



Goshen Common Council

6:00 p.m., December 19, 2022 Regular Meeting

Council Chamber, Police & Court Building, 111 East Jefferson Street, Goshen, IN

Call to Order by Mayor Jeremy Stutsman

Pledge of Allegiance

Roll Call:

Megan Eichorn (District 4)

Julia King (At-Large)

Doug Nisley (District 2)

Gilberto Pérez, Jr. (District 5)

Donald Riegsecker (District 1)

Matt Schrock (District 3)

Council President Brett Weddell (At-Large)

Youth Advisor Karen C. Velazquez Valdes (Non-voting)

Approval of Minutes – Dec. 5, 2022 Regular Meeting

Approval of Meeting Agenda

Privilege of the Floor

1) Recognition: Recognition of the City of Goshen Redistricting Advisory Commission

2) Presentation: Report on Clerk-Treasurer Office operations (Clerk-Treasurer Aguirre)

3) Ordinance No. 5147: Establishing Various Fees and Parking Regulations Regarding City Owned Electric Vehicle Charging Station (Second Reading)

4) Ordinance 5144: Revision of Stormwater User Fees for the Goshen Department of Stormwater Management (Public hearing and First, Second Reading)

5) Ordinance 5150: Additional Appropriations (Public hearing and First, Second Reading)



6) Resolution 2022-28: Project Coordination Contract with the State of Indiana for the Preliminary Engineering for the Pavement Replacement Project on Blackport Drive

7) Approve: Common Council calendar for 2023 (Clerk-Treasurer Aguirre)

Elected Official Reports

Adjournment



GOSHEN COMMON COUNCIL

Minutes of the DECEMBER 5, 2022 Regular Meeting

Convened in the Council Chambers, Police & Court Building, 111 East Jefferson Street, Goshen, Indiana

Mayor Jeremy Stutsman called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance.

Mayor Stutsman asked the Clerk-Treasurer to conduct the roll call.

Present: Megan Eichorn (District 4) Julia King (At-Large) Doug Nisley (District 2)
 Gilberto Pérez Jr. (District 5) Donald Riegsecker (District 1) Matt Schrock (District 3)
 Council President Brett Weddell (At-Large)
 Youth Advisor Karen C. Velazquez Valdes (Non-voting) – Arrived 6:03 p.m.

Absent: None

Approval of Minutes: Mayor Stutsman asked the Council's wishes regarding the minutes of the Nov. 21, 2022 Regular Meeting. Councilor King made a motion to approve the minutes as submitted. Councilor Pérez seconded the motion. The motion passed 7-0 on a voice vote.

Approval of Meeting Agenda: Mayor Stutsman suggested that the Council approve the meeting agenda with the addition of #6) Ordinance 5149, 2022 *Bonus Pay*. Councilor King moved to approve the agenda as submitted. Council President Weddell seconded the motion. The motion passed 7-0 on a voice vote.

Privilege of the Floor:

At 6:02 p.m., Mayor Stutsman invited public comments on matters not on the agenda.

There were no public comments, either from those in the Council chamber or via Zoom, so the Mayor closed Privilege of the Floor at 6:02 p.m.

Mayor Stutsman said Goshen Police Chief Jose Miller asked him to mention that there will be a major police presence tonight because officers are participating in "Shop with a Cop," during which officers take needy children Christmas shopping.

1) Presentation: City of Goshen Climate Action Plan progress

Mayor Stutsman invited City Director of Environmental Resilience Aaron Sawatsky Kingsley to make a presentation about the City's progress in implementing Goshen's Climate Action Plan.

Kingsley said he recently gave an overview for one of Councilor Pérez's constituents about his department's activities. Afterward, Mayor Stutsman asked him to give that same update to Councilors since the Climate Action Plan was passed a year ago.

Tree planting: Kingsley said the City has been working to achieve the plan's goals, including a 45 percent tree canopy cover by 2045. He said by year's end, the City will have planted 1,400 trees through several programs.



Kingsley said that total includes trees planted in parks and public rights-of-way and other public property. More specifically, the 1,400 planted includes 900 small trees given away during the City's Arbor Day celebration and to high school seniors, 300 planted through the City's public planting program and trees that were planted by Trees for Goshen, a local non-profit organization. He added that the **number of trees planted in Goshen has been increasing steadily, with the ultimate goal being 1,800-2,000 planted yearly.**

Electric Vehicle (EV) adoption: **Kingsley** said that to supplement the City's all-electric Tesla pool car, **the City purchased three Ford Lightning pick-up trucks in 2021**, and the first one arrived in late September 2022 to help meet the City's goal of being the first municipality in northern Indiana to move the fleet toward electric operation. He said the City has an **EV charging station** behind City Hall and another has been installed in the City parking lot behind Interra Credit Union downtown and will be fully operational by the end of the month. A third EV charging station is scheduled to be installed at the Rieth Interpretive Center in 2023 and another at the new Parks maintenance facility. Eventually, he said, a "fast charger" will be installed behind City Hall in two or three years. **Kingsley said the goal is to develop a charging infrastructure for City residents as well as visitors.**

Energy Efficiency Upgrades: **Kingsley** said the significant upgrades to the City-operated **Wastewater Treatment Plant**, which were completed in 2022, resulted in a **21% reduction in energy consumption** in June 2022 compared with June 2021. In addition, he said there has been a **9.6% reduction in emissions** generated by the plant. He said the wastewater plant is the City's leader in electricity usage and emissions, so any reductions are significant.

