



Board of Public Works & Safety and Stormwater Board

Regular Meeting Agenda

2:00 p.m., March 28, 2022

Goshen Police & Court Building, 111 East Jefferson Street, Goshen, Indiana

To access online streaming of the meeting, go to <https://goshenindiana.org/calendar>

NOTE: The Board of Works & Safety will meet next on April 11, 2022. As decided in January, no meeting will be held on April 4, 2022

Call to Order by Mayor Jeremy Stutsman

Approval of Minutes: March 21, 2022

Approval of Agenda

1) Fire Department: Resignation of Lieutenant Matthew Dunithan

2) Legal Department: Resolution 2022-13, Approving Certain City of Goshen Police Department Policies and Repealing Various Policies (repeat submission with corrected ordinance number and amended effective date)

3) Legal Department: Acceptance of deed of dedication from Greenwood Rental Properties, LLC

4) Legal Department: Approval of indemnification and hold harmless agreement with OmniSource, LLC to allow for Fire Department training

5) Legal Department: Approval of agreement with the Communication Company of South Bend, Inc. for alarm testing and monitoring at three City facilities

6) Legal Department: Approval of Resolution 2022-14, Approving Certain Investment Options for City Employees Participating in City of Goshen Group Annuity Contract through American United Life Insurance Company, which will allow employees to choose the investment account into which they wish to contribute their payroll deductions



7) Engineering Department: Approval to advertise for bids for Project No. 2018-0022 College Avenue Bridge #410 Reconstruction and Utility Relocation - Phase 1.

8) Engineering Department: Agreement Amendment No. 4 with Donohue and Associates for \$60,105 for a new not to exceed contract amount of \$3,444,576 for WWTP Improvements and Rock Run Interceptor Phase 1 Projects

9) Engineering Department: Agreement with Greencroft Goshen, Inc. for the completion of the construction project at 2095 Whispering Pines (JN: 2020-2017)

CITY OF GOSHEN STORMWATER BOARD

Regular Meeting Agenda

2:00 p.m., March 28, 2022

Goshen Police & Court Building, 111 East Jefferson Street, Goshen, Indiana

Members: Mayor Stutsman, Mike Landis and Mary Nichols

10) Stormwater Department: Approval of post-construction stormwater management plan for The Willows expansion (JN: 2019-2040)

Privilege of the Floor

Approval of Civil City and Utility Claims

Adjournment



BOARD OF PUBLIC WORKS & SAFETY & STORMWATER BOARD

MINUTES OF THE March 21, 2022 REGULAR MEETING

Convened at 2 p.m. at Goshen Police & Court Building, 111 East Jefferson Street, Goshen, Indiana

Present: Mayor Jeremy Stutsman and members Mike Landis, Mary Nichols and DeWayne Riouse

Absent: Barb Swartley

CALL TO ORDER: Mayor Stutsman called the meeting to order at 2:02 p.m.

REVIEW/APPROVE MINUTES: Minutes of the March 14, 2022 meeting of the Board of Works & Safety & Stormwater Board were presented. Board member Mike Landis moved to approve the minutes as presented and the motion was seconded by Board member Mary Nichols. Motion passed 4-0.

REVIEW/APPROVE AGENDA: Mayor Stutsman presented the agenda. Board member Landis moved to approve the agenda as submitted. Board member Nichols seconded the motion. Motion passed 4-0.

1) Police Department: Resignation of Officer Matthew F. Shultz

Police Chief José Miller asked the Board to approve the resignation of Officer Matthew F. Shultz from the Goshen Police Department, effective March 25, 2022. On March 11, Chief Miller said he received an email from Officer Shultz informing him of his intent to resign from the Police Department. Officer Shultz is pursuing a career in the private sector. Officer Shultz related that all officers make sacrifices in their careers, but he has started a business that will allow for some normalcy. He will be able to go to many of his kids' sports functions that he was unable to attend because of his police work schedule. Chief Miller said Officer Shultz has worked for the Police Department for more than 15 years, having been hired full time Dec. 31, 2007, and before than was a reserve officer. During his time with the department, Officer Shultz served as a supervisor in patrol and at one point was the commander of the Goshen Emergency Response Team. Chief Miller thanked Officer Shultz for his service and commitment to the community and wished him and his family the best in their future endeavors. Mayor Stutsman also thanked Officer Shultz. Landis/Nichols moved to approve the resignation of Officer Matthew F. Shultz from the Goshen Police Department, effective March 25, 2022. Motion passed 4-0.

2) Legal Department: Resolution 2022-12, Grant Agreement between Indiana Criminal Justice Institute and Goshen Police Department for 2022 Edward Byrne Memorial Justice Assistance Grant Program funds Shannon Marks, a paralegal with the City Legal Department, asked the Board to adopt Resolution 2022-12, Grant Agreement between the Indiana Criminal Justice Institute and the Goshen Police Department for 2022 Edward Byrne Memorial Justice Assistance Grant Program Funds. Marks said the Police Department was awarded \$34,602.32 in grant funds from the Edward Byrne Memorial Justice Assistance Grant Formula Program. The funds will be used to purchase an evidence camera and accessories. The attached resolution approved the terms and conditions of the grant agreement and authorized the Clerk-Treasurer and Mayor to execute the Grant Agreement on behalf of the Goshen Police Department and the City of Goshen.



According to the agreement, the Police Department will update its technology with a Crime-lite AUTO forensic digital camera and accessories. This equipment will replace current, outdated equipment in the evidence department. Once trained, the evidence technicians will begin to utilize this equipment at crime scenes to obtain forensic evidence that can assist the department in solving more crimes and convicting criminals.

Landis/Nichols moved to adopt Resolution 2022-12, Grant Agreement between the Indiana Criminal Justice Institute and the Goshen Police Department for 2022 Edward Byrne Memorial Justice Assistance Grant Program Funds. Motion passed 4-0.

3) Legal Department: Resolution 2022-09, Declaring Surplus and Authorizing Disposal of Personal Property Shannon Marks, a paralegal with the City Legal Department, asked the Board to pass and adopt Resolution 2022-09, Declaring Surplus and Authorizing the Disposal of Personal Property. Marks said the City wants to dispose of personal property that is no longer needed or is unfit for the purpose for which it was intended. Resolution 2022-09 would declare the property, primarily motor vehicles, as surplus and authorize its disposal in accordance with the provisions of Indiana Code § 5-22-22-5 by selling the property by sealed bids with advertising.

Resolution 2022-09 would declare 31 motor vehicles and pieces of equipment as surplus property and authorize their disposal through sealed bids with advertising.

According to an included "Notice of Sale of Vehicles and Equipment," the surplus property includes the following items: 2008 Ford Ranger; 2007 Chevy Impala; 2011 Chevy Impala; 2007 Chevy Impala; 2012 Chevy Impala; 2011 Chevy Impala; 2004 Dodge Stratus; 2010 Chevy Impala; 2003 Crown Victoria; 2015 Harley Davidson; 2007 Chevy Impala; 2009 Chevy Impala; 2010 Chevy Impala; 2007 Chevy Impala; 2009 Chevy Impala; 2002 Ford Explorer; 2007 Ford F250 with 2007 Boss V Plow 8'2"; 2002 Ford Excursion; 1992 Medtec Ambulance; 2005 Ford Escape; 2010 Ford Escape; 2010 Ford Escape; 2008 Ford Ranger; 2001 Ford F550; 11' landscape-style dump bed with engine driven hydraulic pump; 1996 Club Golf Cart; 2005 Spaulding Patcher; 1999 GMC T7500; 2012 Monroe Salt Spreader; 2004 Textron Golf Cart; and Simplicity Tractor.

Detailed information on the Surplus Property is available in the bid documents, which can be obtained from the Goshen Clerk-Treasurer's Office at 202 South Fifth Street, Goshen, IN 46528 or **on the City's current Bidding Opportunities website portal at <https://goshenindiana.org/bidding-opportunities>**

The Surplus Property is being sold "AS IS, WHERE IS" with no warranty, express or implied, including any implied warranty of merchantability or fitness for a particular purpose. Bidders must make their own inspection of the surplus property and rely solely on the bidder's observation in deciding whether to submit a bid. Bidder shall not rely upon any representation or statements made by any City employee or agent.

Interested parties may inspect the Surplus Property on Saturday, April 2, 2022 from 9 a.m. to 12 p.m. at the Goshen Street Department at 475 Steury Avenue, Goshen or by calling the Central Garage at 574-534-3703 to schedule an appointment.

Sealed bids must be submitted in accordance with the instructions and the terms and conditions that are included in the Bid Documents. Reserve prices have been placed on the Surplus Property. The City will not collect any sales tax on any Surplus Property sold.

Bids will be received by the Goshen Clerk-Treasurer's Office at 202 South Fifth Street, Goshen, IN 46528 until 1:45 p.m. (local time) on April 11, 2022.



All bids received will be taken to the April 11, 2022 Board of Public Works and Safety meeting at 2:00 p.m. to be publicly opened and read aloud. The Board meeting will be held in the City Court Room/Council Chambers located at the Goshen Police & Court Building, 111 East Jefferson Street, Goshen.

Landis/Nichols moved to pass and adopt Resolution 2022-09, Declaring Surplus and Authorizing the Disposal of Personal Property. Motion passed 4-0.

4) Legal Department: Acceptance of Easement from JAVI HOLDINGS LLC

Shannon Marks, a paralegal with the City Legal Department, asked the Board to accept the easement for Goshen City utility purposes from JAVI HOLDINGS LLC, and authorize the Mayor to execute the acceptance. Marks said the easement was for Goshen City utility purposes at 1810 Reliance Road. According to the acceptance document, JAVI HOLDINGS LLC is granting the City the easement for the purposes of accessing, installing, operating and maintaining utility facilities.

Landis/Nichols moved to accept the easement for Goshen City utility purposes from JAVI HOLDINGS LLC, and authorize the Mayor to execute the acceptance. Motion passed 4-0.

5) Engineering Department: Approval of temporary gravel driveway and agreement for completion of the construction project at 217 W. Wilden Ave.

Mattie Lehman, City Stormwater Specialist, asked the Board to approve the use of a temporary gravel driveway at 217 W. Wilden Avenue and approve and authorize the Mayor to execute the agreement with Habitat for Humanity of Elkhart County for the Completion of the Construction Project at 217 W. Wilden Avenue. Lehman said, the home has passed its final building inspection and the project is complete except for seeding disturbed areas, planting one required street tree, the installation of a concrete parking pad, and the installation of a concrete sidewalk, which cannot be completed due to weather conditions. Due to weather-related delays, Habitat for Humanity also was requesting permission from the Board to install a temporary gravel drive and sidewalks to the house until the permanent hard surface driveway and sidewalks can be installed. Habitat for Humanity has agreed to complete all concrete work, tree planting, and lawn stabilization with seed and a temporary stabilization measure by June 15, 2022. Lehman said the expected cost of work is \$11,860.00 and a surety check for that amount has been remitted to the Clerk-Treasurer's office. The Stormwater Department submitted an Agreement for the Completion of this Construction Project for approval and authorization for the Mayor to execute.

Landis/Nichols moved to approve the use of a temporary gravel drive at 217 W. Wilden Avenue and approve and authorize the Mayor to execute the agreement with Habitat for Humanity of Elkhart County, Inc. for the Completion of the Construction Project at 217 W. Wilden Avenue. Motion passed 4-0.

6) Police Department: Resolution 2022-10, Approving Certain City of Goshen Police Department Policies and Repealing Certain Policies (approval of the Police Policy Manual, which was prepared by Lexipol, LLC.)

As originally requested on March 7, **Goshen Police Chief José Miller** asked the Board to approve the Goshen Police Department Policy Manual that was prepared by Lexipol LLC. Since the Board's last consideration, on March 7, Chief Miller said modifications have been made to two policies – #701 - *Personal Communication Devices* and #1018 - *Personal Appearance Standards*. Chief Miller provided the Board with a memorandum (dated March 21, 2022), which also included copies of the revised policies (**EXHIBIT #1**).



(NOTE FROM THE CLERK-TREASURER: Changes to the policies were made in the following sections: #701 - *Personal Communication Devices – Section 701.3 Privacy Expectation, 701.5 Personally Owned PCD and 701.6 Use of PCD* and #1018 - *Personal Appearance Standards, 1018.4.2, Tattoos*. The changes can be viewed in Exhibit #1)

Besides the requested changes in the two policies, Chief Miller also asked the Board to delay the effective date of the policies. Initially, the Chief believed four weeks would be appropriate. However, after discussions with his administrative team, Chief Miller said extending the effective date by eight weeks would be more realistic. He added that the intention was to start implementing the policies in order of importance.

In response to a question from the Clerk-Treasurer, and in consultation with City Attorney Bodie Stegelmann, it was agreed that the new effective date of the policies would be May 16, 2022.

City Attorney Stegelmann suggested two modifications to Resolution 2022-10, *Approving Certain City of Goshen Police Department Policies and Repealing Certain Policies: Making the effective date of the policies May 16, 2022 and approving the policies as amended at the Chief’s request on March 21, 2022*.

Board member Landis said Lexipol representatives have stated that the company has the ability to develop police policies based on nationwide standards and best practices while incorporating state and federal laws and regulations. Landis said that was good, especially in light of the U.S. Justice Department’s offer last week to help communities and states review and revise their policies. Landis said in response to the national debate over what’s appropriate in city policing, Lexipol has the capability of helping the Goshen Police Department maintain appropriate policies.

Landis also said that because of developments over the past few years, he spoke with Chief Miller and Assistant Chief Shawn Turner about the Police Department’s use of force policies, adding: “We had a very good conversation and I’m very comfortable on that specific one ... Goshen is doing the best job that they know how to do and I think using Lexipol is one way to help in that effort.”

Mayor Stutsman affirmed the City’s decision to work with Lexipol to help update the City’s policies and to stay on top of developments. City Attorney Stegelmann concurred, saying: “It’s money well spent hiring Lexipol to do this (work) because they’ll keep us up to date and as standards change, we’ll bring back to the Board of Works any revisions that are appropriate.”

Landis/Nichols moved that the Board amend Goshen Police Department Policy #701 - *Personal Communication Devices* as requested in the March 21, 2022 memorandum by Chief Miller. Motion passed 4-0.

Landis/Nichols moved that the Board amend Goshen Police Department Policy #1018 - *Personal Appearance Standards* as requested in the March 21, 2022 memorandum by Chief Miller. Motion passed 4-0.

Landis/Nichols moved that the Board approve Resolution 2022-10, *Approving Certain City of Goshen Police Department Policies and Repealing Certain Policies*, as amended by the Board on March 21, 2022, and making the policies effective on May 16, 2022.



Mayor Stutsman asked if there were any questions or comments from the Board or the public.

Mayor Stutsman also said the policies have been before the Board for review since early February and that the policies have been under development and review by Lexipol, the Police Department and City staff for 14 months. He added that he felt good about the state of the policies.

City Communications Coordinator Sharon Hernandez, who was facilitating the Board meeting via Zoom, said a member of the public asked for the opportunity to comment on the draft police policies.

Mayor Stutsman asked if the City was still accepting public comments via Zoom. **City Attorney Stegelmann** responded that City hadn't done so for a while. **Mayor Stutsman** said he would accept the comments.

Commenting via Zoom, **Julia Gautsche**, the former Goshen Councilor from District 4, said she had not attended previous meetings on the police policies and that her questions might already have been addressed. She asked if **Chief Miller** could summarize the major changes to the policies and asked about the internal police review board and whether there could be an external public review board.

Mayor Stutsman said the internal review only includes police officers, but the Board of Works and Safety has the authority and responsibility to review and approve all police policies. And, the Mayor said, he has expanded to Board of Works and Safety from three to five members, including four from the community.

Julia Gautsche said she was referring to the review of use of force incidents involving police officers and not the review of the department's policies. She said the policy states that the internal review group could include a member of an outside police department, but otherwise all the other members of the review group are Goshen Police officers.

Mayor Stutsman said any discipline would need to be approved by the Board of Works and Safety, but he asked if **Chief Miller** could address the larger issues raised by former Councilor **Gautsche**.

Chief Miller explained the role of the review board. He said many of these type of incidents are addressed in the courts, so the information being reviewed would be confidential and not subject to the state's public records laws. **Chief Miller** said a state training instructor and Goshen Police supervisors reviewing an incident would be seeking to assess whether any officer involved followed department policies and state guidelines. However, the Chief said this review would remain an internal process.

Gautsche said that over the years, community members have asked whether there could be community input regarding incidents regarding police officers. **Gautsche** said she gathered from **Chief Miller's** comments that he would prefer that not be the case, and asked if other communities only have internal review boards. **Chief Miller** said he didn't know what other communities might do because internal review boards are not mandatory, but the Goshen Police Department has implemented them to be proactive and detect any issues earlier in the process.

Gautsche asked **Chief Miller** if he could summarize some of the major changes in the policies. **Chief Miller** mentioned two of the policies amended today – policies related to Personal Communication Devices and Personal Appearance Standards.

Gautsche said she didn't see any "redline" draft showing all of the changes in the police policies and asked if **Chief Miller** could summarize some of the major changes.

Chief Miller said not many changes were made to the policies by Lexipol. He said Lexipol submitted a packet with all of the policies with the current federal and state law language as well as best practices and discretionary information. The Chief said some discretionary information was changed in a few policies after an internal review process.



However, **Chief Miller** said Lexipol advised that policies reflecting federal and state law should not be changed, and that best practices policies probably should not be changed, but the department had flexibility when it came to discretionary policies. He said Lexipol advised against changing too much, even minor wording. As far as major changes, Chief Miller said the policy manual was much larger than in the past because it includes policies that were never in the manual. One example was the policy on how to deal with dignitaries from other countries. Chief Miller said some of the policies also have greater depth and are much more current than in the past.

Board member Landis said that **Chief Miller's** explanation about the review board was more detailed than what he heard in his conversation about the use of force policy with the Chief and the Assistant Chief. He noted that Chief Miller had stated that an internal review is not required by state law, but is done for internal purposes. Landis asked if use of force incidents are investigated by the Elkhart County Prosecuting Attorney.

Chief Miller responded that any use of force incident likely involves an arrest and anytime there is an arrest, there is likely body cam footage available for review. He said there is also an internal review process. Chief Miller said, the case's probable cause affidavit also would be forwarded to the courts and a judge and the prosecutor would determine if there was probable cause to believe an offense was committed, based on the details of the incident. He said a public defender would also be assigned to the case, which would provide another review, plus any civil attorneys and potentially a jury. So, Chief Miller said there are numerous checks and balances throughout the legal process when it comes to reviewing a use of force incident.

Landis asked **Chief Miller** what the odds were that a police internal review board, assessing a use of force incident, would "sweep it under the rug." **Chief Miller** responded, "I don't know how you could. That's part of the reason why we got it."

There were no further questions or comments from the Board or the public.

Mayor Stutsman called for a vote on the motion by Landis/Nichols that the Board approve Resolution 2022-10, *Approving Certain City of Goshen Police Department Policies and Repealing Certain Policies*, as amended by the Board on March 21, 2022, and effective on May 16, 2022. The motion was passed 4-0.

