liability Section shall have limits of not less than the following:

Each Accident:	\$	100,000
Disease, Policy Limit:	\$	500,000
Disease, Each Employee:	\$	100,000

#### 8.2 Commercial General Liability

Commercial General Liability insurance protecting the CONSULTANT against any and all general liability claims which may arise in the course of performance of this Agreement shall be carried. The limits of liability shall not be less than the following:

General Aggregate:	\$	1,000,000
Products-Completed Operations Aggregate:	\$	1,000,000
Personal and Advertising Injury:	\$	1,000,000
Each Occurrence:	\$	1,000,000

Property damage liability coverage shall not exclude explosion, collapse, and underground perils if CONSULTANT is engaged in these activities.

Commercial General Liability coverage shall also protect the CONSULTANT for the same limits of liability for claims which may arise because of the indemnity or contractual liability agreement contained within this Agreement.

#### 8.3 Business Automobile Liability

Business Automobile Liability insurance including Owned, Non-Owned, and Hired vehicles shall be carried with a limit of not less than the following:

Bodily Injury and Property Damage, Combined Single Limit:	\$	1,000,000
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#### **8.4 Umbrella Excess Liability**

Excess liability insurance (umbrella form) over underlying Employer's Liability, Commercial General Liability, and Business Automobile Liability shall be carried. The limits of liability shall be not less than the following:

Each Occurrence:	\$ 1,000,000
Aggregate:	\$ 1,000,000

#### **8.5 Professional Liability (Errors and Omissions)**

Professional Liability insurance protecting the CONSULTANT against Professional Liability claims which may arise in the course of this Agreement shall be carried. The limits of liability shall be not less than the following:

Each Claim:	\$ 1,000,000
Aggregate:	\$ 1,000,000

#### **8.6 Valuable Papers**

During the life of this Agreement, the CONSULTANT shall maintain in force Valuable Papers and Records insurance in an amount equal to the maximum exposure to loss of written, printed, or otherwise inscribed documents and records, including books, maps, films, drawings, abstracts, deeds, mortgages, and manuscripts as shall be required and/or produced in the completion of this Agreement by the CONSULTANT.