Land Management: **Kingsley** said a **prairie burn** was piloted at the Millrace Park in the spring, which was the first time that was done by the City in this area as a way to manage this space instead of mowing. He said this successful burn will point the way to similar ecosystem-appropriate management of pocket prairie spaces on public property, as the City explores ways to reduce the fossil-fuel footprint on land management strategies.

Solid Waste: **Kingsley** reminded Councilors that in August the City changed its solid waste program. He said **unlimited residential trash removal was stopped and replaced with limited removal (one 96-gallon container per pick-up), and curbside residential recycling, for the first time in Goshen.** The goal was to not only curb a runaway solid waste budget, minimize the amount of solid waste sent to the county landfill and increase recycling. **Kingsley** distributed a spreadsheet, titled "City of Goshen Trash and Recycling Statistics," which showed early data on the impact of the change in the solid waste and recycling program (**EXHIBIT #1**). He said **statistics for August, September and October 2022 show that there has been a steady increase in the tonnage of recycling.** In addition, he said **less solid waste is going to the landfill.** For example, the amount sent to the landfill decreased from 1,178.06 tons in August 2021 to 970.33 tons in August 2022. And in October 2022, the amount of solid waste fell to 809.11 tons compared with 1,075.08 in October 2021. And **Kingsley** said the City is expecting a continual increase in recycling and a decline in solid waste sent to the landfill.

Active Transportation: **Kingsley** said an **AmeriCorps service member** assigned to Goshen for August 2022 to August 2023 is working on promoting and developing more active transportation (non-motorized) options for Goshen residents. He said the volunteer is **working to update and upgrade the City's Bicycle Friendly status**, encouraging businesses to adopt bike-friendly policies for employees and patrons, and seeking ways to encourage women to use bikes as a viable transportation alternative.



In summary, **Kingsley** indicated these were some of the larger projects which the City has engaged in hopes of reducing Greenhouse gas emissions and better caring for the City's ecosystem. He said that in the coming years he hopes to be able to share more statistics to document the City's progress.

Mayor Stutsman thanked **Kingsley** for his efforts. He said he was excited about the early statistics showing an increase in recycling and a decrease in solid waste. He noted that the City negotiated a 10-year solid waste contract to provide more predictability of rates and that more recycling and less solid waste will help control costs.

Kingsley thanked **Theresa Sailor**, Grant Writer and Educator for the City Environmental Resilience Department, for all of the work she has been doing, especially on the solid waste program.

Councilor Riegsecker asked how the **curbside recycling program** was going, adding that he loves it. **Kingsley** said the current focus is to help residents switch out the larger 96-gallon containers for smaller ones, which many people have requested. Borden Waste-Away, the City's contractor has been working on this issue, despite a lack of supply. He said residents are being asked to keep their larger containers until they can be replaced.

Mayor Stutsman said many residents have called and asked about **recycling drop-off sites**, which had been provided and paid for by Elkhart County. He said the county is moving to close them down. The Mayor said the **City will be opening a new recycling center near the sewer treatment plant**. He added that the county will be helping the City pay its dumping fees from the site for two years,

In response to a question from **Councilor Riegsecker**, **Mayor Stutsman** said there will be cameras at the site to help ensure trash is not dumped there.

Councilor King asked if the City had anticipated the increase in recycling and decrease in solid waste. **Kingsley** said the City didn't exactly know what to expect. He said the City expected some improvement, but not so quickly.

Councilor Schrock asked if there was much "drama" involving residents who had trouble using the new trash and recycling containers. **Kingsley** said there was some drama, but City staff members were able to work through the change with residents. **Mayor Stutsman** said a major issue was helping some people change their habits.

Council President Weddell asked if there has been an increase in "random trash" dumped elsewhere in the City. He also asked what is happening to trash that doesn't fit in the 96-gallon trash or recycling containers. **Mayor Stutsman** said he hasn't had reports of an increase in trash from Department Heads and he hasn't noticed that.

Councilor Nisley said there may have been a decrease in trash being brought into the City since unlimited trash collection has ended. **Mayor Stutsman** agreed, saying that he has heard from some landlords who told him they can no longer bring trash from properties outside the City to dump in Goshen.

Kingsley said some people are forgetting that in order to have a large items taken away, a call requesting that must be made 24 hours in advance. That is a change from in the past. However, two large items still can be picked up per month. The **Mayor** added that people can also pay extra to have large items picked up more frequently.