Background of Resolution 2022-10, *Approving Certain City of Goshen Police Department Policies and Repealing Certain Policies*:

On Dec. 7, 2020, the Board of Works and Safety approved an agreement between the Goshen Police Department and Lexipol for development of the police policy manual. Chief Miller said Lexipol provides fully developed, state-specific policies researched and written by subject matter experts and vetted by attorneys. He said these policies are based on nationwide standards and best practices while also incorporating state and federal laws and regulations where appropriate. In addition, Lexipol will keep the policies updated as new subject matter develops.

Chief Miller said that since Dec. 7, 2020, the police department administration, along with representatives from Lexipol, worked to complete the updated manual. He said these new policies will replace all current police policies and will be effective starting Monday, May 16, 2022. This will allow time for officers and staff to review and acknowledge the policies prior to the effective date.



Resolution 2022-10 outlined the context and history of the policy manual and stated that the following new policies will take effect on May 16, 2022:

- 100 - Law Enforcement Authority
- 102 - Oath of Office
- Standing Orders
- 201 - Emergency Operations Plan
- 204 - Administrative Communications
- 206 - Retired Officer Identification Card
- 300 - Response to Resistance
- 302 - Handcuffing and Restraints
- 304 - Electronic Control Device
- 306 – Firearms
- 308 - Foot Pursuits
- 310 – Canines
- 312 - Search and Seizure
- 314 - Adult Abuse
- 316 - Missing Persons
- 319 - Standards of Conduct
- 321 - Department Use of Social Media
- 323 - Media Relations
- 325 - Reserve Officers
- 327 - Major Incident Notification
- 329 - Citizen's Arrest
- 331 – Chaplains
- 333 - Off-Duty Law Enforcement Actions
- 335 - Identity Theft
- 401 - Bias-Based Policing
- 403 - Crime and Disaster Scene Integrity
- 405 - Ride-Alongs
- 407 - Hostage and Barricade Incidents
- 409 - Crisis Intervention Incidents
- 411 - Summons and Release
- Representative
- 414 - Immigration Violations
- 416 - Aircraft Accidents
- 418 - Air Support
- 420 - Criminal Organizations
- 422 - Mobile Audio/Video
- 424 - Portable Audio/Video Recorders
- 101 - Chief Executive Officer
- 103 - Policy Manual, Directive Manual, and
- 200 - Organizational Structure and Responsibility
- 202 – Training
- 203 - Electronic Mail
- 205 - Staffing Levels
- 207 - License to Carry a Handgun
- 301 - Response to Resistance Review Boards
- 303 - Control Devices
- 305 - Officer-Involved Deadly Force Incidents
- 307 - Vehicle Pursuits
- 309 - Officer Response to Calls
- 311 - Domestic or Family Violence
- 313 - Child Abuse
- 315 - Discriminatory Harassment
- 317 - Public Alerts
- 320 - Information Technology Use
- 322 - Report Preparation
- 324 - Subpoenas and Court Appearance
- 326 - Outside Agency Assistance
- 328 - Death Investigation
- 330 - Communications with Persons with Disabilities
- 332 - Child and Dependent Adult Safety
- 334 - Community Relations
- 400 – Patrol
- 402 - Roll Call Briefing
- 404 - Elkhart County Regional SWAT Team
- 406 - Hazardous Material Response
- 408 - Response to Bomb Calls
- 410 - Involuntary Detentions
- 412 - Foreign Diplomatic and Consular
- 413 - Rapid Response and Deployment
- 415 - Utility Service Emergencies
- 417 - Field Training
- 419 - Contacts and Temporary Detentions
- 421 - Shift Captains
- 423 - Mobile Data Terminal Use
- 425 - Public Recording of Law Enforcement Activity



- 426 - Homeless Persons
- 428 - First Amendment Assemblies
- 430 - Civil Disputes
- 500 – Traffic
- 502 - Vehicle Towing
- 504 - Operating While Intoxicated
- 600 - Investigation and Prosecution
- 602 - Asset Forfeiture
- 604 - Brady Information
- 606 - Warrant Service
- 700 - Department-Owned and Personal Property
- 702 - Vehicle Maintenance
- 704 - Cash Handling, Security and Management
- 801 - Records Section
- 803 - Protected Information
- 900 - Temporary Custody of Adults
- 902 - Custodial Searches
- 1001 - Performance Evaluations
- 1003 – Grievances
- 1005 - Drug- and Alcohol-Free Workplace
- 1007 - Smoking and Tobacco Use
- 1009 - Body Armor
- 1011 - Commendations and Awards
- 1013 - Meal Periods and Breaks
- 1015 - Overtime Compensation
- 1017 - Work-Related Illness and Injury Reporting
- 1019 - Uniforms and Civilian Attire
- 1021 - Badges, Patches and Identification
- 1023 - Speech, Expression and Social Networking
- 427 - Medical Aid and Response
- 429 - Suspicious Activity Reporting
- 431 - School Resource Officers
- 501 - Traffic Accidents
- 503 - Traffic Information and Summons and Parking Citations
- 505 - Disabled Vehicles
- 601 - Sexual Assault Investigations
- 603 - Confidential Sources (CS)
- 605 - Unmanned Aerial System
- 607 - Operations Planning and Deconfliction
- 701 - Personal Communication Devices
- 703 - Vehicle Use
- 800 - Evidence Room
- 802 - Records Maintenance and Release
- 804 - Animal Control
- 901 - Temporary Custody of Juveniles
- 1000 - Recruitment and Selection
- 1002 - Special Assignments and Promotions
- 1004 - Reporting of Arrests, Convictions and Court Orders
- 1006 - Sick Leave
- 1008 - Personnel Complaints
- 1010 - Personnel Records
- 1012 - Fitness for Duty
- 1014 - Payroll Records
- 1016 - Outside Employment and Outside Overtime
- 1018 - Personal Appearance Standards
- 1020 - Conflict of Interest
- 1022 - Temporary Modified-Duty Assignments
- 1024 - Line-of-Duty Deaths

Further, because of the passage of Resolution 2022-10, the following policies will be repealed May 16, 2022:

- Goshen Police Department Structure - POLICY 01 (2019)
- Standard Operating Procedures, Chief's Directives and Administrative Directives - POLICY 02 (2019)
- Authority and Orders - POLICY 03 (2019)
- Code of Conduct - POLICY 04 (2020)
- Complaints Against Department Personnel - POLICY 05 (2019)
- Investigation of an Incident of Deadly Force - POLICY 06 (2020)



- Police Vehicle Operating Guidelines - POLICY 07 (2019)
- Response to Resistance - POLICY 09 (2020A)
- Vehicle Impounds - POLICY 11 (2019)
- Electronic Recording Device and Data - POLICY 13 (2020)
- Disposition of Unclaimed Recovered Items and Evidence - POLICY 15 (2019)
- Disciplinary Procedures - POLICY 16 (2019)
- Performance Evaluation - POLICY 18 (2019)
- Violations of Protective and Restraining Orders - POLICY 20 (2019)
- Locked Vehicles - POLICY 21 (2019)
- Tardiness and A.W.O.L. Violations - POLICY 23 (2019)
- Social Networking and Media Posting Online - POLICY 24 (2019)
- Ride-Along Program - POLICY 25 (2019)
- Firearms and Firearms Training - POLICY 08 (2019)
- Body Armor - POLICY 10 (2019)
- Utilization of K-9 Units - POLICY 12 (2019)
- Evidence Handling - POLICY 14 (2019)
- Involuntary Demotion - POLICY 17 (2019)
- Promotion - POLICY 19 (2020)
- Storage of (LESO) M16 Rifles - POLICY 22 (2019)
- Lead Safety Program - POLICY 26 (2020)

(NOTE FROM THE CLERK-TREASURER: *The Goshen Police Department Policy Manual is 967 pages long and can be viewed by reviewing the March 21, 2022 Board of Works and Safety agenda packet, which is accessible online at: <https://goshenindiana.org/board-of-works>*)

Privilege of the Floor:

Mayor Stutsman opened Privilege of the Floor at 2:30 p.m. There were no public comments, so Mayor Stutsman closed the public comment period at 2:30 p.m.

As all matters before the Board of Public Works & Safety and Stormwater Board were concluded, Mayor Stutsman/Landis moved to approve Civil City and Utility claims and adjourn the meeting. Motion passed 4-0. And the Mayor adjourned the meeting at 2:30 p.m.

EXHIBIT #1 (9 pages, single spaced): *March 21, 2022 memorandum to the Board of Works by Chief Jose Miller and two Police Department Policies that have been amended. The policies were: #701 - Personal Communication Devices and #1018 - Personal Appearance Standards.*

APPROVED

Jeremy Stutsman, Chair



Michael Landis, Member

Mary Nichols, Member

Barb Swartley, Member

DeWayne Riouse, Member

ATTEST

Richard R. Aguirre, Clerk-Treasurer



Danny C. Sink, Chief
FIRE DEPARTMENT, CITY OF GOSHEN

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March 23, 2022

To: Board of Works and Public safety

RE: Lieutenant Matthew Dunithan Resignation

From: Fire Chief Danny Sink

After serving the Goshen Fire Department and Goshen community since September 06, 2006. Lieutenant Matt Dunithan has submitted his resignation, effective at 0700 on April 30, 2022.

We have enjoyed working with Lieutenant Dunithan during his time at GFD and appreciate his service to our community. Our GFD family would like to wish Matt and his family the very best in their new endeavors.



CITY OF GOSHEN LEGAL DEPARTMENT

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204 East Jefferson Street, Suite 2
Goshen, Indiana 46528-3405

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www.goshenindiana.org

To: Board of Public Works and Safety
From: Bodie J. Stegelmann
Date: March 28, 2022
Subject: Resolution 2022-13 – Approving Certain City of Goshen Police Department Policies and Repealing Various Policies

On March 21, 2021, the Board adopted a resolution presented to the Board as Resolution 2022-10, which approved certain City of Goshen Police Department policies. The approval included some amendments to the policies and amendments to the resolution. While making modifications to the text of the resolution numbered Resolution 2022-10 to reflect modifications made by the Board, it was discovered that resolution number 2022-10 had previously been assigned to another resolution of the Board. Therefore, I am seeking acknowledgement that the resolution approving City of Goshen Police Department Policies should be numbered 2022-13. I have provided a red-line version of Resolution 2022-13 showing the revisions made.

Suggested Motion: Move to approve the renumbering of Resolution 2022-10 - Approving Certain City of Goshen Police Department Policies and Repealing Various Policies to Resolution 2022-13.

RESOLUTION 2022-~~10~~13

Approving Certain City of Goshen Police Department Policies and Repealing Certain Policies

WHEREAS, on December 7th, 2020, the Board of Works and Safety approved an agreement with Lexipol LLC to review the City of Goshen Police Department's policies and propose new or revised policies for the Police Department;

WHEREAS, Police Department staff has worked with Lexipol to review existing policies and develop new, state-specific policies, researched and written by Lexipol subject matter experts and vetted by Lexipol attorneys, that are consistent with Police Department practices and culture;

WHEREAS, the newly developed policies are based on nationwide standards and best practices while also incorporating state and federal laws and regulations where appropriate, and, if adopted, Lexipol will keep the policies updated as new subject matter develops or standards change; and

WHEREAS, due to the volume of the proposed policies for Police Department personnel to process and understand, it would be appropriate to delay the effective date of the policies, if adopted, to ~~April 4~~ May 16, 2022; and

WHEREAS, the Goshen Board of Public Works and Safety finds that it is appropriate to approve the Policies identified below, for the reasons stated, and to repeal Policies in effect prior to the approval of such Policies, also identified below.

NOW, THEREFORE, BE IT RESOLVED by the Goshen Board of Public Works and Safety that the following City of Goshen Policies, copies of which are attached hereto and made a part hereof, are hereby approved, as amended March 21, 2022, effective ~~April 4~~ May 16, 2022:

- 100 - Law Enforcement Authority
- 101 - Chief Executive Officer
- 102 - Oath of Office
- 103 - Policy Manual, Directive Manual, and Standing Orders
- 200 - Organizational Structure and Responsibility
- 201 - Emergency Operations Plan
- 202 - Training
- 203 - Electronic Mail
- 204 - Administrative Communications
- 205 - Staffing Levels
- 206 - Retired Officer Identification Card
- 207 - License to Carry a Handgun
- 300 - Response to Resistance
- 301 - Response to Resistance Review Boards
- 302 - Handcuffing and Restraints
- 303 - Control Devices

- 304 - Electronic Control Device
- 305 - Officer-Involved Deadly Force Incidents
- 306 - Firearms
- 307 - Vehicle Pursuits
- 308 - Foot Pursuits
- 309 - Officer Response to Calls
- 310 - Canines
- 311 - Domestic or Family Violence
- 312 - Search and Seizure
- 313 - Child Abuse
- 314 - Adult Abuse
- 315 - Discriminatory Harassment
- 316 - Missing Persons
- 317 - Public Alerts
- 319 - Standards of Conduct
- 320 - Information Technology Use
- 321 - Department Use of Social Media
- 322 - Report Preparation
- 323 - Media Relations
- 324 - Subpoenas and Court Appearances
- 325 - Reserve Officers
- 326 - Outside Agency Assistance
- 327 - Major Incident Notification
- 328 - Death Investigation
- 329 - Citizen's Arrest
- 330 - Communications with Persons with Disabilities
- 331 - Chaplains
- 332 - Child and Dependent Adult Safety
- 333 - Off-Duty Law Enforcement Actions
- 334 - Community Relations
- 335 - Identity Theft
- 400 - Patrol
- 401 - Bias-Based Policing
- 402 - Roll Call Briefing
- 403 - Crime and Disaster Scene Integrity
- 404 - Elkhart County Regional SWAT Team
- 405 - Ride-Alongs
- 406 - Hazardous Material Response
- 407 - Hostage and Barricade Incidents
- 408 - Response to Bomb Calls
- 409 - Crisis Intervention Incidents
- 410 - Involuntary Detentions
- 411 - Summons and Release
- 412 - Foreign Diplomatic and Consular Representatives

- 413 - Rapid Response and Deployment
- 414 - Immigration Violations
- 415 - Utility Service Emergencies
- 416 - Aircraft Accidents
- 417 - Field Training
- 418 - Air Support
- 419 - Contacts and Temporary Detentions
- 420 - Criminal Organizations
- 421 - Shift Captains
- 422 - Mobile Audio/Video
- 423 - Mobile Data Terminal Use
- 424 - Portable Audio/Video Recorders
- 425 - Public Recording of Law Enforcement Activity
- 426 - Homeless Persons
- 427 - Medical Aid and Response
- 428 - First Amendment Assemblies
- 429 - Suspicious Activity Reporting
- 430 - Civil Disputes
- 431 - School Resource Officers
- 500 - Traffic
- 501 - Traffic Accidents
- 502 - Vehicle Towing
- 503 - Traffic Information and Summons and Parking Citations
- 504 - Operating While Intoxicated
- 505 - Disabled Vehicles
- 600 - Investigation and Prosecution
- 601 - Sexual Assault Investigations
- 602 - Asset Forfeiture
- 603 - Confidential Sources (CS)
- 604 - Brady Information
- 605 - Unmanned Aerial System
- 606 - Warrant Service
- 607 - Operations Planning and Deconfliction
- 700 - Department-Owned and Personal Property
- 701 - Personal Communication Devices
- 702 - Vehicle Maintenance
- 703 - Vehicle Use
- 704 - Cash Handling, Security and Management
- 800 - Evidence Room
- 801 - Records Section
- 802 - Records Maintenance and Release
- 803 - Protected Information
- 804 - Animal Control
- 900 - Temporary Custody of Adults

- 901 - Temporary Custody of Juveniles
- 902 - Custodial Searches
- 1000 - Recruitment and Selection
- 1001 - Performance Evaluations
- 1002 - Special Assignments and Promotions
- 1003 - Grievances
- 1004 - Reporting of Arrests, Convictions and Court Orders
- 1005 - Drug- and Alcohol-Free Workplace
- 1006 - Sick Leave
- 1007 - Smoking and Tobacco Use
- 1008 - Personnel Complaints
- 1009 - Body Armor
- 1010 - Personnel Records
- 1011 - Commendations and Awards
- 1012 - Fitness for Duty
- 1013 - Meal Periods and Breaks
- 1014 - Payroll Records
- 1015 - Overtime Compensation
- 1016 - Outside Employment and Outside Overtime
- 1017 - Work-Related Illness and Injury Reporting
- 1018 - Personal Appearance Standards
- 1019 - Uniforms and Civilian Attire
- 1020 - Conflict of Interest
- 1021 - Badges, Patches and Identification
- 1022 - Temporary Modified-Duty Assignments
- 1023 - Speech, Expression and Social Networking
- 1024 - Line-of-Duty Deaths

BE IT FURTHER RESOLVED by the Goshen Board of Public Works and Safety that, upon the approval of the above-described Policies, the following current City of Goshen Police Department policies are hereby repealed, effective April 4, 2022:

- Goshen Police Department Structure - POLICY 01 (2019)
- Standard Operating Procedures, Chief's Directives
and Administrative Directives - POLICY 02 (2019)
- Authority and Orders - POLICY 03 (2019)
- Code of Conduct - POLICY 04 (2020)
- Complaints Against Department Personnel - POLICY 05 (2019)
- Investigation of an Incident of Deadly Force - POLICY 06 (2020)
- Police Vehicle Operating Guidelines - POLICY 07 (2019)
- Firearms and Firearms Training - POLICY 08 (2019)
- Response to Resistance - POLICY 09 (2020A)
- Body Armor - POLICY 10 (2019)
- Vehicle Impounds - POLICY 11 (2019)

- Utilization of K-9 Units - POLICY 12 (2019)
- Electronic Recording Device and Data - POLICY 13 (2020)
- Evidence Handling - POLICY 14 (2019)
- Disposition of Unclaimed Recovered Items and Evidence - POLICY 15 (2019)
- Disciplinary Procedures - POLICY 16 (2019)
- Involuntary Demotion - POLICY 17 (2019)
- Performance Evaluation - POLICY 18 (2019)
- Promotion - POLICY 19 (2020)
- Violations of Protective and Restraining Orders - POLICY 20 (2019)
- Locked Vehicles - POLICY 21 (2019)
- Storage of (LESO) M16 Rifles - POLICY 22 (2019)
- Tardiness and A.W.O.L. Violations - POLICY 23 (2019)
- Social Networking and Media Posting Online - POLICY 24 (2019)
- Ride-Along Program - POLICY 25 (2019)
- Lead Safety Program - POLICY 26 (2020)

PASSED and ADOPTED by the Goshen Board of Public Works and Safety on March 28, 2022.

Jeremy P. Stutsman, Mayor

Mary Nichols, Member

DeWayne Riouse, Member

Michael A. Landis, Member

Barb Swartley, Member



CITY OF GOSHEN LEGAL DEPARTMENT

City Annex
204 East Jefferson Street, Suite 2
Goshen, Indiana 46528-3405

Phone (574) 537-3820 • Fax (574) 537-3817 • TDD (574) 534-3185
www.goshenindiana.org

March 28, 2022

To: Board of Public Works and Safety
From: Shannon Marks
Subject: Acceptance of Deed of Dedication from Greenwood Rental Properties, LLC

It is recommended that the Board accept the attached Deed of Dedication from Greenwood Rental Properties, LLC. This is for the dedication of public right-of-way on the east side of Indiana Avenue north of Plymouth Avenue.

Suggested Motion:

Move to accept the Deed of Dedication for public right-of-way from Greenwood Rental Properties, LLC, and authorize the Mayor to execute the Acceptance.

DEED OF DEDICATION

THIS INDENTURE WITNESSETH, that **Greenwood Rental Properties, LLC**, an Indiana limited liability company (hereinafter referred to as Grantor), dedicates a public right-of-way to the **City of Goshen, Indiana**, a municipal corporation and political subdivision of the State of Indiana, whose mailing address is 202 South Fifth Street, Goshen, Indiana 46528, for Zero Dollars and other good and valuable consideration, the receipt whereof is hereby acknowledged, the real estate more particularly described in Exhibit A and as depicted upon the Right-of-Way Parcel Plat attached as Exhibit B.

The undersigned represents and certifies that such person is a duly authorized representative of Grantor and has been fully empowered to execute this Deed of Dedication on behalf of Grantor; that the Grantor has full capacity to dedicate the real estate described; and that all necessary action for making this dedication of public right-of-way has been taken.

Grantor certifies that no Indiana Gross Income Tax is due or payable in respect to the transfer made by this transaction.

IN WITNESS WHEREOF, the undersigned has executed this Deed of Dedication on 3/24, 2022.

Greenwood Rental Properties, LLC, an
Indiana limited liability company

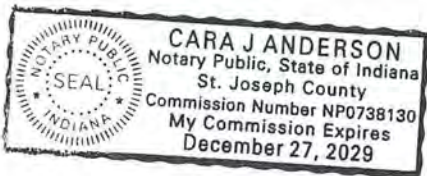
By: 

Printed: Mayra Garcia

Title: owner

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public, on March 24, 2022, personally appeared MAYRA GARCIA as OWNER of Greenwood Rental Properties, LLC, an Indiana limited liability company, being known to me or whose identity has been authenticated by me to be the person who acknowledged the execution of the foregoing instrument as the person's voluntary act for the purpose stated therein.



CJA
Printed Name: CARA ANDERSON
Notary Public of ST. JOSEPH County, IN
My Commission Expires: _____
Commission Number: _____

EXHIBIT "A"

Project: Goshen Apartments
Parcel: Parcel 1 Fee Simple Right of Way
Key No: 20-11-16-151-026.000-015

Sheet 1 of 2

A part of the Northwest Quarter of Section 16, Township 36 North, Range 6 East, Elkhart County, Indiana, and being a part of the grantor's land lying within the right-of-way lines depicted on the attached Right-of-Way Parcel Plat, marked Exhibit "B", described as follows: Commencing at the West Quarter corner of said Section; thence North 0 degrees 37 minutes 06 seconds West, said bearing being the basis of bearing of the description with all other bearings herein relative thereto, 236.57 feet (236.50 feet deduced from DR 2020-20615) along the west line of said Section to the westerly prolongation of the north line of the grantor's land; thence South 89 degrees 50 minutes 36 seconds East 30.00 feet along said westerly prolongation to the east boundary of Indiana Avenue (C.R. 21) and being the point of beginning of this description; thence continuing South 89 degrees 50 minutes 36 seconds East 10.00 feet along the north line of the grantor's land; thence South 0 degrees 37 minutes 06 seconds East 196.49 feet to the southeastern boundary of Indiana Avenue (C.R. 21); thence North 42 degrees 49 minutes 37 seconds West 14.88 feet (14.14 feet deduced from DR 2020-20615) along said boundary; thence North 0 degrees 37 minutes 06 seconds West 185.60 feet along said boundary to the point of beginning and containing 0.04 acres, more or less.

This description was written from the information obtained from the recorder's office and other sources that were not necessarily checked by a field survey.

Reference document: #2020-20615

Prepared for: City of Goshen
By: Jeffrey S. Barnes, PS
Firm: Jones Petrie Rafinski
Date: REVISED October 4, 2020
Job Number: 2020-0104

H:\2020 Projects\2020-0104\Surv\RW Dedication Exhibits\Greenwood Rentals LLC\2020-10-04 REVISED
Parcel 1 Greenwood ExhibitA.lgl.doc

EXHIBIT "A"

Project: Goshen Apartments
Parcel: Parcel 2 Fee Simple Right of Way
Key No: 20-11-16-151-027.000-015

Sheet 2 of 2

A part of the Northwest Quarter of Section 16, Township 36 North, Range 6 East, Elkhart County, Indiana, and being a part of the grantor's land lying within the right-of-way lines depicted on the attached Right-of-Way Parcel Plat, marked Exhibit "B", described as follows: Commencing at the West Quarter corner of said Section; thence North 0 degrees 37 minutes 06 seconds West, said bearing being the basis of bearing of the description with all other bearings herein relative thereto, 531.97 feet (532.05 feet deduced from DR 2020-21872) along the west line of said Section to the westerly prolongation of the north line of the grantor's land; thence North 89 degrees 59 minutes 32 seconds East 30.00 feet along said westerly prolongation to the point of beginning of this description; thence continuing North 89 degrees 59 minutes 32 seconds East 10.00 feet along the north line of the grantor's land; thence South 0 degrees 37 minutes 06 seconds East 295.51 feet to the south line of the grantor's land; thence North 89 degrees 50 minutes 36 seconds West 10.00 feet to the east boundary of Indiana Avenue (C.R. 21); thence North 0 degrees 37 minutes 06 seconds West 295.49 feet (296.45 feet deduced from DR 91-000912, Tract I) along said east boundary to the point of beginning and containing 0.07 acres, more or less.

This description was written from the information obtained from the recorder's office and other sources that were not necessarily checked by a field survey.

Reference document: DR 2020-21872 and DR 91-000912


Prepared for: City of Goshen
By: Jeffrey S. Barnes, PS
Firm: Jones Petrie Rafinski
Date: October 2, 2020
Job Number: 2020-0104

H:\2020 Projects\2020-0104\Surv\RW Dedication Exhibits\Greenwood Rentals LLC\Parcel 2 Greenwood ExhibitA.lgl.doc

Parcel No: 1 and 2
 Road: Indiana Ave.
 Sec: 16 Town: 36N Range: 6E

Right-of-Way Parcel Plat Exhibit "B"

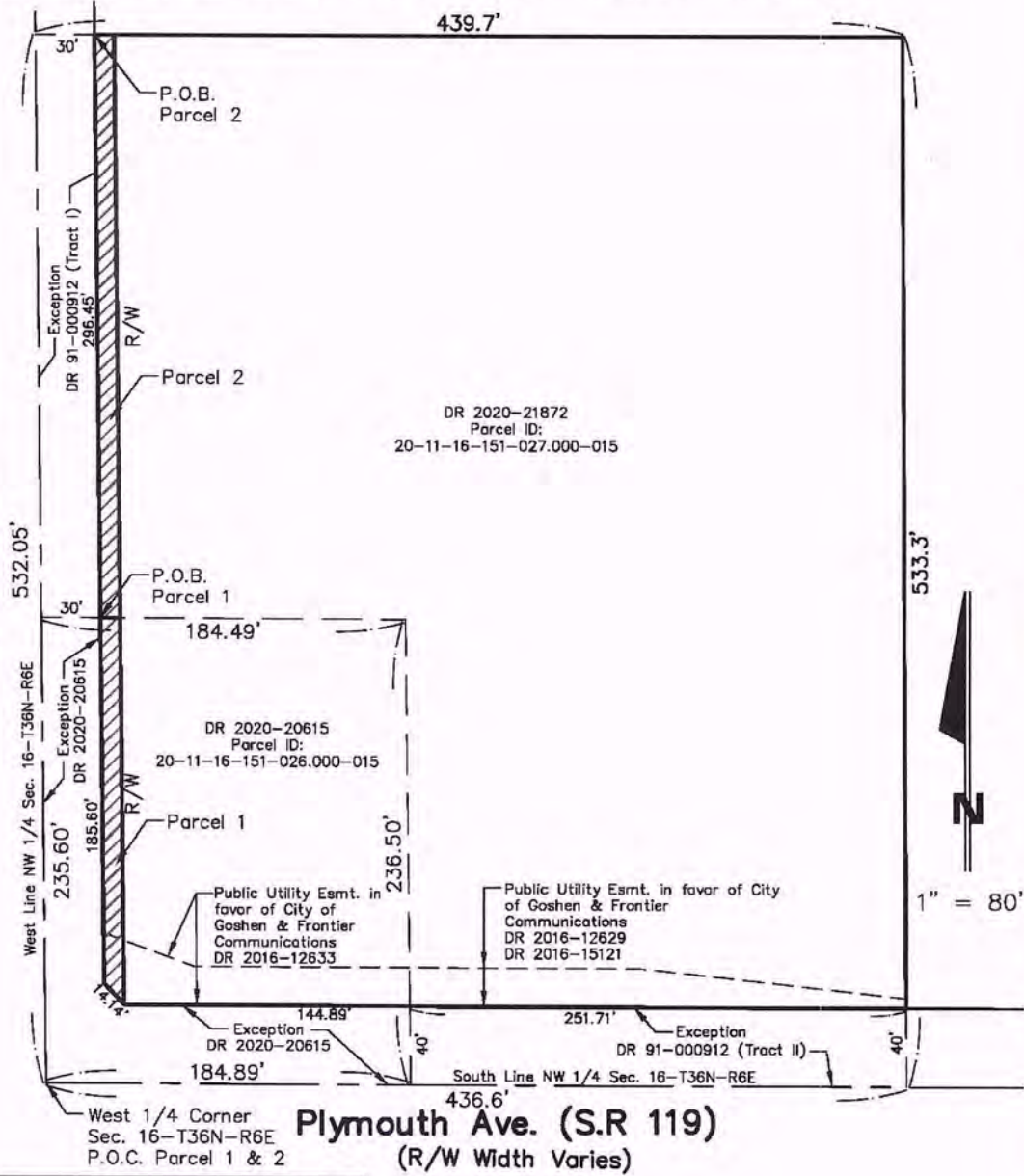
Job No: 2020-0104
 Drawn: jsb
 Checked: jsb
 County: Elkhart

 Hatched area is approximate acquisition.

Prepared for: City of Goshen
 Owner: Greenwood Rental Properties, LLC,
 an Indiana limited liability company
 Deed Rec.: See Below
 Key Number: See Below

This plat was prepared from information obtained from the recorder's office and other sources which were not necessarily checked by a field survey. Dimensions shown are from listed record documents.

Indiana Ave. (C.R. 21)
 (60' R/W)



**JONES
 PETRIE
 RAFINSKI**

Elkhart, IN
 p: 574.293.7762
 South Bend, IN
 p: 574.232.4388
 Fort Wayne, IN
 p: 260.422.2522

REVISION: 10/04/2020, Edit Parcel 1 parcel ID.

ACCEPTANCE

The **City of Goshen, Indiana**, a municipal corporation and political subdivision of the State of Indiana, by the Goshen Board of Public Works and Safety, acknowledges the receipt of this Deed of Dedication from **Greenwood Rental Properties, LLC**, an Indiana limited liability company and accepts the dedication of public right-of-way on _____, 2022.

Jeremy P. Stutsman, Mayor

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public, on _____, 2022, personally appeared Jeremy P. Stutsman, Mayor of the City of Goshen, Indiana, a municipal corporation and political subdivision of the State of Indiana, on behalf of the Goshen Board of Public Works and Safety, being known to me or whose identity has been authenticated by me to be the person who acknowledged the execution of the foregoing Acceptance.

Printed Name: _____
Notary Public of _____ County, IN
My Commission Expires: _____
Commission Number: _____

Prepared by Larry A. Barkes, Attorney No. 3568-20, City of Goshen Legal Department, 204 East Jefferson Street, Suite 2, Goshen, Indiana 46528, (574) 537-3820.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law (Larry A. Barkes).



CITY OF GOSHEN LEGAL DEPARTMENT

City Annex
204 East Jefferson Street, Suite 2
Goshen, Indiana 46528-3405

Phone (574) 537-3820 • Fax (574) 537-3817 • TDD (574) 534-3185
www.goshenindiana.org

To: Board of Public Works and Safety
From: Bodie J. Stegelmann
Date: March 28, 2022
Subject: OmniSource – Indemnification and Hold Harmless Agreement

The City of Goshen Fire Department periodically conducts training exercises at the OmniSource facility in Goshen. OmniSource requires the City to execute an Indemnification and Hold Harmless Agreement in order to use its facility.

Suggested Motion: Move to approve the Indemnification and Hold Harmless Agreement with OmniSource, LLC to allow for Fire Department training.

INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

THIS INDEMNIFICATION AND HOLD HARMLESS AGREEMENT (the “Agreement”), dated this ____ day of March, 2022, is entered into by and between **OMNISOURCE, LLC**, an Indiana limited liability company (“OmniSource”) and the City of Goshen, Indiana by and through its Board of Public Works and Safety (the “Fire Department”). OmniSource and the Fire Department are hereinafter collectively referred to as the “Parties”.

RECITALS:

WHEREAS, OmniSource is engaged in the business of collecting, storing, staging, transporting, transferring, processing, buying, selling and/or brokering loose ferrous or non-ferrous scrap metals, including scrap motor vehicles, at the following described location: 812 Logan St, Goshen, Indiana (the “Property”).

WHEREAS, the Fire Department wishes to make use of the Property and any scrap motor vehicles located thereon for the purpose of training its firefighters and other personnel to use “Jaws of Life” extrication equipment (the “Intended Use”).

WHEREAS, to induce OmniSource into allowing the Property to be used for the Intended Use, the Fire Department has agreed to certain accommodations in favor of OmniSource and Steel Dynamics, Inc. (collectively, the “Indemnified Parties”).

NOW, THEREFORE, in and for good and valuable consideration, the sufficiency of which is hereby mutually acknowledged, and for the mutual covenants and promises set forth herein, the Parties enter into this Agreement, effective immediately upon execution of this document, the terms of which are as follows.

1. **Recitals.** The Parties hereto agree that each of the above set forth Recital paragraphs is true, accurate and correct and that the Recital paragraphs are incorporated into this Agreement by reference.

2. **Agreement.** On dates specified by the Parties, in writing, from time to time, and during normal business hours, OmniSource agrees to permit the Fire Department to utilize the Property and any scrap motor vehicles located thereon for the sole and limited purpose of training firefighters and related personel to use “Jaws of Life” extrication equipment.

3. **Indemnification and Hold Harmless.** The Fire Department shall indemnify, defend and hold the Indemnified Parties harmless against any and all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties and attorneys’ fees and expenses (collectively, the “Losses”) that they may incur or suffer, individually or collectively, as a result of, or which arise out of or in any way relate to, the Fire Department’s usage of the Property for the Intended Use and/or any other use whatsoever. OmniSource shall promptly notify the Fire Department of the existence of any claim, demand, or other matter to which the Fire Department’s indemnification obligation would apply. The

Indemnified Parties may at all times also have the right to fully participate in the defense at their own expense. However, if the Fire Department shall, within a reasonable time after the above-referenced notice fail to defend any claim asserted, OmniSource shall have the right, but not the obligation, to undertake the defense at the Fire Department's expense.

4. **Release.** The Fire Department does hereby, on behalf of itself, its agents, insurers, heirs, successors and assigns, release, acquit and forever discharge the Indemnified Parties from any and all claims, demands or causes of action of any kind, nature or description whether arising in law or equity or upon contract or tort or under any state or federal law or otherwise, which the Fire Department may have had, have or may have in the future against the Indemnified Parties for or by reason of any act, omission, matter, cause or thing whatsoever arising from or in any way related to the Intended Use, whether such claims, demands and causes of action are matured or unmatured or known or unknown.

5. **Insurance.** As a condition precedent to the usage of the Property for the Intended Use, the Fire Department shall, at its cost and expense, obtain and maintain at all times for the protection of the Indemnified Parties policies of insurance (the "Policies") containing, at a minimum, the requirements set forth in Schedule A attached hereto (the "Requirements"). Before any training exercises shall be allowed on the Property, the Fire Department shall be required to deposit with OmniSource a Certificate of Insurance (the "Certificate") demonstrating that the Policies are in strict compliance with the Requirements. The said Certificate shall also contain the additional requirements as set forth in Schedule B attached hereto.

All insurance required hereunder shall be issued by insurance companies licensed to do business in the jurisdiction where the Property is located. Each policy shall contain a clause or an endorsement requiring thirty (30) days written notice from the insurance company to OmniSource before cancellation or any reduction in the coverage.

6. **Duration of Agreement.** This Agreement shall be perpetual until terminated by one of the Parties in writing. Upon such termination, all of the Fire Department's rights with respect to the Property shall cease, including without limitation, its right of entry upon the Property for the Intended Use. The promises, covenants and protections set forth in Sections 4 and 5 above, however, shall survive termination of this Agreement.

7. **General Provisions.**

a) **Notices.** Any notice required, permitted or contemplated hereunder shall be in writing and addressed to the party to be notified at the address set forth below or at such other address as each party may designate for itself from time to time by notice hereunder, and shall be deemed validly given (i) three (3) days following deposit as certified mail, return receipt requested, (ii) the next business day after such notice was delivered to a regularly-scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement, satisfactory with such carrier, made for the payment thereof, or (iii) upon receipt of notice given by personal delivery to:

OmniSource: Kyle Godfrey
Risk Manager
Steel Dynamics, Inc.
7575 W. Jefferson Blvd.
Fort Wayne, IN 46804

Fire Department: City of Goshen Fire Department
Attention: Fire Chief
209 North Third Street
Goshen, IN 46526

with Copy to: City of Goshen Legal Department
204 East Jefferson Street, Suite 2
Goshen, IN 46528

b) **Governing Law.** This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Indiana. Each of the Parties hereto (a) accepts the nonexclusive jurisdiction of Indiana state courts and any related appellate court and agrees to be bound by any judgment rendered by any such court in connection with any such proceeding, and (b) waives any objection it may now or hereafter have as to the venue of any such proceeding brought in such court or that such court is an inconvenient forum.

c) **Severability of Provisions.** Any provision in this Agreement that is held to be inoperative, unenforceable or invalid shall be inoperative, unenforceable or invalid without affecting the remaining provisions, and to this end the provisions herein are declared to be severable.

d) **Headings.** Section headings in this Agreement are included for convenience of reference only and are not part of this Agreement for any other purpose.

e) **Time of the Essence.** Time is of the essence.

f) **Termination of Prior Agreements.** Any prior agreement, or parts thereof, that relate to the subject matter of this Indemnification and Hold Harmless Agreement that conflict with the provisions of this Agreement are hereby terminated to the extent such conflict with this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective officers duly authorized as of the date first above written.

“OMNISOURCE”

OMNISOURCE, LLC

By: _____

Its: _____

“FIRE DEPARTMENT”

**CITY OF GOSHEN, INDIANA
Board of Public Works and Safety**

Jeremy P. Stutsman, Mayor

Mary Nichols, Member

DeWayne Riouse, Member

Michael A. Landis, Member

Barb Swartley, Member

SCHEDULE A

Comprehensive General Liability for Bodily Injury and Property Damage (occurrence form) including:		
	Each Occurrence	\$1,000,000
	General Aggregate	\$2,000,000
	Products/Completed Ops Aggregate	\$2,000,000
A.	Personal Injury Liability	Yes
B.	Additional Named Insured	Yes
C.	Primary & Non-Contributory	Yes
D.	Contractual Liability for liability assumed in the contract documents	Yes

Comprehensive Automobile Liability for bodily injury and property damage arising out of Owned, Non-Owned and Hired Vehicles	\$1,000,000
--	-------------

Workers' Compensation	Statutory
Waiver of Subrogation	Yes
Employers Liability	
Each Accident	\$1,000,000
Disease – Each Employee	\$1,000,000
Disease – Policy Limit	\$1,000,000

Umbrella/Excess Liability	\$5,000,000
----------------------------------	-------------

Pollution Liability	No
----------------------------	----

Cancellation Notice	Should any of the above described policies be cancelled before the expiration of the Agreement, advance notice will be delivered in accordance with the Agreement and any policy provisions.
----------------------------	--

SCHEDULE B

Required Additional Language in Certificate:

- General Liability: Indemnified Parties added as Additional Insureds as respects the General Liability policy.
- Coverage is primary and non-contributory to any coverages carried by the Indemnified Parties, Contractual Liability for liability assumed in the contract documents.
- Workers' Compensation: A Waiver of Subrogation in favor of the Indemnified Parties regarding Workers' Compensation applies to this policy.
- Description of Project: Fire Department's use of the Property and any scrap motor vehicles located thereon for training its firefighters and other personnel to use "Jaws of Life" extrication equipment.
- Certificate Holder: Indemnified Parties, as such term is defined in the Indemnification and Hold Harmless Agreement dated _____, 20__, by and between OmniSource, LLC and _____.
7575 W. Jefferson Blvd.
Fort Wayne, IN 46804
- Additional Contracts: Marsh USA Inc.
(216) 937-1488 / (216) 937-1580
(216) 937-1735 Fax
Sherrie Stastny / Lisa Hunley



CITY OF GOSHEN LEGAL DEPARTMENT

City Annex
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Goshen, Indiana 46528-3405

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www.goshenindiana.org

March 24, 2022

To: Board of Public Works and Safety

From: Carla Newcomer

Subject: Agreement with the Communication Company of South Bend, Inc.

Attached for the Board's approval and execution is an agreement with the Communication Company of South Bend, Inc. for Alarm Testing and Monitoring Services for the Police Training Center, the Police Department, and the CSO Plant. The Communication Company of South Bend, Inc. will be paid \$4,835.00 for Alarm Testing and Monitoring Services at the Police Training Facility, \$6,670.00 for Alarm Testing and Monitoring Services at the Police Department., and \$5,145.00 for Alarm Testing and Monitoring Services at the CSO.

Suggested Motion:

Approve and execute the agreement with the Communication Company of South Bend, Inc., for the Alarm Testing and Monitoring for the Police Training Facility, Police Department and CSO.

AGREEMENT

Alarm Testing and Monitoring Services

THIS AGREEMENT is entered into on _____, 2022, which is the last signature date set forth below, by and between **Communication Company of South Bend, Inc** ("Contractor"), whose mailing address is 5320 South Main Street, South Bend, IN 46614, and **City of Goshen, Indiana**, a municipal corporation and political subdivision of the State of Indiana acting through the Goshen Board of Public Works and Safety ("City").

In consideration of the terms, conditions and mutual covenants contained in this agreement, the parties agree as follows:

Section 1. Contractor Duties

Contractor shall provide City the services for the Fire Alarm System Testing and Inspection at the City of Goshen, Police Training Center, 713 East Lincoln Avenue, Goshen, Indiana, which services are more particularly described in Contractor's February 7, 2022 proposal attached as Exhibit A (hereinafter referred to as "Duties").

In the event of any conflict between the terms of this agreement and the terms contained in the proposal attached as Exhibit A, the terms set forth in this agreement shall prevail.

Contractor's Duties under this agreement include:

- (A) Installation of monitoring equipment and monitoring services.
- (B) Test & inspect the Fire Alarm System Components and provide Sensitivity Testing of smoke detectors.
- (C) Test & inspect the Wet and Dry type Fire Sprinkler Systems
- (D) Furnish inspection reports.

Section 2. Effective Date; Term

- (A) The agreement shall become effective on the day of execution and approval by both parties.
- (B) This agreement shall be effective for a period of one (1) year with the option to renew for up to four (4) additional years for the testing and inspection, and One (1) year with the option to renew for up to three (3) additional years for monitoring services. Monitoring services shall be effective as of October 1, 2022.
- (C) The agreement may be renewed under the same terms and conditions by written agreement of both parties. Either party may provide the other party notice in writing at least thirty (30) days before the expiration of the original term if either party desires to extend the agreement. The term of the renewal shall not be longer than the term of the original agreement.

Section 3. Compensation

- (A) City agrees to compensate Contractor the sum of Four Thousand Eight Hundred Thirty-Five Dollars (\$4,835.00) for performing all Duties.

Section 4. Payment

- (A) City shall pay Contractor for each phase of Duties satisfactorily completed under this agreement as Duties progress.
- (B) Payment shall be upon City's receipt of a detailed invoice from Contractor. The invoice shall be sent to the following address, or at such other address as City may designate in writing.

City of Goshen
c/o Goshen Engineering Department
204 East Jefferson Street, Suite 1
Goshen, IN 46528

- (C) Payment will be made within forty-five (45) days following City's receipt of the invoice. If any dispute arises, the undisputed amount will be paid. Payment is deemed to be made on the date of mailing the check.
- (D) Contractor is required to have a current W-9 form on file with the Goshen Clerk-Treasurer's Office before City will issue payment.

Section 5. Ownership of Documents

All documents, records, applications, plans, drawings, specifications, reports, and other materials, regardless of the medium in which they are fixed, (collectively "Documents") prepared by Contractor or Contractor's employees, agents or subcontractors under this agreement, shall become and remain the property of and may be used by City. Contractor may retain a copy of the Documents for its records, including electronic files, as instruments of professional service. Nevertheless, the final documents prepared under this agreement shall become the property of City upon completion of the services and payment in full of all monies due to Contractor.

Section 6. Licensing/Certification Standards

Contractor certifies that Contractor possesses and agrees to maintain any and all licenses, certifications, or accreditations as required for the services provided by Contractor pursuant to this agreement

Section 7. Independent Contractor

- (A) Contractor shall operate as a separate entity and independent contractor of the City of Goshen. Any employees, agents or subcontractors of Contractor shall be under the sole and exclusive direction and control of Contractor and shall not be considered employees, agents or subcontractors of City. City shall not be responsible for injury, including death, to any persons or damages to any property

arising out of the acts or omissions of Contractor and/or Contractor's employees, agents or subcontractors.

- (B) Contractor understands that City will not carry worker's compensation or any other insurance on Contractor and/or Contractor's employees or subcontractors. Prior to commencing work under this agreement, and if Contractor utilizes employees or subcontractors to perform work under this agreement, Contractor agrees to provide City a certificate(s) of insurance showing Contractor's and any subcontractor's compliance with workers' compensation statutory requirements.
- (C) Contractor is solely responsible for compliance with all federal, state and local laws regarding reporting of compensation earned and payment of taxes. City will not withhold federal, state or local income taxes or any other payroll taxes.

Section 8. Non-Discrimination

Contractor agrees to comply with all federal and Indiana civil rights laws, including, but not limited to Indiana Code 22-9-1-10. Contractor or any subcontractors, or any other person acting on behalf of Contractor or a subcontractor, shall not discriminate against any employee or applicant for employment to be employed in the performance of this agreement, with respect to the employee's hire, tenure, terms, conditions, or privileges of employment or any other matter directly or indirectly related to employment, because of the employee's or applicant's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of contract.

Section 9. Employment Eligibility Verification

- (A) Contractor shall enroll in and verify the work eligibility status of all Contractor's newly hired employees through the E-Verify program as defined in Indiana Code § 22-5-1.7-3. Contractor is not required to participate in the E-Verify program should the program cease to exist. Contractor is not required to participate in the E-Verify program if Contractor is self-employed and does not employ any employees.
- (B) Contractor shall not knowingly employ or contract with an unauthorized alien, and contractor shall not retain an employee or continue to contract with a person that the Contractor subsequently learns is an unauthorized alien.
- (C) Contractor shall require their subcontractors, who perform work under this contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.
- (D) City may terminate the contract if Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by City of a breach.

Section 10. Contracting with Relatives

Pursuant to Indiana Code § 36-1-21, if the Contractor is a relative of a City of Goshen elected official or a business entity that is wholly or partially owned by a relative of a City of Goshen elected official, the

Contractor certifies that Contractor has notified both the City of Goshen elected official and the City of Goshen Legal Department of the relationship prior to entering into this agreement.

Section 11. No Investment Activities in Iran

In accordance with Indiana Code § 5-22-16.5, Contractor certifies that Contractor does not engage in investment activities in Iran as defined by Indiana Code § 5-22-16.5-8.

Section 12. Indemnification

Contractor shall indemnify and hold harmless the City of Goshen and City's agents, officers, and employees from and against any and all liability, obligations, claims, actions, causes of action, judgments, liens, damages, penalties or injuries arising out of any intentional, reckless or negligent act or omission by Contractor or any of Contractor's agents, officers and employees during the performance of services under this agreement. Such indemnity shall include reasonable attorney's fees and all reasonable litigation costs and other expenses incurred by City only if Contractor is determined liable to the City for any intentional, reckless or negligent act or omission in a judicial proceeding, and shall not be limited by the amount of insurance coverage required under this agreement.

Section 13. Insurance

- (A) Prior to commencing work, the Contractor shall furnish City a certificate of insurance in accordance with the following minimum requirements, shall maintain the insurance in full force and effect, and shall keep on deposit at all times during the term of the contract with City the certificates of proof issued by the insurance carrier that such insurance is in full force and effect. Contractor shall specifically include coverage for the City of Goshen as an additional insured for Employer's Liability, General Liability and Automobile Liability.
- (B) Each certificate shall require that written notice be given to the City at least thirty (30) days prior to the cancellation or a material change in the policy.
- (C) Contractor shall at least include the following types of insurance with the following minimum limits of liability:
 - (1) Workers Compensation and Employer's Liability - Statutory Limits
 - (2) General Liability - Combined Bodily Injury and Property Damage, \$1,000,000 each occurrence and aggregate
 - (3) Automobile Liability - Combined Bodily Injury and Property Damage, \$1,000,000 each occurrence and aggregate
 - (4) Professional Liability - Combined Bodily Injury and Property Damage, \$1,000,000 each occurrence and aggregate
 - (5) Excess Umbrella Coverage - \$1,000,000 each occurrence

Section 14. Force Majeure

- (A) Except for payment of sums due, neither party shall be liable to the other or deemed in default under this contract if and to the extent that such party's performance under this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party and could not have been avoided by exercising reasonable diligence. Examples of force majeure are natural disasters or decrees of governmental bodies not the fault of the affected party.
- (B) If either party is delayed by force majeure, the party affected shall provide written notice to the other party immediately. The notice shall provide evidence of the force majeure event to the satisfaction of the other party. The party shall do everything possible to resume performance. If the period of non-performance exceeds thirty (30) calendar days, the party whose ability to perform has not been affected may, by giving written notice, terminate the contract and the other party shall have no recourse.

Section 15. Default

- (A) If Contractor fails to perform the services or comply with the provisions of this agreement, then Contractor may be considered in default.
- (B) It shall be mutually agreed that if Contractor fails to perform the services or comply with the provisions of this contract, City may issue a written notice of default and provide a period of time that shall not be less than fifteen (15) days in which Contractor shall have the opportunity to cure. If the default is not cured within the time period allowed, the contract may be terminated by the City. In the event of default and failure to satisfactorily remedy the default after receipt of written notice, the City may otherwise secure similar services in any manner deemed proper by the City, and Contractor shall be liable to the City for any excess costs incurred
- (C) Contractor may also be considered in default by the City if any of the following occur:
 - (1) There is a substantive breach by Contractor of any obligation or duty owed under the provisions of this contract.
 - (2) Contractor is adjudged bankrupt or makes an assignment for the benefit of creditors.
 - (3) Contractor becomes insolvent or in an unsound financial condition so as to endanger performance under the contract.
 - (4) Contractor becomes the subject of any proceeding under law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors.
 - (5) A receiver, trustee, or similar official is appointed for Contractor or any of Contractor's property.
 - (6) Contractor is determined to be in violation of federal, state, or local laws or regulations and that such determination renders Contractor unable to perform the services described under these Specification Documents.
 - (7) The contract or any right, monies or claims are assigned by Contractor without the consent of the City.

Section 16. Termination

- (A) The agreement may be terminated in whole or in part, at any time, by mutual written consent of both parties. Contractor shall be paid for all services performed w and expenses reasonably incurred prior to notice of termination.
- (B) City may terminate this agreement, in whole or in part, in the event of default by Contractor.
- (C) The rights and remedies of the parties under this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.

Section 17. Notice

Any notice required or desired to be given under this agreement shall be deemed sufficient if it is made in writing and delivered personally or sent by regular first-class mail to the parties at the following addresses, or at such other place as either party may designate in writing from time to time. Notice will be considered given three (3) days after the notice is deposited in the US mail or when received at the appropriate address.

City: City of Goshen, Indiana
Attention: Goshen Legal Department
204 East Jefferson St., Suite 2
Goshen, IN 46528

Contractor: Communication Company of South Bend, Inc.
5320 South Main Street
South Bend, IN 46614

Section 18. Subcontracting or Assignment

Contractor shall not subcontract or assign any right or interest under the agreement, including the right to payment, without having prior written approval from City. Any attempt by Contractor to subcontract or assign any portion of the agreement shall not be construed to relieve Contractor from any responsibility to fulfill all contractual obligations.

Section 19. Amendments

Any modification or amendment to the terms and conditions of the agreement shall not be binding unless made in writing and signed by both parties. Any verbal representations or modifications concerning the agreement shall be of no force and effect.

Section 20. Waiver of Rights

No right conferred on either party under this agreement shall be deemed waived and no breach of this agreement excused unless such waiver or excuse shall be in writing and signed by the party claimed to have waived such right.

Section 21. Applicable Laws

- (A) Contractor agrees to comply with all applicable federal, state, and local laws, rules, regulations, or ordinances. All contractual provisions legally required to be included are incorporated by reference.
- (B) Contractor agrees to obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental rules or regulations in the performance of the services. Failure to do so may be deemed a material breach of agreement.

Section 22. Miscellaneous

- (A) Any provision of this agreement or incorporated documents shall be interpreted in such a way that they are consistent with all provisions required by law to be inserted into the agreement. In the event of a conflict between these documents and applicable laws, rules, regulations or ordinances, the most stringent or legally binding requirement shall govern.
- (B) This agreement shall be construed in accordance with and governed by the laws of the State of Indiana and any suit must be brought in a court of competent jurisdiction in Elkhart County, Indiana.
- (C) In the event legal action is brought to enforce or interpret the terms and conditions of this agreement, the prevailing party of such action shall be entitled to recover all costs of that action, including reasonable attorneys' fees.

Section 23. Severability

In the event that any provision of the agreement is found to be invalid or unenforceable, then such provision shall be reformed in accordance with applicable law. The invalidity or unenforceability of any provision of the agreement shall not affect the validity or enforceability of any other provision of the agreement.

Section 24. Binding Effect

All provisions, covenants, terms and conditions of this agreement apply to and bind the parties and their legal heirs, representatives, successors and assigns.

Section 25. Entire Agreement

This agreement constitutes the entire agreement between the parties and supersedes all other agreements or understandings between City and Contractor.

Section 26. Authority to Bind Contractor

The undersigned affirm that all steps have been taken to authorize execution of this agreement, and upon the undersigned's execution, bind their respective organizations to the terms of the agreement.

IN WITNESS WHEREOF, the parties have executed this agreement on the dates as set forth below.

City of Goshen, Indiana
Goshen Board of Public Works and Safety

**Communication Company of South Bend,
Inc.**

Jeremy P. Stutsman, Mayor

Printed: _____

Michael A. Landis, Member

Title: _____

Mary Nichols, Member

Date Signed: _____

DeWayne Riouse, Member

Barb Swartley, Member

Date Signed: _____

EXHIBIT A

ALARM SERVICES TESTING AGREEMENT



*Contract Start Date: 2/7/2022

Customer Name and Address
 City of Goshen (training center)
713 E Lincoln ave
Goshen, IN 46528

Communication Company (appears as CCSB in Terms & Conditions)
Communication Company
5320 South Main St.
South Bend, IN 46614

CCSB shall provide services as indicated below and in accordance with the attached terms and conditions.

ANNUAL TEST/INSPECT CHARGES		AGREEMENT SUMMARY	
Fire Alarm	\$ 337	Annual Total Test/Inspect	\$ 337
Fire Extinguisher	\$ -		
# of Extinguishers		Test/Inspect Multi-Year multiplier (1/3/5)	5
Fire Sprinkler	\$ -		
Other	\$ -	Total Test/Inspect	\$ 1,685
CENTRAL STATION MONITORING SERVICES		Annual Total Central Station Monitoring	\$ 45
Monthly Monitoring Charge \$45	\$ 45	Monitoring Multi-Year multiplier (12/36/60)	60
One Time Equip. & Instl. Charges (\$650)	\$ 450	Total Central Station Monitoring	\$ 2,700
OR		One Time Equip. & Instl. Charges (\$650)	\$ 450
3Yr/36 Monthly Monitoring w/Equip at \$67	\$ -	Total Central Station Monitoring & Equip	\$ 3,150
5Yr/60 Monthly Monitoring w/Equip \$60	\$ -		
Multi-Year Term Initial Below 3 Year 5 Year Initial <input type="checkbox"/> Initial <input type="checkbox"/>		Total	\$ 4,835

—If monitoring is selected, Communication Company will install equipment and furnish services as described: Price is for the conversion of existing, or set up of new, alarm panel means of communication to monitoring station. If existing system is currently being monitored, customer is responsible for coordinating current monitoring provider to be present, if needed, at the same time Communication Company is programming the new monitoring information. **If an antenna is required it will be billed on a time and material basis**

—This agreement shall remain in full force for the period covered by this agreement and shall thereafter continue on a year-to-year basis unless written notice of termination is given by either party to the other at least (60) days prior to the expiration of the initial term. Customer acknowledges that the contract option includes a discounted rate and that early termination of the agreement will result in financial damage to CCSB. In the event of early termination by Customer, Customer shall be liable to CCSB for a termination penalty equal to one year's annual fee. If the equipment is being financed, there will be an additional \$650 added to the termination penalty. Termination will be the end of the next month after the sixty (60) day notice.

—Customer agrees that at any time following expiration of this agreement, Communication Company may increase the annual fee for the renewal thereof. Customer agrees to pay the full amount or such increase, which does not exceed a 5% increase over the previous annual fee. In the event Communication Company increases the annual fee by an amount greater than 5%, Customer may terminate the agreement upon written notice to Communication Company within fifteen (15) days of notification or such increase.

—If customer moves or closes business operations in city specified above, the customer has the right to provide 60 days prior written notice of termination and agrees to pay an early cancellation fee.

—If CCSB does not perform services to the satisfaction of the Customer, the Customer may elect to terminate the agreement. To terminate the agreement, the Customer must give CCSB 60 days written notice and an opportunity to correct any deficiencies. If after 60 days, the Customer and CCSB agree that the problems cannot be resolved, the agreement is terminated.

Communication Company	Title	Date	Customer PO (if required)
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Jordan Hile			
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Customer's Acceptance Signature	Title	Date	Customer's Printed Name
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By: _____

Fire Alarm System Testing & Inspection

Scope – If selected above, CCSB will test & inspect the Fire Alarm System Components. CCSB will also provide, as part of this agreement, Sensitivity Testing of smoke detectors.

Testing Frequency – CCSB will perform one (1) 100% test(s) per year on automatic initiating devices (heat, smoke, duct smoke, manual pull stations and beam/optical smoke detectors & sensors, etc...) and one (1) 100% functional test(s) of notification appliances excluding a Decibel level test (unless specified differently in the special instructions section). Fire Protection/Sprinkler System Initiating Devices that are connected and supervised by the Fire Alarm system will be tested electrically. All testing will be completed in accordance with the most recent edition of NFPA 72 – National Fire Alarm Code.

a. Sensitivity Testing Methods - Each smoke detector will have its sensitivity tested using one of the following methods as appropriate and in accordance with the most current edition of NFPA 72 – National Fire Alarm Code.

- Calibrated Test Method
 - Manufacturer's Calibrated Sensitivity Test Instrument
 - Listed Control Equipment arranged for the purpose
 - Smoke detector / Control unit arrangement whereby the detector causes a signal at the control unit when it's sensitivity is outside of its listed sensitivity range.
- b. Sensitivity Testing Frequency - Sensitivity testing will be performed during the first year of this Agreement and every alternate year thereafter.

b. Sensitivity Testing Frequency - Sensitivity testing will be performed when due and every alternate year thereafter. When this report can be accessed through the Control Unit operator interface or a connected printer, this report shall be used.

Fire Sprinkler System Testing & Inspection

Scope – If selected above, CCSB will test & inspect the Wet and Dry type Fire Sprinkler System(s).

Testing Frequency – CCSB will perform two (2) tests per year on the Fire Sprinkler System(s) to include Vane-Type Waterflow and four (4) tests per year on all Water Motor Gongs, Valve Tamper Switches, Sprinkler Supervisory Switches and Waterflow Pressure Switches. Flow testing shall include the opening of each Inspector's Test Valve to activate Waterflow Alarm Devices (to include Waterflow Pressure Switches). Annually during one of the above scheduled inspections, CCSB personnel will visually inspect all accessible sprinklers, sprinkler piping, fittings, hangars and seismic bracing from the floor level. CCSB will perform four (4) tests per year on the Valve Tamper and associated Pressure Switch Alarm Devices.

Portable Fire Extinguishers

Scope – If selected above, CCSB will inspect and tag the portable fire extinguishers.

Testing Frequency – CC will perform one (1) annual inspection. Monthly inspections may be provided if

For any equipment requiring repair or replacement, an estimate will be prepared before proceeding with the work. Billing will be for ALL units found whether over or under the quantity noted on the Equipment List.

Inspection Reports – CCSB will furnish a hard copy or an electronic copy and a web available report utilizing BuildingReports our state-of-the-art internet based inspection, testing, and maintenance software certifying that tests have been completed and document any deficiencies found which may require corrective action.

Special Provisions

5 year agreement

TERMS AND CONDITIONS

INSPECTION AND TEST AGREEMENT. Communication Company will provide inspections and testing of each function of the covered system listed in this agreement for all accessible devices to verify its current operational status. Should Communication Company discover a faulty peripheral device, control panel, or a system dysfunction, it will be reported to the customer upon completion of the inspection. All inspections and test will be fully documented. A report will be provided to the customer and a copy will be kept in Communication Company of South Bend, Inc., files.

RENEWAL AND CANCELLATION. This agreement will be automatically renewed for successive periods upon receipt of payment of fees in effect at the time of renewal. Invoices will automatically be sent out sixty (60) days prior to the anniversary date. Either party may cancel this agreement, in writing, sixty (60) days prior to the renewal anniversary date. Customer acknowledges that the contract option includes a discounted rate and that early termination of the agreement will result in financial damage to CCSB. In the event of early termination by Customer, Customer shall be liable to CCSB for a termination penalty equal to one year's annual fee. In the event of cancellation of the entire agreement, credit will be on a pro rata monthly basis. Termination will be the end of the next month following the receipt of the sixty (60) day notice.

GENERAL. Communication Company shall not be responsible for failure to render service due to strikes, fire, flood, and other causes beyond its control. This agreement constitutes the entire contract between Communication Company and Customer with respect to maintenance of the equipment and no representation or statement not expressed herein shall be binding on Communication Company. The terms and conditions herein shall prevail notwithstanding any variance with the terms and conditions of any order submitted by Customer with respect to service here under. Communication Company will provide the number of inspections of the alarm system as specified previous, between the hours of 7:00 a.m. and 3:30 p.m., exclusive of Saturdays, Sundays, and Holidays.

FORCE MAJEURE, EXCLUSIONS. Company shall not be responsible for delays, interruption or failure to render services due to causes beyond its control, including but not limited to material shortages, work stoppages, fires, civil disobedience or unrest, severe weather, fire or any other cause beyond the control of Company. This Agreement expressly excludes, without limitation, provision of fire watches; reloading of, upgrading, and maintaining computer firmware or software; making repairs or replacements necessitated by reason of negligence or misuse of components or equipment or changes to Customer's premises; vandalism; power failure; current fluctuation; failure due to non-Company installation; lightning, electrical storm, or other severe weather; water; accident; fire; acts of God; testing inspection and repair of duct detectors, beam detectors, and UV/IR equipment; provision of fire watches; clearing of ice blockage; draining of improperly pitched piping; batteries; recharging of chemical suppression systems; reloading of, upgrading, and maintaining computer software; corrosion (including but not limited to microbacterially induced corrosion ("MIC")); cartridges greater than 16 grams; gas valve installation; or any other cause external to the Covered System(s) and Company shall not be required to provide Service while interruption of service due to such causes shall continue. This Agreement does not cover and specifically excludes system upgrades and the replacement of obsolete systems, equipment, components or parts. All such services may be provided by Company at Company's sole discretion at an additional charge. If Emergency Services are expressly included in the Service Solution, the Agreement price does not include travel expenses.

NO EXPRESS OR IMPLIED WARRANTIES. The sole obligation of Communication Company under this agreement is to inspect, test, and make necessary repairs of the equipment, and customer hereby agrees that there are no warranties, express or implied, which would impose upon Communication Company any other obligation or liability; and Communication Company neither assumes nor authorizes any person to assume for it any other such obligation or liability. Communication Company does not or cannot warrant either expressly or by implication the continued operational status of the system after testing and repair. As such the only warranty made by Communication Company is that at the completion of their inspection and repair, the system is at that time in good working order.

LIMITATION OF LIABILITY. It is understood that Communication Company is not an insurer, that insurance, if any shall be obtained by the customer and that the amounts payable to Communication Company here under are based upon the volume of their services and the scope of liability as herein set forth and are unrelated to the value of the customers property or property of others in the customer's premise. Communication Company makes no guarantee or warranty including any implied warranty of the merchantability or fitness, that the system or services supplied, will avert or prevent occurrences or the consequences therefrom which the system or service is designed to detect. The customer does not desire this contract to provide for full liability of Communication Company and agrees that Communication Company shall be exempt from liability for loss, damages or injury due directly or indirectly to occurrence or consequences therefrom, which the services or system is designed to detect or avert. Communication Company will repair or replace any equipment covered by this agreement which it is working upon and is directly damaged by Communication Company on site in the course of performing its service. The customer agrees to indemnify, defend, and hold harmless Communication Company from any and all claims and lawsuits including the payment of damages, expenses, costs, and attorney's fees.

AGREEMENT

Alarm Testing and Monitoring Services

THIS AGREEMENT is entered into on _____, 2022, which is the last signature date set forth below, by and between **Communication Company of South Bend, Inc** ("Contractor"), whose mailing address is 5320 South Main Street, South Bend, IN 46614, and **City of Goshen, Indiana**, a municipal corporation and political subdivision of the State of Indiana acting through the Goshen Board of Public Works and Safety ("City").

In consideration of the terms, conditions and mutual covenants contained in this agreement, the parties agree as follows:

Section 1. Contractor Duties

Contractor shall provide City the services for the Fire Alarm System Testing and Inspection at the City of Goshen, Police Department, 111 East Jefferson Street, Goshen, Indiana, which services are more particularly described in Contractor's February 7, 2022 proposal attached as Exhibit A (hereinafter referred to as "Duties").

In the event of any conflict between the terms of this agreement and the terms contained in the proposal attached as Exhibit A, the terms set forth in this agreement shall prevail.

Contractor's Duties under this agreement include:

- (A) Installation of monitoring equipment and monitoring services.
- (B) Test & inspect the Fire Alarm System Components and provide Sensitivity Testing of smoke detectors.
- (C) Test & inspect the Wet and Dry type Fire Sprinkler Systems
- (D) Furnish inspection reports.

Section 2. Effective Date; Term

- (A) The agreement shall become effective on the day of execution and approval by both parties.
- (B) This agreement shall be effective for a period of one (1) year with the option to renew for up to four (4) additional years
- (C) The agreement may be renewed under the same terms and conditions by written agreement of both parties. Either party may provide the other party notice in writing at least thirty (30) days before the expiration of the original term if either party desires to extend the agreement. The term of the renewal shall not be longer than the term of the original agreement.

Section 3. Compensation

- (A) City agrees to compensate Contractor the sum of Six Thousand Six Hundred Seventy Dollars (\$6,670.00) for performing all Duties.

Section 4. Payment

- (A) City shall pay Contractor for each phase of Duties satisfactorily completed under this agreement as Duties progress.
- (B) Payment shall be upon City's receipt of a detailed invoice from Contractor. The invoice shall be sent to the following address, or at such other address as City may designate in writing.

City of Goshen
c/o Goshen Engineering Department
204 East Jefferson Street, Suite 1
Goshen, IN 46528

- (C) Payment will be made within forty-five (45) days following City's receipt of the invoice. If any dispute arises, the undisputed amount will be paid. Payment is deemed to be made on the date of mailing the check.
- (D) Contractor is required to have a current W-9 form on file with the Goshen Clerk-Treasurer's Office before City will issue payment.

Section 5. Ownership of Documents

All documents, records, applications, plans, drawings, specifications, reports, and other materials, regardless of the medium in which they are fixed, (collectively "Documents") prepared by Contractor or Contractor's employees, agents or subcontractors under this agreement, shall become and remain the property of and may be used by City. Contractor may retain a copy of the Documents for its records, including electronic files, as instruments of professional service. Nevertheless, the final documents prepared under this agreement shall become the property of City upon completion of the services and payment in full of all monies due to Contractor.

Section 6. Licensing/Certification Standards

Contractor certifies that Contractor possesses and agrees to maintain any and all licenses, certifications, or accreditations as required for the services provided by Contractor pursuant to this agreement

Section 7. Independent Contractor

- (A) Contractor shall operate as a separate entity and independent contractor of the City of Goshen. Any employees, agents or subcontractors of Contractor shall be under the sole and exclusive direction and control of Contractor and shall not be considered employees, agents or subcontractors of City. City shall not be responsible for injury, including death, to any persons or damages to any property arising out of the acts or omissions of Contractor and/or Contractor's employees, agents or subcontractors.

- (B) Contractor understands that City will not carry worker's compensation or any other insurance on Contractor and/or Contractor's employees or subcontractors. Prior to commencing work under this agreement, and if Contractor utilizes employees or subcontractors to perform work under this agreement, Contractor agrees to provide City a certificate(s) of insurance showing Contractor's and any subcontractor's compliance with workers' compensation statutory requirements.
- (C) Contractor is solely responsible for compliance with all federal, state and local laws regarding reporting of compensation earned and payment of taxes. City will not withhold federal, state or local income taxes or any other payroll taxes.

Section 8. Non-Discrimination

Contractor agrees to comply with all federal and Indiana civil rights laws, including, but not limited to Indiana Code 22-9-1-10. Contractor or any subcontractors, or any other person acting on behalf of Contractor or a subcontractor, shall not discriminate against any employee or applicant for employment to be employed in the performance of this agreement, with respect to the employee's hire, tenure, terms, conditions, or privileges of employment or any other matter directly or indirectly related to employment, because of the employee's or applicant's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of contract.

Section 9. Employment Eligibility Verification

- (A) Contractor shall enroll in and verify the work eligibility status of all Contractor's newly hired employees through the E-Verify program as defined in Indiana Code § 22-5-1.7-3. Contractor is not required to participate in the E-Verify program should the program cease to exist. Contractor is not required to participate in the E-Verify program if Contractor is self-employed and does not employ any employees.
- (B) Contractor shall not knowingly employ or contract with an unauthorized alien, and contractor shall not retain an employee or continue to contract with a person that the Contractor subsequently learns is an unauthorized alien.
- (C) Contractor shall require their subcontractors, who perform work under this contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.
- (D) City may terminate the contract if Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by City of a breach.

Section 10. Contracting with Relatives

Pursuant to Indiana Code § 36-1-21, if the Contractor is a relative of a City of Goshen elected official or a business entity that is wholly or partially owned by a relative of a City of Goshen elected official, the Contractor certifies that Contractor has notified both the City of Goshen elected official and the City of Goshen Legal Department of the relationship prior to entering into this agreement.

Section 11. No Investment Activities in Iran

In accordance with Indiana Code § 5-22-16.5, Contractor certifies that Contractor does not engage in investment activities in Iran as defined by Indiana Code § 5-22-16.5-8.

Section 12. Indemnification

Contractor shall indemnify and hold harmless the City of Goshen and City's agents, officers, and employees from and against any and all liability, obligations, claims, actions, causes of action, judgments, liens, damages, penalties or injuries arising out of any intentional, reckless or negligent act or omission by Contractor or any of Contractor's agents, officers and employees during the performance of services under this agreement. Such indemnity shall include reasonable attorney's fees and all reasonable litigation costs and other expenses incurred by City only if Contractor is determined liable to the City for any intentional, reckless or negligent act or omission in a judicial proceeding, and shall not be limited by the amount of insurance coverage required under this agreement.

Section 13. Insurance

- (A) Prior to commencing work, the Contractor shall furnish City a certificate of insurance in accordance with the following minimum requirements, shall maintain the insurance in full force and effect, and shall keep on deposit at all times during the term of the contract with City the certificates of proof issued by the insurance carrier that such insurance is in full force and effect. Contractor shall specifically include coverage for the City of Goshen as an additional insured for Employer's Liability, General Liability and Automobile Liability.
- (B) Each certificate shall require that written notice be given to the City at least thirty (30) days prior to the cancellation or a material change in the policy.
- (C) Contractor shall at least include the following types of insurance with the following minimum limits of liability:
 - (1) Workers Compensation and Employer's Liability - Statutory Limits
 - (2) General Liability - Combined Bodily Injury and Property Damage, \$1,000,000 each occurrence and aggregate
 - (3) Automobile Liability - Combined Bodily Injury and Property Damage, \$1,000,000 each occurrence and aggregate
 - (4) Professional Liability - Combined Bodily Injury and Property Damage, \$1,000,000 each occurrence and aggregate
 - (5) Excess Umbrella Coverage - \$1,000,000 each occurrence

Section 14. Force Majeure

- (A) Except for payment of sums due, neither party shall be liable to the other or deemed in default under this contract if and to the extent that such party's performance under this contract is prevented

by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party and could not have been avoided by exercising reasonable diligence. Examples of force majeure are natural disasters or decrees of governmental bodies not the fault of the affected party.

- (B) If either party is delayed by force majeure, the party affected shall provide written notice to the other party immediately. The notice shall provide evidence of the force majeure event to the satisfaction of the other party. The party shall do everything possible to resume performance. If the period of non-performance exceeds thirty (30) calendar days, the party whose ability to perform has not been affected may, by giving written notice, terminate the contract and the other party shall have no recourse.

Section 15. Default

- (A) If Contractor fails to perform the services or comply with the provisions of this agreement, then Contractor may be considered in default.
- (B) It shall be mutually agreed that if Contractor fails to perform the services or comply with the provisions of this contract, City may issue a written notice of default and provide a period of time that shall not be less than fifteen (15) days in which Contractor shall have the opportunity to cure. If the default is not cured within the time period allowed, the contract may be terminated by the City. In the event of default and failure to satisfactorily remedy the default after receipt of written notice, the City may otherwise secure similar services in any manner deemed proper by the City, and Contractor shall be liable to the City for any excess costs incurred
- (C) Contractor may also be considered in default by the City if any of the following occur:
 - (1) There is a substantive breach by Contractor of any obligation or duty owed under the provisions of this contract.
 - (2) Contractor is adjudged bankrupt or makes an assignment for the benefit of creditors.
 - (3) Contractor becomes insolvent or in an unsound financial condition so as to endanger performance under the contract.
 - (4) Contractor becomes the subject of any proceeding under law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors.
 - (5) A receiver, trustee, or similar official is appointed for Contractor or any of Contractor's property.
 - (6) Contractor is determined to be in violation of federal, state, or local laws or regulations and that such determination renders Contractor unable to perform the services described under these Specification Documents.
 - (7) The contract or any right, monies or claims are assigned by Contractor without the consent of the City.

Section 16. Termination

- (A) The agreement may be terminated in whole or in part, at any time, by mutual written consent of both parties. Contractor shall be paid for all services performed w and expenses reasonably incurred prior to notice of termination.

- (B) City may terminate this agreement, in whole or in part, in the event of default by Contractor.
- (C) The rights and remedies of the parties under this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.

Section 17. Notice

Any notice required or desired to be given under this agreement shall be deemed sufficient if it is made in writing and delivered personally or sent by regular first-class mail to the parties at the following addresses, or at such other place as either party may designate in writing from time to time. Notice will be considered given three (3) days after the notice is deposited in the US mail or when received at the appropriate address.

City: City of Goshen, Indiana
Attention: Goshen Legal Department
204 East Jefferson St., Suite 2
Goshen, IN 46528

Contractor: Communication Company of South Bend, Inc.
5320 South Main Street
South Bend, IN 46614

Section 18. Subcontracting or Assignment

Contractor shall not subcontract or assign any right or interest under the agreement, including the right to payment, without having prior written approval from City. Any attempt by Contractor to subcontract or assign any portion of the agreement shall not be construed to relieve Contractor from any responsibility to fulfill all contractual obligations.

Section 19. Amendments

Any modification or amendment to the terms and conditions of the agreement shall not be binding unless made in writing and signed by both parties. Any verbal representations or modifications concerning the agreement shall be of no force and effect.

Section 20. Waiver of Rights

No right conferred on either party under this agreement shall be deemed waived and no breach of this agreement excused unless such waiver or excuse shall be in writing and signed by the party claimed to have waived such right.

Section 21. Applicable Laws

- (A) Contractor agrees to comply with all applicable federal, state, and local laws, rules, regulations, or ordinances. All contractual provisions legally required to be included are incorporated by reference.

- (B) Contractor agrees to obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental rules or regulations in the performance of the services. Failure to do so may be deemed a material breach of agreement.

Section 22. Miscellaneous

- (A) Any provision of this agreement or incorporated documents shall be interpreted in such a way that they are consistent with all provisions required by law to be inserted into the agreement. In the event of a conflict between these documents and applicable laws, rules, regulations or ordinances, the most stringent or legally binding requirement shall govern.
- (B) This agreement shall be construed in accordance with and governed by the laws of the State of Indiana and any suit must be brought in a court of competent jurisdiction in Elkhart County, Indiana.
- (C) In the event legal action is brought to enforce or interpret the terms and conditions of this agreement, the prevailing party of such action shall be entitled to recover all costs of that action, including reasonable attorneys' fees.

Section 23. Severability

In the event that any provision of the agreement is found to be invalid or unenforceable, then such provision shall be reformed in accordance with applicable law. The invalidity or unenforceability of any provision of the agreement shall not affect the validity or enforceability of any other provision of the agreement.

Section 24. Binding Effect

All provisions, covenants, terms and conditions of this agreement apply to and bind the parties and their legal heirs, representatives, successors and assigns.

Section 25. Entire Agreement

This agreement constitutes the entire agreement between the parties and supersedes all other agreements or understandings between City and Contractor.

Section 26. Authority to Bind Contractor

The undersigned affirm that all steps have been taken to authorize execution of this agreement, and upon the undersigned's execution, bind their respective organizations to the terms of the agreement.

IN WITNESS WHEREOF, the parties have executed this agreement on the dates as set forth below.

City of Goshen, Indiana
Goshen Board of Public Works and Safety

**Communication Company of South Bend,
Inc.**

Jeremy P. Stutsman, Mayor

Printed: _____

Michael A. Landis, Member

Title: _____

Mary Nichols, Member

Date Signed: _____

DeWayne Riouse, Member

Barb Swartley, Member

Date Signed: _____

ALARM SERVICES TESTING AGREEMENT



COMMUNICATION
— C O M P A N Y —

*Contract Start Date: 2/7/2022

Customer Name and Address	Communication Company (appears as CCSB in Terms & Conditions)
City of Goshen (Police Department)	Communication Company
111 E. Jefferson St.	5320 South Main St.
Goshen, IN 46528	South Bend, IN 46614

CCSB shall provide services as indicated below and in accordance with the attached terms and conditions.

ANNUAL TEST/INSPECT CHARGES		AGREEMENT SUMMARY	
Fire Alarm	\$ 704	Annual Total Test/Inspect	\$ 704
Fire Extinguisher	\$ -		
# of Extinguishers		Test/Inspect Multi-Year multiplier (1/3/5)	5
Fire Sprinkler	\$ -		
Other	\$ -	Total Test/Inspect	\$ 3,520
CENTRAL STATION MONITORING SERVICES		Annual Total Central Station Monitoring	\$ 45
Monthly Monitoring Charge \$45	\$ 45	Monitoring Multi-Year multiplier (12/36/60)	60
One Time Equip. & Instl. Charges (\$650)	\$ 450	Total Central Station Monitoring	\$ 2,700
OR		One Time Equip. & Instl. Charges (\$650)	\$ 450
3Yr/36 Monthly Monitoring w/Equip at \$67	\$ -	Total Central Station Monitoring & Equip	\$ 3,150
5Yr/60 Monthly Monitoring w/Equip \$60	\$ -		
Multi-Year Term Initial Below			
3 Year 5 Year			
Initial <input type="checkbox"/>	Initial <input type="checkbox"/>	Total	\$ 6,670

—If monitoring is selected, Communication Company will install equipment and furnish services as described: Price is for the conversion of existing, or set up of new, alarm panel means of communication to monitoring station. If existing system is currently being monitored, customer is responsible for coordinating current monitoring provider to be present, if needed, at the same time Communication Company is programming the new monitoring information. **If an antenna is required it will be billed on a time and material basis**

—This agreement shall remain in full force for the period covered by this agreement and shall thereafter continue on a year-to-year basis unless written notice of termination is given by either party to the other at least (60) days prior to the expiration of the initial term. Customer acknowledges that the contract option includes a discounted rate and that early termination of the agreement will result in financial damage to CCSB. In the event of early termination by Customer, Customer shall be liable to CCSB for a termination penalty equal to one year's annual fee. If the equipment is being financed, there will be an additional \$650 added to the termination penalty. Termination will be the end of the next month after the sixty (60) day notice.

—Customer agrees that at any time following expiration of this agreement, Communication Company may increase the annual fee for the renewal thereof. Customer agrees to pay the full amount or such increase, which does not exceed a 5% increase over the previous annual fee. In the event Communication Company increases the annual fee by an amount greater than 5%, Customer may terminate the agreement upon written notice to Communication Company within fifteen (15) days of notification or such increase.

—If customer moves or closes business operations in city specified above, the customer has the right to provide 60 days prior written notice of termination and agrees to pay an early cancellation fee.

—If CCSB does not perform services to the satisfaction of the Customer, the Customer may elect to terminate the agreement. To terminate the agreement, the Customer must give CCSB 60 days written notice and an opportunity to correct any deficiencies. If after 60 days, the Customer and CCSB agree that the problems cannot be resolved, the agreement is terminated.

Communication Company	Title	Date	Customer PO (if required)
Jordan Hile			
Customer's Acceptance Signature	Title	Date	Customer's Printed Name
By:			

Fire Alarm System Testing & Inspection

Scope – If selected above, CCSB will test & inspect the Fire Alarm System Components. CCSB will also provide, as part of this agreement, Sensitivity Testing of smoke detectors.

Testing Frequency – CCSB will perform one (1) 100% test(s) per year on automatic initiating devices (heat, smoke, duct smoke, manual pull stations and beam/optical smoke detectors & sensors, etc...) and one (1) 100% functional test(s) of notification appliances excluding a Decibel level test (unless specified differently in the special instructions section). Fire Protection/Sprinkler System Initiating Devices that are connected and supervised by the Fire Alarm system will be tested electrically. All testing will be completed in accordance with the most recent edition of NFPA 72 – National Fire Alarm Code.

a. Sensitivity Testing Methods - Each smoke detector will have its sensitivity tested using one of the following methods as appropriate and in accordance with the most current edition of NFPA 72 – National Fire Alarm Code.

- Calibrated Test Method
 - Manufacturer's Calibrated Sensitivity Test Instrument
 - Listed Control Equipment arranged for the purpose
 - Smoke detector / Control unit arrangement whereby the detector causes a signal at the control unit when it's sensitivity is outside of its listed sensitivity range.
- b. Sensitivity Testing Frequency - Sensitivity testing will be performed during the first year of this Agreement and every alternate year thereafter.

b. Sensitivity Testing Frequency - Sensitivity testing will be performed when due and every alternate year thereafter. When this report can be accessed through the Control Unit operator interface or a connected printer, this report shall be used.

Fire Sprinkler System Testing & Inspection

Scope – If selected above, CCSB will test & inspect the Wet and Dry type Fire Sprinkler System(s).

Testing Frequency – CCSB will perform two (2) tests per year on the Fire Sprinkler System(s) to include Vane-Type Waterflow and four (4) tests per year on all Water Motor Gongs, Valve Tamper Switches, Sprinkler Supervisory Switches and Waterflow Pressure Switches. Flow testing shall include the opening of each Inspector's Test Valve to activate Waterflow Alarm Devices (to include Waterflow Pressure Switches). Annually during one of the above scheduled inspections, CCSB personnel will visually inspect all accessible sprinklers, sprinkler piping, fittings, hangars and seismic bracing from the floor level. CCSB will perform four (4) tests per year on the Valve Tamper and associated Pressure Switch Alarm Devices.

Portable Fire Extinguishers

Scope – If selected above, CCSB will inspect and tag the portable fire extinguishers.

Testing Frequency – CC will perform one (1) annual inspection. Monthly inspections may be provided if

For any equipment requiring repair or replacement, an estimate will be prepared before proceeding with the work. Billing will be for ALL units found whether over or under the quantity noted on the Equipment List.

Inspection Reports – CCSB will furnish a hard copy or an electronic copy and a web available report utilizing BuildingReports our state-of-the-art internet based inspection, testing, and maintenance software certifying that tests have been completed and document any deficiencies found which may require corrective action.

Special Provisions

5 year agreement

TERMS AND CONDITIONS

INSPECTION AND TEST AGREEMENT. Communication Company will provide inspections and testing of each function of the covered system listed in this agreement for all accessible devices to verify its current operational status. Should Communication Company discover a faulty peripheral device, control panel, or a system dysfunction, it will be reported to the customer upon completion of the inspection. All inspections and test will be fully documented. A report will be provided to the customer and a copy will be kept in Communication Company of South Bend, Inc., files.

RENEWAL AND CANCELLATION. This agreement will be automatically renewed for successive periods upon receipt of payment of fees in effect at the time of renewal. Invoices will automatically be sent out sixty (60) days prior to the anniversary date. Either party may cancel this agreement, in writing, sixty (60) days prior to the renewal anniversary date. Customer acknowledges that the contract option includes a discounted rate and that early termination of the agreement will result in financial damage to CCSB. In the event of early termination by Customer, Customer shall be liable to CCSB for a termination penalty equal to one year's annual fee. In the event of cancellation of the entire agreement, credit will be on a pro rata monthly basis. Termination will be the end of the next month following the receipt of the sixty (60) day notice.

GENERAL. Communication Company shall not be responsible for failure to render service due to strikes, fire, flood, and other causes beyond its control. This agreement constitutes the entire contract between Communication Company and Customer with respect to maintenance of the equipment and no representation or statement not expressed herein shall be binding on Communication Company. The terms and conditions herein shall prevail notwithstanding any variance with the terms and conditions of any order submitted by Customer with respect to service here under. Communication Company will provide the number of inspections of the alarm system as specified previous, between the hours of 7:00 a.m. and 3:30 p.m., exclusive of Saturdays, Sundays, and Holidays.

FORCE MAJEURE, EXCLUSIONS. Company shall not be responsible for delays, interruption or failure to render services due to causes beyond its control, including but not limited to material shortages, work stoppages, fires, civil disobedience or unrest, severe weather, fire or any other cause beyond the control of Company. This Agreement expressly excludes, without limitation, provision of fire watches; reloading of, upgrading, and maintaining computer firmware or software; making repairs or replacements necessitated by reason of negligence or misuse of components or equipment or changes to Customer's premises; vandalism; power failure; current fluctuation; failure due to non-Company installation; lightning, electrical storm, or other severe weather; water; accident; fire; acts of God; testing inspection and repair of duct detectors, beam detectors, and UV/IR equipment; provision of fire watches; clearing of ice blockage; draining of improperly pitched piping; batteries; recharging of chemical suppression systems; reloading of, upgrading, and maintaining computer software; corrosion (including but not limited to micro-bacterially induced corrosion ("MIC")); cartridges greater than 16 grams; gas valve installation; or any other cause external to the Covered System(s) and Company shall not be required to provide Service while interruption of service due to such causes shall continue. This Agreement does not cover and specifically excludes system upgrades and the replacement of obsolete systems, equipment, components or parts. All such services may be provided by Company at Company's sole discretion at an additional charge. If Emergency Services are expressly included in the Service Solution, the Agreement price does not include travel expenses.

NO EXPRESS OR IMPLIED WARRANTIES. The sole obligation of Communication Company under this agreement is to inspect, test, and make necessary repairs of the equipment, and customer hereby agrees that there are no warranties, express or implied, which would impose upon Communication Company any other obligation or liability; and Communication Company neither assumes nor authorizes any person to assume for it any other such obligation or liability. Communication Company does not or cannot warrant either expressly or by implication the continued operational status of the system after testing and repair. As such the only warranty made by Communication Company is that at the completion of their inspection and repair, the system is at that time in good working order.

LIMITATION OF LIABILITY. It is understood that Communication Company is not an insurer, that insurance, if any shall be obtained by the customer and that the amounts payable to Communication Company here under are based upon the volume of their services and the scope of liability as herein set forth and are unrelated to the value of the customers property or property of others in the customer's premise. Communication Company makes no guarantee or warranty including any implied warranty of the merchantability or fitness, that the system or services supplied, will avert or prevent occurrences or the consequences therefrom which the system or service is designed to detect. The customer does not desire this contract to provide for full liability of Communication Company and agrees that Communication Company shall be exempt from liability for loss, damages or injury due directly or indirectly to occurrence or consequences therefrom, which the services or system is designed to detect or avert. Communication Company will repair or replace any equipment covered by this agreement which it is working upon and is directly damaged by Communication Company on site in the course of performing its service. The customer agrees to indemnify, defend, and hold harmless Communication Company from any and all claims and lawsuits including the payment of damages, expenses, costs, and attorney's fees.

AGREEMENT

Alarm Testing and Monitoring Services

THIS AGREEMENT is entered into on _____, 2022, which is the last signature date set forth below, by and between **Communication Company of South Bend, Inc** ("Contractor"), whose mailing address is 5320 South Main Street, South Bend, IN 46614, and **City of Goshen, Indiana**, a municipal corporation and political subdivision of the State of Indiana acting through the Goshen Board of Public Works and Safety ("City").

In consideration of the terms, conditions and mutual covenants contained in this agreement, the parties agree as follows:

Section 1. Contractor Duties

Contractor shall provide City the services for the Fire Alarm System Testing and Inspection at the City of Goshen CSO Plant, 705 North Indiana Avenue, Goshen, Indiana, which services are more particularly described in Contractor's February 7, 2022 proposal attached as Exhibit A (hereinafter referred to as "Duties").

In the event of any conflict between the terms of this agreement and the terms contained in the proposal attached as Exhibit A, the terms set forth in this agreement shall prevail.

Contractor's Duties under this agreement include:

- (A) Installation of monitoring equipment and monitoring services.
- (B) Test & inspect the Fire Alarm System Components and provide Sensitivity Testing of smoke detectors.
- (C) Test & inspect the Wet and Dry type Fire Sprinkler Systems
- (D) Furnish inspection reports.

Section 2. Effective Date; Term

- (A) The agreement shall become effective on the day of execution and approval by both parties.
- (B) This agreement shall be effective for a period of one (1) year with the option to renew for up to four (4) additional years
- (C) The agreement may be renewed under the same terms and conditions by written agreement of both parties. Either party may provide the other party notice in writing at least sixty (60) days before the expiration of the original term if either party desires to extend the agreement. The term of the renewal shall not be longer than the term of the original agreement.

Section 3. Compensation

- (A) City agrees to compensate Contractor the sum of Five Thousand One Hundred Forty-Five Dollars (\$5,145.00) per year for performing all Duties.

Section 4. Payment

- (A) City shall pay Contractor for each phase of Duties satisfactorily completed under this agreement as Duties progress.
- (B) Payment shall be upon City's receipt of a detailed invoice from Contractor. The invoice shall be sent to the following address, or at such other address as City may designate in writing.

City of Goshen
c/o Goshen Engineering Department
204 East Jefferson Street, Suite 1
Goshen, IN 46528

- (C) Payment will be made within forty-five (45) days following City's receipt of the invoice. If any dispute arises, the undisputed amount will be paid. Payment is deemed to be made on the date of mailing the check.
- (D) Contractor is required to have a current W-9 form on file with the Goshen Clerk-Treasurer's Office before City will issue payment.

Section 5. Ownership of Documents

All documents, records, applications, plans, drawings, specifications, reports, and other materials, regardless of the medium in which they are fixed, (collectively "Documents") prepared by Contractor or Contractor's employees, agents or subcontractors under this agreement, shall become and remain the property of and may be used by City. Contractor may retain a copy of the Documents for its records, including electronic files, as instruments of professional service. Nevertheless, the final documents prepared under this agreement shall become the property of City upon completion of the services and payment in full of all monies due to Contractor.

Section 6. Licensing/Certification Standards

Contractor certifies that Contractor possesses and agrees to maintain any and all licenses, certifications, or accreditations as required for the services provided by Contractor pursuant to this agreement

Section 7. Independent Contractor

- (A) Contractor shall operate as a separate entity and independent contractor of the City of Goshen. Any employees, agents or subcontractors of Contractor shall be under the sole and exclusive direction and control of Contractor and shall not be considered employees, agents or subcontractors of City. City shall not be responsible for injury, including death, to any persons or damages to any property arising out of the acts or omissions of Contractor and/or Contractor's employees, agents or subcontractors.

- (B) Contractor understands that City will not carry worker's compensation or any other insurance on Contractor and/or Contractor's employees or subcontractors. Prior to commencing work under this agreement, and if Contractor utilizes employees or subcontractors to perform work under this agreement, Contractor agrees to provide City a certificate(s) of insurance showing Contractor's and any subcontractor's compliance with workers' compensation statutory requirements.
- (C) Contractor is solely responsible for compliance with all federal, state and local laws regarding reporting of compensation earned and payment of taxes. City will not withhold federal, state or local income taxes or any other payroll taxes.

Section 8. Non-Discrimination

Contractor agrees to comply with all federal and Indiana civil rights laws, including, but not limited to Indiana Code 22-9-1-10. Contractor or any subcontractors, or any other person acting on behalf of Contractor or a subcontractor, shall not discriminate against any employee or applicant for employment to be employed in the performance of this agreement, with respect to the employee's hire, tenure, terms, conditions, or privileges of employment or any other matter directly or indirectly related to employment, because of the employee's or applicant's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of contract.

Section 9. Employment Eligibility Verification

- (A) Contractor shall enroll in and verify the work eligibility status of all Contractor's newly hired employees through the E-Verify program as defined in Indiana Code § 22-5-1.7-3. Contractor is not required to participate in the E-Verify program should the program cease to exist. Contractor is not required to participate in the E-Verify program if Contractor is self-employed and does not employ any employees.
- (B) Contractor shall not knowingly employ or contract with an unauthorized alien, and contractor shall not retain an employee or continue to contract with a person that the Contractor subsequently learns is an unauthorized alien.
- (C) Contractor shall require their subcontractors, who perform work under this contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.
- (D) City may terminate the contract if Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by City of a breach.

Section 10. Contracting with Relatives

Pursuant to Indiana Code § 36-1-21, if the Contractor is a relative of a City of Goshen elected official or a business entity that is wholly or partially owned by a relative of a City of Goshen elected official, the Contractor certifies that Contractor has notified both the City of Goshen elected official and the City of Goshen Legal Department of the relationship prior to entering into this agreement.

Section 11. No Investment Activities in Iran

In accordance with Indiana Code § 5-22-16.5, Contractor certifies that Contractor does not engage in investment activities in Iran as defined by Indiana Code § 5-22-16.5-8.

Section 12. Indemnification

Contractor shall indemnify and hold harmless the City of Goshen and City's agents, officers, and employees from and against any and all liability, obligations, claims, actions, causes of action, judgments, liens, damages, penalties or injuries arising out of any intentional, reckless or negligent act or omission by Contractor or any of Contractor's agents, officers and employees during the performance of services under this agreement. Such indemnity shall include reasonable attorney's fees and all reasonable litigation costs and other expenses incurred by City only if Contractor is determined liable to the City for any intentional, reckless or negligent act or omission in a judicial proceeding, and shall not be limited by the amount of insurance coverage required under this agreement.

Section 13. Insurance

- (A) Prior to commencing work, the Contractor shall furnish City a certificate of insurance in accordance with the following minimum requirements, shall maintain the insurance in full force and effect, and shall keep on deposit at all times during the term of the contract with City the certificates of proof issued by the insurance carrier that such insurance is in full force and effect. Contractor shall specifically include coverage for the City of Goshen as an additional insured for Employer's Liability, General Liability and Automobile Liability.
- (B) Each certificate shall require that written notice be given to the City at least thirty (30) days prior to the cancellation or a material change in the policy.
- (C) Contractor shall at least include the following types of insurance with the following minimum limits of liability:
 - (1) Workers Compensation and Employer's Liability - Statutory Limits
 - (2) General Liability - Combined Bodily Injury and Property Damage, \$1,000,000 each occurrence and aggregate
 - (3) Automobile Liability - Combined Bodily Injury and Property Damage, \$1,000,000 each occurrence and aggregate
 - (4) Professional Liability - Combined Bodily Injury and Property Damage, \$1,000,000 each occurrence and aggregate
 - (5) Excess Umbrella Coverage - \$1,000,000 each occurrence

Section 14. Force Majeure

- (A) Except for payment of sums due, neither party shall be liable to the other or deemed in default under this contract if and to the extent that such party's performance under this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party and could not have been avoided by exercising reasonable diligence. Examples

of force majeure are natural disasters or decrees of governmental bodies not the fault of the affected party.

- (B) If either party is delayed by force majeure, the party affected shall provide written notice to the other party immediately. The notice shall provide evidence of the force majeure event to the satisfaction of the other party. The party shall do everything possible to resume performance. If the period of non-performance exceeds thirty (30) calendar days, the party whose ability to perform has not been affected may, by giving written notice, terminate the contract and the other party shall have no recourse.

Section 15. Default

- (A) If Contractor fails to perform the services or comply with the provisions of this agreement, then Contractor may be considered in default.
- (B) It shall be mutually agreed that if Contractor fails to perform the services or comply with the provisions of this contract, City may issue a written notice of default and provide a period of time that shall not be less than fifteen (15) days in which Contractor shall have the opportunity to cure. If the default is not cured within the time period allowed, the contract may be terminated by the City. In the event of default and failure to satisfactorily remedy the default after receipt of written notice, the City may otherwise secure similar services in any manner deemed proper by the City, and Contractor shall be liable to the City for any excess costs incurred
- (C) Contractor may also be considered in default by the City if any of the following occur:
 - (1) There is a substantive breach by Contractor of any obligation or duty owed under the provisions of this contract.
 - (2) Contractor is adjudged bankrupt or makes an assignment for the benefit of creditors.
 - (3) Contractor becomes insolvent or in an unsound financial condition so as to endanger performance under the contract.
 - (4) Contractor becomes the subject of any proceeding under law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors.
 - (5) A receiver, trustee, or similar official is appointed for Contractor or any of Contractor's property.
 - (6) Contractor is determined to be in violation of federal, state, or local laws or regulations and that such determination renders Contractor unable to perform the services described under these Specification Documents.
 - (7) The contract or any right, monies or claims are assigned by Contractor without the consent of the City.

Section 16. Termination

- (A) The agreement may be terminated in whole or in part, at any time, by mutual written consent of both parties. Contractor shall be paid for all services performed w and expenses reasonably incurred prior to notice of termination.
- (B) City may terminate this agreement, in whole or in part, in the event of default by Contractor.

- (C) The rights and remedies of the parties under this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.

Section 17. Notice

Any notice required or desired to be given under this agreement shall be deemed sufficient if it is made in writing and delivered personally or sent by regular first-class mail to the parties at the following addresses, or at such other place as either party may designate in writing from time to time. Notice will be considered given three (3) days after the notice is deposited in the US mail or when received at the appropriate address.

City: City of Goshen, Indiana
Attention: Goshen Legal Department
204 East Jefferson St., Suite 2
Goshen, IN 46528

Contractor: Communication Company of South Bend, Inc.
5320 South Main Street
South Bend, IN 46614

Section 18. Subcontracting or Assignment

Contractor shall not subcontract or assign any right or interest under the agreement, including the right to payment, without having prior written approval from City. Any attempt by Contractor to subcontract or assign any portion of the agreement shall not be construed to relieve Contractor from any responsibility to fulfill all contractual obligations.

Section 19. Amendments

Any modification or amendment to the terms and conditions of the agreement shall not be binding unless made in writing and signed by both parties. Any verbal representations or modifications concerning the agreement shall be of no force and effect.

Section 20. Waiver of Rights

No right conferred on either party under this agreement shall be deemed waived and no breach of this agreement excused unless such waiver or excuse shall be in writing and signed by the party claimed to have waived such right.

Section 21. Applicable Laws

- (A) Contractor agrees to comply with all applicable federal, state, and local laws, rules, regulations, or ordinances. All contractual provisions legally required to be included are incorporated by reference.
- (B) Contractor agrees to obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental rules or regulations in the performance of the services. Failure to do so maybe deemed a material breach of agreement.

Section 22. Miscellaneous

- (A) Any provision of this agreement or incorporated documents shall be interpreted in such a way that they are consistent with all provisions required by law to be inserted into the agreement. In the event of a conflict between these documents and applicable laws, rules, regulations or ordinances, the most stringent or legally binding requirement shall govern.
- (B) This agreement shall be construed in accordance with and governed by the laws of the State of Indiana and any suit must be brought in a court of competent jurisdiction in Elkhart County, Indiana.
- (C) In the event legal action is brought to enforce or interpret the terms and conditions of this agreement, the prevailing party of such action shall be entitled to recover all costs of that action, including reasonable attorneys' fees.

Section 23. Severability

In the event that any provision of the agreement is found to be invalid or unenforceable, then such provision shall be reformed in accordance with applicable law. The invalidity or unenforceability of any provision of the agreement shall not affect the validity or enforceability of any other provision of the agreement.

Section 24. Binding Effect

All provisions, covenants, terms and conditions of this agreement apply to and bind the parties and their legal heirs, representatives, successors and assigns.

Section 25. Entire Agreement

This agreement constitutes the entire agreement between the parties and supersedes all other agreements or understandings between City and Contractor.

Section 26. Authority to Bind Contractor

The undersigned affirm that all steps have been taken to authorize execution of this agreement, and upon the undersigned's execution, bind their respective organizations to the terms of the agreement.

IN WITNESS WHEREOF, the parties have executed this agreement on the dates as set forth below.

City of Goshen, Indiana
Goshen Board of Public Works and Safety

**Communication Company of South Bend,
Inc.**

Jeremy P. Stutsman, Mayor

Printed: _____

Michael A. Landis, Member

Title: _____

Mary Nichols, Member

Date Signed: _____

DeWayne Riouse, Member

Barb Swartley, Member

Date Signed: _____

ALARM SERVICES TESTING AGREEMENT



COMMUNICATION
— C O M P A N Y —

*Contract Start Date: 2/7/2022

Customer Name and Address

Communication Company (appears as CCSB in Terms & Conditions)

City of Goshen (CSO Plant)

Communication Company

705 N. Indiana Ave.

5320 South Main St.

Goshen, IN 46528

South Bend, IN 46614

CCSB shall provide services as indicated below and in accordance with the attached terms and conditions.

ANNUAL TEST/INSPECT CHARGES		AGREEMENT SUMMARY	
Fire Alarm	\$ 399	Annual Total Test/Inspect	\$ 399
Fire Extinguisher	\$ -		
# of Extinguishers		Test/Inspect Multi-Year multiplier (1/3/5)	5
Fire Sprinkler	\$ -		
Other	\$ -	Total Test/Inspect	\$ 1,995
CENTRAL STATION MONITORING SERVICES		Annual Total Central Station Monitoring	\$ 45
Monthly Monitoring Charge \$45	\$ 45	Monitoring Multi-Year multiplier (12/36/60)	60
One Time Equip. & Instl. Charges (\$650)	\$ 450	Total Central Station Monitoring	\$ 2,700
OR		One Time Equip. & Instl. Charges (\$650)	\$ 450
3Yr/36 Monthly Monitoring w/Equip at \$67	\$ -	Total Central Station Monitoring & Equip	\$ 3,150
5Yr/60 Monthly Monitoring w/Equip \$60	\$ -		
Multi-Year Term Initial Below 3 Year 5 Year		Total	\$ 5,145
Initial <input type="checkbox"/>	Initial <input type="checkbox"/>		

—If monitoring is selected, Communication Company will install equipment and furnish services as described: Price is for the conversion of existing, or set up of new, alarm panel means of communication to monitoring station. If existing system is currently being monitored, customer is responsible for coordinating current monitoring provider to be present, if needed, at the same time Communication Company is programming the new monitoring information. **If an antenna is required it will be billed on a time and material basis**

—This agreement shall remain in full force for the period covered by this agreement and shall thereafter continue on a year-to-year basis unless written notice of termination is given by either party to the other at least (60) days prior to the expiration of the initial term. Customer acknowledges that the contract option includes a discounted rate and that early termination of the agreement will result in financial damage to CCSB. In the event of early termination by Customer, Customer shall be liable to CCSB for a termination penalty equal to one year's annual fee. If the equipment is being financed, there will be an additional \$650 added to the termination penalty. Termination will be the end of the next month after the sixty (60) day notice.

—Customer agrees that at any time following expiration of this agreement, Communication Company may increase the annual fee for the renewal thereof. Customer agrees to pay the full amount or such increase, which does not exceed a 5% increase over the previous annual fee. In the event Communication Company increases the annual fee by an amount greater than 5%, Customer may terminate the agreement upon written notice to Communication Company within fifteen (15) days of notification or such increase.

—If customer moves or closes business operations in city specified above, the customer has the right to provide 60 days prior written notice of termination and agrees to pay an early cancellation fee.

—If CCSB does not perform services to the satisfaction of the Customer, the Customer may elect to terminate the agreement. To terminate the agreement, the Customer must give CCSB 60 days written notice and an opportunity to correct any deficiencies. If after 60 days, the Customer and CCSB agree that the problems cannot be resolved, the agreement is terminated.

Communication Company	Title	Date	Customer PO (if required)
Jordan Hile			
Customer's Acceptance Signature	Title	Date	Customer's Printed Name
By:			

Fire Alarm System Testing & Inspection

Scope – If selected above, CCSB will test & inspect the Fire Alarm System Components. CCSB will also provide, as part of this agreement, Sensitivity Testing of smoke detectors.

Testing Frequency – CCSB will perform one (1) 100% test(s) per year on automatic initiating devices (heat, smoke, duct smoke, manual pull stations and beam/optical smoke detectors & sensors, etc...) and one (1) 100% functional test(s) of notification appliances excluding a Decibel level test (unless specified differently in the special instructions section). Fire Protection/Sprinkler System Initiating Devices that are connected and supervised by the Fire Alarm system will be tested electrically. All testing will be completed in accordance with the most recent edition of NFPA 72 – National Fire Alarm Code.

a. Sensitivity Testing Methods - Each smoke detector will have its sensitivity tested using one of the following methods as appropriate and in accordance with the most current edition of NFPA 72 – National Fire Alarm Code.

- Calibrated Test Method
 - Manufacturer's Calibrated Sensitivity Test Instrument
 - Listed Control Equipment arranged for the purpose
 - Smoke detector / Control unit arrangement whereby the detector causes a signal at the control unit when it's sensitivity is outside of its listed sensitivity range.
- b. Sensitivity Testing Frequency - Sensitivity testing will be performed during the first year of this Agreement and every alternate year thereafter.

b. Sensitivity Testing Frequency - Sensitivity testing will be performed when due and every alternate year thereafter. When this report can be accessed through the Control Unit operator interface or a connected printer, this report shall be used.

Fire Sprinkler System Testing & Inspection

Scope – If selected above, CCSB will test & inspect the Wet and Dry type Fire Sprinkler System(s).

Testing Frequency – CCSB will perform two (2) tests per year on the Fire Sprinkler System(s) to include Vane-Type Waterflow and four (4) tests per year on all Water Motor Gongs, Valve Tamper Switches, Sprinkler Supervisory Switches and Waterflow Pressure Switches. Flow testing shall include the opening of each Inspector's Test Valve to activate Waterflow Alarm Devices (to include Waterflow Pressure Switches). Annually during one of the above scheduled inspections, CCSB personnel will visually inspect all accessible sprinklers, sprinkler piping, fittings, hangars and seismic bracing from the floor level. CCSB will perform four (4) tests per year on the Valve Tamper and associated Pressure Switch Alarm Devices.

Portable Fire Extinguishers

Scope – If selected above, CCSB will inspect and tag the portable fire extinguishers.

Testing Frequency – CC will perform one (1) annual inspection. Monthly inspections may be provided if

For any equipment requiring repair or replacement, an estimate will be prepared before proceeding with the work. Billing will be for ALL units found whether over or under the quantity noted on the Equipment List.

Inspection Reports – CCSB will furnish a hard copy or an electronic copy and a web available report utilizing BuildingReports our state-of-the-art internet based inspection, testing, and maintenance software certifying that tests have been completed and document any deficiencies found which may require corrective action.

Special Provisions

5 year agreement

TERMS AND CONDITIONS

INSPECTION AND TEST AGREEMENT. Communication Company will provide inspections and testing of each function of the covered system listed in this agreement for all accessible devices to verify its current operational status. Should Communication Company discover a faulty peripheral device, control panel, or a system dysfunction, it will be reported to the customer upon completion of the inspection. All inspections and test will be fully documented. A report will be provided to the customer and a copy will be kept in Communication Company of South Bend, Inc., files.

RENEWAL AND CANCELLATION. This agreement will be automatically renewed for successive periods upon receipt of payment of fees in effect at the time of renewal. Invoices will automatically be sent out sixty (60) days prior to the anniversary date. Either party may cancel this agreement, in writing, sixty (60) days prior to the renewal anniversary date. Customer acknowledges that the contract option includes a discounted rate and that early termination of the agreement will result in financial damage to CCSB. In the event of early termination by Customer, Customer shall be liable to CCSB for a termination penalty equal to one year's annual fee. In the event of cancellation of the entire agreement, credit will be on a pro rata monthly basis. Termination will be the end of the next month following the receipt of the sixty (60) day notice.

GENERAL. Communication Company shall not be responsible for failure to render service due to strikes, fire, flood, and other causes beyond its control. This agreement constitutes the entire contract between Communication Company and Customer with respect to maintenance of the equipment and no representation or statement not expressed herein shall be binding on Communication Company. The terms and conditions herein shall prevail notwithstanding any variance with the terms and conditions of any order submitted by Customer with respect to service here under. Communication Company will provide the number of inspections of the alarm system as specified previous, between the hours of 7:00 a.m. and 3:30 p.m., exclusive of Saturdays, Sundays, and Holidays.

FORCE MAJEURE, EXCLUSIONS. Company shall not be responsible for delays, interruption or failure to render services due to causes beyond its control, including but not limited to material shortages, work stoppages, fires, civil disobedience or unrest, severe weather, fire or any other cause beyond the control of Company. This Agreement expressly excludes, without limitation, provision of fire watches; reloading of, upgrading, and maintaining computer firmware or software; making repairs or replacements necessitated by reason of negligence or misuse of components or equipment or changes to Customer's premises; vandalism; power failure; current fluctuation; failure due to non-Company installation; lightning, electrical storm, or other severe weather; water; accident; fire; acts of God; testing inspection and repair of duct detectors, beam detectors, and UV/IR equipment; provision of fire watches; clearing of ice blockage; draining of improperly pitched piping; batteries; recharging of chemical suppression systems; reloading of, upgrading, and maintaining computer software; corrosion (including but not limited to micro-bacterially induced corrosion ("MIC")); cartridges greater than 16 grams; gas valve installation; or any other cause external to the Covered System(s) and Company shall not be required to provide Service while interruption of service due to such causes shall continue. This Agreement does not cover and specifically excludes system upgrades and the replacement of obsolete systems, equipment, components or parts. All such services may be provided by Company at Company's sole discretion at an additional charge. If Emergency Services are expressly included in the Service Solution, the Agreement price does not include travel expenses.

NO EXPRESS OR IMPLIED WARRANTIES. The sole obligation of Communication Company under this agreement is to inspect, test, and make necessary repairs of the equipment, and customer hereby agrees that there are no warranties, express or implied, which would impose upon Communication Company any other obligation or liability; and Communication Company neither assumes nor authorizes any person to assume for it any other such obligation or liability. Communication Company does not or cannot warrant either expressly or by implication the continued operational status of the system after testing and repair. As, such the only warranty made by Communication Company is that at the completion of their inspection and repair, the system is at that time in good working order.

LIMITATION OF LIABILITY. It is understood that Communication Company is not an insurer, that insurance, if any shall be obtained by the customer and that the amounts payable to Communication Company here under are based upon the volume of their services and the scope of liability as herein set forth and are unrelated to the value of the customers property or property of others in the customer's premise. Communication Company makes no guarantee or warranty including any implied warranty of the merchantability or fitness, that the system or services supplied, will avert or prevent occurrences or the consequences therefrom which the system or service is designed to detect. The customer does not desire this contract to provide for full liability of Communication Company and agrees that Communication Company shall be exempt from liability for loss, damages or injury due directly or indirectly to occurrence or consequences therefrom, which the services or system is designed to detect or avert. Communication Company will repair or replace any equipment covered by this agreement which it is working upon and is directly damaged by Communication Company on site in the course of performing its service. The customer agrees to indemnify, defend, and hold harmless Communication Company from any and all claims and lawsuits including the payment of damages, expenses, costs, and attorney's fees.



CITY OF GOSHEN LEGAL DEPARTMENT

City Annex
204 East Jefferson Street, Suite 2
Goshen, Indiana 46528-3405

Phone (574) 537-3820 • Fax (574) 537-3817 • TDD (574) 534-3185
www.goshenindiana.org

To: Board of Public Works and Safety
From: Bodie J. Stegelmann
Date: March 28, 2022
Subject: Resolution 2022-14 – Approving Certain Investment Options for City Employees Participating in City of Goshen Group Annuity Contract through American United Life Insurance Company

The City offers American United Life Insurance Company investment vehicles to its employees through payroll deduction. American United Life Insurance Company recently notified the City that it would no longer offer the AUL Fixed Interest Account as an investment option, and that the City needed to choose how to handle contributions previously invested in the AUL Fixed Interest Account. American United Life Insurance Company offered the City three options, one being to stop all contributions to the AUL Fixed Interest Account and redirect future investment elections to another investment option. American United Life Insurance Company will notify participating employees of the change and employees will be given 30 days to change their investment option if they so choose.

Suggested Motion:

Move to approve Resolution 2022-14 - Approving Certain Investment Options for City Employees Participating in City of Goshen Group Annuity Contract through American United Life Insurance Company, which allows employees to choose the investment account into which they wish to contribute their payroll deductions.

RESOLUTION 2022-14

Approving Certain Investment Options for City Employees Participating in City of Goshen Group Annuity Contract through American United Life Insurance Company

WHEREAS, the City of Goshen offers American United Life Insurance Company investment vehicles to its employees through payroll deduction; and

WHEREAS, one of the investment options that American United Life Insurance Company offers to City employees is its AUL Fixed Interest Account; and

WHEREAS, American United Life Insurance Company recently notified the City that it would no longer offer the AUL Fixed Interest Account as an investment option, and that the City needed to choose whether to,

1. Stop all contributions and investment transfers to the AUL Fixed Interest Account and redirect future investment elections to another investment option available under [the City's] group annuity contract,
2. Liquidate the AUL Fixed Interest Account and transfer participant account balances invested in the AUL Fixed Interest Account to the AUL Stable Value Account, or
3. Terminate [the City's] group annuity contract; and

WHEREAS, City staff believes the best option is to allow City employees who have invested in the AUL Fixed Interest Account to make their own investment decisions relative to money they have formerly directed to the AUL Fixed Interest Account; and

WHEREAS, City staff recommend that the City choose option 1, above; and

WHEREAS, the Goshen Board of Public Works and Safety finds that it is appropriate to continue to offer investment options through its group annuity contract through American United Life Insurance Company, but to stop all contributions and investment transfers to the AUL Fixed Interest Account and redirect future investment elections to another investment option available under [the City's] group annuity contract.

NOW, THEREFORE, BE IT RESOLVED by the Goshen Board of Public Works and Safety that:

1. The City will continue to offer investment options to its employees through its group annuity contract through American United Life Insurance Company, but all contributions and investment transfers to the AUL Fixed Interest Account will stop and future investment elections will be redirected to another investment option available under [the City's] group annuity contract;

2. Human Resources Manager, Rita Huffman is authorized to execute the Option Election Form via DocuSign, a copy of which is attached hereto, in order to carry out the election made in this Resolution.

PASSED and ADOPTED by the Goshen Board of Public Works and Safety on March 28, 2022.

Jeremy P. Stutsman, Mayor

Mary Nichols, Member

DeWayne Riouse, Member

Michael A. Landis, Member

Barb Swartley, Member

Option Election Form

Plan Name: CITY OF GOSHEN UTILITIES

Contract Number: G74868

Please indicate your direction below and electronically sign this form by May 31, 2022. Select the "Review Document" button within this email to begin the electronic signature process. Review the documents carefully before finalizing your electronic signature.

Option 1: Stop all contributions and investment transfers to the AUL Fixed Interest Account and redirect future investment elections to another investment option available under your group annuity contract as described in the Explanation of Options.

All future contributions and transfers that would have previously been directed to the AUL Fixed Interest Account will be directed to:

- 1a. The AUL Stable Value Account
- 1b. Your Plan's Qualified Default Investment Account (QDIA)
- 1c. Another Investment Option. I will contact my Relationship Manager.

Option 2: Liquidate the AUL Fixed Interest Account and transfer participant account balances invested in the AUL Fixed Interest Account to the AUL Stable Value Account as described in the Explanation of Options.

Option 3: Terminate your group annuity contract as described in the Explanation of Options

Plan Sponsor/ Contractholder/Trustee Signature _____ Date _____
Plan Name: CITY OF GOSHEN UTILITIES

By signing above, I certify that I have the authority to act on behalf of the Plan and that I have fully reviewed the information provided to me.

If you do not complete and submit this Option Elections Form within ninety (90) days, AUL will stop accepting all new contributions to your group annuity contract as permitted by your group annuity contract. Contributions include, but are not limited to, payroll contributions, rollovers and transfers.



**Engineering Department
CITY OF GOSHEN**

204 East Jefferson Street, Suite 1 • Goshen, IN 46528-3405

Phone (574) 534-2201 • Fax (574) 533-8626 • TDD (574) 534-3185
engineering@goshencity.com • www.goshenindiana.org

MEMORANDUM

TO: Board of Public Works and Safety

FROM: Goshen Engineering

RE: **COLLEGE AVENUE BRIDGE #410 RECONSTRUCTION AND UTILITY
RELOCATION – PHASE 1
PROJECT NO. 2018-0022**

DATE: March 28, 2022

The Engineering Department requests permission to advertise for bids for the College Avenue Bridge #410 Reconstruction and Utility Relocation Project – Phase 1. The bids for the project will be due Monday, April 25, 2022.

The funds have been appropriated and are available for this project, and your approval would be appreciated.

Requested Motion: Approve permission for the Engineering Department to advertise for bids for Project No. 2018-0022 – College Avenue Bridge #410 Reconstruction and Utility Relocation – Phase 1.



**Engineering Department
CITY OF GOSHEN**

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engineering@goshencity.com • www.goshenindiana.org

MEMORANDUM

TO: Board of Works and Safety and Stormwater Board

FROM: Bryce Gast, P.E., Administrative City Engineer

RE: **WWTP IMPROVEMENTS AND ROCK RUN INTERCEPTOR PHASE I PROJECTS
(A & C) PROFESSIONAL SERVICE AGREEMENT AMENDMENT NO. 4
(JN: 2019-0025 A & C)**

DATE: March 28, 2022

The Wastewater Treatment Project continues to take longer than was anticipated and contracted, and the City's agreement with its onsite construction supervision consultant, Donohue and Associates, expires on April 15, 2022.

The City is having regular discussions with the contractor about their construction progress, but at this time, we anticipate needing the services of Donohue and Associates up through May 31, 2022. To extend Donohue and Associate's contract through this date, they have offered an amended service fee of \$66,281 minus \$6,176 for a total fee of \$60,105. The new not-to-exceed value of Donohue and Associates contract, with approval of this amendment, will be \$3,444,576.

Requested Motion: *Move to approve Agreement Amendment No. 4 with Donohue and Associates in the amount of \$60,105 for a new not to exceed contract amount of \$3,444,576.*



**AMENDMENT NO. 4 to
CONSULTANTING SERVICES AGREEMENT
Wastewater Treatment Plant Improvement and Rock Run Interceptor Phase I Improvement
Projects (Project)
Original Agreement Executed November 26, 2018**

This Amendment is by and between:

City of Goshen by its Board of Public Works and Safety (City)
202 S. 5th Street
Goshen, Indiana 46258

And,

Donohue & Associates, Inc. (Consultant)
101 West Ohio Street, Suite 1650
Indianapolis, IN 46204

Who agree to amend the original Agreement, as follows:

SCOPE OF SERVICES

The scope of services have been modified to include the following revised and additional tasks:

4. Item No. 4 - Construction Phase Consultant Services for WWTP Improvements – Project A and Rock Run Sewer Improvements – Project C

4.26. *Additional Site Visits.* Extend weekly Project site visits by Jim Miller from April 15, 2022 thru May 31, 2022.

5. Item No. 5 - Construction Phase Resident Project Representative (RPR) Services for WWTP Improvements – Project A

5.5. *Extension of RPR Services.* Extend RPR services from April 15, 2022 thru May 31, 2022.

6. Item No. 6 – Application Engineering Services for WWTP Improvements – Project A

6.3. *City SCADA System Access.* Consultant no longer has remote access to the City SCADA System and access is only available to perform application engineering services at the City WWTP for this Project.

7. Item No. 7 - Scope of Services Assumptions

7.2. RPR services and once a week visits to the Project Site by Jim Miller shall only be performed thru May 31, 2022.

7.3. Additional Services are based on the Contractor achieving substantial completion of treatment process facilities, overall substantial completion, and readiness for final payment by the revised dates listed herein under the Term for Construction Phase Services.

7.4. Donohue will no longer have remote access to the City SCADA System as of March 23, 2022.

TERM

Construction Phase Services

6. The construction schedule shall be revised as follows:

6.1. A new partial substantial completion date for treatment process facilities shall be on or before May 31, 2022.

6.2. Overall substantial completion date shall be revised from December 13, 2021 as was listed in the Notice to Proceed (NTP) to June 13, 2022.

6.3. Readiness for final payment revised form January 24, 2022 as was listed in the NTP to July 5, 2022.

COMPENSATION TO CONSULTANT

Compensation for the additional scope of services set forth set forth in this Amendment shall be increased by **\$66,281 minus a reduction of \$6,176** for the Contractor Proposed Change Order (PCO) 047 price. This results in the total contract amount increasing by **\$60,105** from a not to exceed amount of \$3,384,471 as per Agreement Amendment No. 3 to a not to exceed amount of **\$3,444,576**.

**APPROVED FOR CITY
BOARD OF PUBLIC WORKS AND SAFETY**

By: _____
Jeremy P. Stutsman, Mayor

By: _____
Michael A. Landis, Member

By: _____
Mary Nichols, Member

By: _____
DeWayne Riouse, Member

By: _____
Barb Swartley, Member

Date: _____

APPROVED FOR CONSULTANT

By: Steven P. Gress

Printed Name: Steven P. Gress, PE

Title: Vice President

Date: March 24, 2022



**Stormwater Department
CITY OF GOSHEN**

204 East Jefferson Street, Suite 1 • Goshen, IN 46528-3405

Phone (574) 534-2201 • Fax (574) 533-8626
stormwater@goshencity.com • www.goshenindiana.org

MEMORANDUM

TO: Board of Public Works and Safety

FROM: Stormwater Department

RE: **AGREEMENT FOR THE COMPLETION OF THE CONSTRUCTION PROJECT
AT 2095 WHISPERING PINES
(JN: 2020-2017)**

DATE: March 25, 2022

The unit at 2095 Whispering Pines (Greencroft) has passed its final building inspection and the project is substantially complete except for planting the required tree, seeding, and otherwise stabilizing disturbed areas. These final requirements cannot be completed at this time due to weather conditions.

The Stormwater Department thus submits an Agreement for the Completion of the Construction Project for approval and authorization for the Mayor to execute.

The property owner, Greencroft Goshen, Inc. agrees to plant one large tree and stabilize 3,000 square feet with seed and a temporary stabilization measure by June 15, 2022. The expected cost of work is under \$2,000 and no hard surface needs installed. Thus, no surety amount is required.

Requested Motion:

Approve and authorize the Mayor to execute the Agreement with Greencroft Goshen, Inc. for the Completion of the Construction Project at 2095 Whispering Pines.

**AGREEMENT FOR THE COMPLETION
OF THE CONSTRUCTION PROJECT**

THIS AGREEMENT is entered into on _____, 20 22, between the City of Goshen, Indiana, by and through the Goshen Board of Public Works and Safety, hereinafter referred to as "Goshen," and

Property Owner: Greencroft Goshen, Inc

and, if the builder is responsible for completing the remaining work, _____

Builder: _____

No Builder

hereinafter referred to individually or collectively, if applicable, as "Permittee."

Permittee obtained a building permit for the construction of a building on the real estate at

Site: 2095 Whispering Pines, Goshen, Indiana, hereinafter referred to as "Site."

The construction project is substantially complete except for:

certain exterior work that cannot be completed due to weather conditions.

the installation of certain parts or equipment which are not currently available.

In consideration of the terms, conditions and mutual covenants contained in this agreement, the parties agree as follows:

1. **WORK.** Permittee agrees to complete the following remaining item(s) of work, hereinafter referred to as "Work," as soon as conditions permit, but no later than June 15, 20 22, unless an earlier date is specified below:

Permanently stabilize the Site which shall include grading, adding topsoil where needed, seeding and mulching of the grounds. This shall specifically include stabilization of approximately 3,000 square feet of disturbed area with seed and a temporary stabilization measure such as anchored mulch, hydromulch, or erosion control blankets. In addition, all adjacent and/or affected inlets shall be kept covered until the Site has been completely and permanently stabilized.

Plant all required landscaping at the Site according to the plan submitted to the Goshen Planning and Zoning Department. This shall include planting: one large tree

Install the hard surface driveway for the Site.

- Permittee agrees to install a temporary gravel driveway, and Goshen will permit the installation of the temporary gravel driveway until such time as the permanent hard surface driveway can be installed. The temporary gravel driveway shall be installed prior to occupancy of the building, but no later than _____, 20_____.
- Install the hard surface parking lot for the Site.
- Permittee agrees to install a temporary gravel parking lot, and Goshen will permit the installation of the temporary gravel parking lot until such time as the permanent hard surface parking lot can be installed. The temporary gravel parking lot shall be installed prior to occupancy of the building, but no later than _____, 20_____.
- Install all required parking lot striping for parking spaces at the Site.
- Install approximately _____ square feet of concrete sidewalk and/or curbing at or adjacent to the Site parallel to the following public street: _____
- Install approximately _____ of concrete sidewalk at the Site to the building entrance.
- Install the following certain parts or equipment at the Site: _____
- Other: _____

2. **SURETY.** Permittee is required to provide Goshen a surety to guarantee the timely and proper completion of the Work if the cost of the Work is estimated by Goshen to be at least Two Thousand Dollars (\$2,000), or if the Work includes the installation of a driveway, parking lot, sidewalk, curbing or other hard surface improvement, regardless of cost.

Permittee agrees to provide Goshen a surety in the amount of _____ Dollars (\$ _____) to guarantee the timely and proper completion of the Work under the terms of this agreement. The surety may be in the form of a surety bond, letter of credit, or cash bond, including a cashier's check or corporate check (which City Clerk-Treasurer will cash). The surety is to guarantee the timely and proper completion of the obligations under this agreement and is not intended for the benefit of any third party, including Permittee's contractors or subcontractors. Upon satisfactory completion of the Work, Goshen will release the surety. If the surety is in the form of cash or a check, the Permittee must have a current W-9 on file with the City Clerk-Treasurer so a check may be issued to refund the surety.

Permittee is not required to provide Goshen a surety to guarantee the timely and proper completion of the Work.

3. **CERTIFICATE OF OCCUPANCY.** Except for the Work yet to be completed as set forth in Section 1 above, once the construction project complies with all applicable City ordinances and requirements, Goshen will issue a Certificate of Occupancy for the Site on the condition that Permittee complies with the terms of this agreement. **It is Permittee's obligation to contact the Goshen Building Department to obtain the Certificate of Occupancy prior to occupying the building.**
4. **FORCE MAJEURE.** If Permittee's performance under this agreement is prevented because of an occurrence that is beyond the control of the Permittee which could not have been avoided by exercising reasonable diligence, Permittee's time for performance will be extended. Such extension shall be for no longer than necessary given the nature of the occurrence which causes the delay. Examples of such occurrences are tornadoes, floods, or more than a typical number of days where rainfall prohibits the performance required of the Permittee.

If Permittee is delayed, Permittee shall immediately notify Goshen in writing describing the nature of the event delaying performance. Permittee shall make every effort to resume performance as soon as possible.

5. **DEFAULT.** It is mutually agreed that if Permittee fails to perform or comply with the terms of this agreement, Goshen may declare the agreement to be in default without notice to Permittee.

Upon declaration of default, Goshen may take such action as is necessary to complete Permittee's obligations although Goshen is not obligated to do so. If Surety is provided under this agreement, Goshen may use the Surety to pay for the completion of any of Permittee's obligations. Goshen may seek any other remedy available at law or equity in addition to or instead of any remedy provided for in this agreement.

Goshen shall have the right to correct any defect in the Work, and Goshen shall have the right to stabilize the Site in accordance with the Goshen City Construction Site Stormwater Runoff Control Ordinance. The Surety, if required, and/or Permittee shall pay all of Goshen's costs and expenses incurred in taking such actions including, but not limited to engineering, legal and other costs, together with any damages either direct or consequential which Goshen may sustain on account of Permittee's failure to fulfill Permittee's obligations under this agreement.

6. **SUBCONTRACTING OR ASSIGNMENT OF CONTRACT.** Permittee shall not subcontract or assign any right or interest under the agreement without having prior written approval from the Goshen Board of Public Works and Safety, provided, however, that Permittee shall be permitted to independently engage any contractors, subcontractors, or laborers to perform the Work, and such engagement shall not be considered to be an impermissible subcontracting or assignment by Permittee of any right or interest under this agreement. Except as provided herein, any attempt by Permittee to subcontract or assign any portion of the agreement shall not be construed to relieve Permittee from any responsibility to fulfill Permittee's obligations.
7. **AMENDMENTS.** Any modification or amendment to the terms and conditions of the agreement shall not be binding unless made in writing and signed by both parties and such modification is approved by the Goshen Board of Public Works and Safety. Any verbal representations or modifications concerning the agreement shall be of no force and effect.

8. **WAIVER OF RIGHTS.** No right conferred on either party under this agreement shall be deemed waived and no breach of this agreement excused unless such waiver or excuse shall be in writing and signed by the party claimed to have waived such right.
9. **NOTICES.** All written notices, properly addressed and sent by U.S. mail or delivered personally to the address provided below shall constitute sufficient notice whenever written notice is required for any purpose in this agreement. Notice will be considered given five (5) days after the notice is deposited in the U.S. mail or when received at the appropriate address.

Address for Goshen: City of Goshen, Indiana
 Attention: Goshen Legal Department
 204 East Jefferson Street, Suite 2
 Goshen, IN 46528

Address for Permittee:

Property Owner: Greencroft Goshen, Inc
 Attention: Troy Handrich
 1721 Greencroft Blvd., P. O. Box 819
 Goshen, IN 46527-0819

Builder: _____

No Builder

10. **APPLICABLE LAWS.** Permittee agrees to comply with all applicable federal, state, and local laws, rules, regulations, or ordinances.

In the event of a conflict between this agreement and applicable laws, rules, regulations or ordinances, the most stringent or legally binding requirement shall govern.

This agreement shall be construed in accordance with and governed by the laws of the State of Indiana, and suit, if any, must be brought in a court of competent jurisdiction in Elkhart County, Indiana.

11. **ATTORNEY FEES.** In the event legal action is brought to enforce or interpret the terms and conditions of this agreement, the non-prevailing party will pay all costs and expenses expended or incurred by the prevailing party, including reasonable attorneys' fees.
12. **SEVERABILITY.** In the event that any provision of the agreement is found to be invalid or unenforceable, then such provision shall be reformed in accordance with applicable law. The invalidity or unenforceability of any provision of the agreement shall not affect the validity or enforceability of any other provision of the agreement.
13. **BINDING EFFECT.** All provisions, covenants, terms and conditions of the agreement apply to bind the parties and their legal heirs, representatives, successors and assigns.

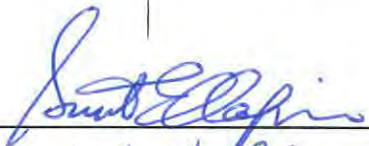
14. **ENTIRE AGREEMENT.** This agreement constitutes the entire agreement between the parties and supersedes all other agreements or understandings between Goshen and Permittee.

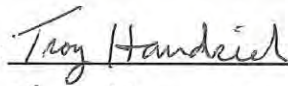
15. **AUTHORITY TO EXECUTE.** Each person executing this agreement represents that he or she is duly authorized and has legal authority to execute and deliver this agreement on behalf of the respective party, and upon execution and delivery of this agreement, bind the respective party to the terms and conditions of the agreement.

IN WITNESS WHEREOF, the parties have executed this agreement on the dates as set forth below.

Permittee:¹

Property Owner:

Signature: 
Printed: Brent E. Natziger
Title (if any): VP of Operations
Date: 3.23.2022

Signature: 
Printed: Troy Handrich
Title (if any): Dir. of Maintenance
Date: 3-23-2022

Builder:

Signature: _____
Printed: _____
Title: _____
Date: _____

Goshen:

Jeremy P. Stutsman, Mayor
Date: _____

¹ The Property Owner is required to execute the agreement. If the Builder is responsible for completing the remaining work or if the Builder is providing the surety under the agreement (if required), the Builder is also required to execute the agreement.



STORMWATER DEPARTMENT
CITY OF GOSHEN
204 East Jefferson Street, Suite 1 • Goshen, IN 46528-3405
Phone (574) 534-2201 • Fax (574) 533-8626
stormwater@goshencity.com • www.goshenindiana.org

MEMORANDUM

TO: City of Goshen Stormwater Board
FROM: Stormwater Department
RE: POST-CONSTRUCTION PLAN APPROVAL
THE WILLOWS EXPANSION (JN: 2019-2040)
DATE: March 28, 2022

The developer of The Willows – Expansion of Manufactured Housing Community (Sun The Willows, LLC), affecting one (1) or more acres of land and located at 400 Willows Way, Goshen, IN 46526, has submitted a sufficient post-construction plan that is compliant with Ordinance 4329, “Uniform Requirements for Post-Construction Stormwater Management.”

The Stormwater Department requests the Stormwater Board’s acceptance of the plan.

Full document available upon request.

Requested Motion: Accept the post-construction stormwater management plan for The Willows Expansion as it has been found to meet the requirements of City Ordinance 4329.