Council President Weddell said he hasn't noticed that people are buying and using the bags that allow them to have additional trash picked up. **Sailor** said some of these bag have been used, but not very many.

Councilor Pérez said he appreciated **Kingsley's report**, adding that it was helpful to learn about what is going on. He also thanked **Kingsley** for being responsive to the public.

Councilor Eichorn said **Kingsley's** comments about the work to make Goshen more bike friendly reminded her of the entrepreneur who had considered renting battery-powered scooters downtown earlier this year. She asked for an update on his plans. **Kingsley** said he hasn't heard back from him.



Deputy Mayor Mark Brinson said the ordinance the City drafted called for any company renting scooters to carry liability insurance. Brinson said that requirement might have been difficult for the start-up company to afford. Brinson said the company appeared to be looking into renting scooters in Nappanee, but still wanted to rent them in Goshen. **Council President Weddell** said he recently noticed scooters laying on sidewalks when driving through Nappanee. **Councilor Schrock** thanked Kingsley and his team for their work. **Council President Weddell** said he would be interested in test driving one of the Ford Lightning trucks. **Mayor Stutsman** said that may be possible and he, again, thanked Kingsley for his presentation.

2) Public Hearing and Common Council consideration of Ordinance 5145, *Vacation of Public Ways in the City of Goshen, Indiana*

At 6:27 p.m., Mayor Stutsman convened a public hearing on Ordinance 5145. No one asked to speak so the hearing was closed.

Mayor Stutsman then called for the introduction of Ordinance 5145, *Vacation of Public Ways in the City of Goshen, Indiana*. Council President Weddell asked the Clerk-Treasurer to read Ordinance 5145 by title only, which was done.

Weddell/Schrock moved to approve Ordinance 5145 on First Reading.

BACKGROUND:

Ordinance 5145 would approve and confirm the request from Goshen Community Schools for the City of Goshen to vacate the public ways described as an east/west alley between Lots 98 and 99 in Hess Riverdale Addition and a north/south alley extending north from Wilkinson Street between Denver Street and Huron Street.

In addition, title in fee simple to the vacated right of way shall be transferred to the adjoining property owners in the above described real estate. However, these proceedings shall not deprive any public utility of the use of all or part of the public ways herein being vacated if, at the time these proceedings were initiated, the utility was occupying and using all or part of that public way for the location and operation of its facilities. Further, with these vacations the City shall require and retain a general utility easement over the vacation of the north/south alley, as particularly described above, to provide continued access to the existing facilities within the vacated right of way.

According to a memorandum by **City Planner Rhonda Yoder**, the Goshen Plan Commission met on Nov. 15, 2022, in regular session and considered a request for the vacations of unimproved public right of way for Riverdale School, generally located at 801 W Wilkinson Street, zoned Residential R-2, for the east/west alley between Lots 98 and 99 in Hess Riverdale Addition; and the north/south alley east of and adjacent to Lots 68 and 69 in Hess Riverdale Addition, with the following outcome:

Forwarded to the Goshen Common Council with a favorable recommendation by a vote of 7-0. The recommendation was based upon the following:

1. The proposed vacations will not hinder the growth or orderly development of the neighborhood, as the right of way to be vacated has not functioned as public right of way for many years.
2. The proposed vacations will not make access difficult or inconvenient, as there is no existing public access.
3. The proposed vacations will not hinder access to a church, school or other public building or place, as the existing right of way does not provide any of the described access.



4. The proposed vacations will not hinder the use of the public way, as the area to be vacated has been assumed to have been vacated and has not been used as a public way for many years.

5. That these proceedings shall not deprive any public utility of the use of all or part of the public ways herein being vacated if, at the time these proceedings were initiated, the utility was occupying and using all or part of that public way for the location and operation of its facilities, and the City shall require and retain a general utility easement over the vacation of the north/south alley east of and adjacent to Lots 68 and 69 in Hess Riverdale Addition to provide continued access to the existing facilities within the vacated right of way.

Yoder reported that, "No inquiries were received prior to Plan Commission, and at the Plan Commission meeting there were no public comments."

According to a staff analysis by Yoder:

"Both alleys were assumed to have been vacated, are not shown as right of way, and have been incorporated within the existing tax parcel for the subject property. During a recent survey, references for the two alley vacations were not able to be located, and the vacations are being requested to confirm the vacations.

"The vacation request includes two separate alleys, both of which were assumed to have been vacated. Because the vacation references were not able to be located during a recent survey, Goshen Community Schools is requesting the vacations to confirm approval. In the case of the north/south alley, a portion of the alley was vacated in 1957, extending approximately 99 feet south from Chicago Avenue along the west line of the alley.

"The east/west alley is partially located under the primary building, so utility providers assume there are no utilities present and no easement is requested in this area.

"There are existing utilities in the north/south alley right of way to be vacated, so a general utility easement is required for the vacated area of the north/south alley."

In addition, Yoder reported: "Because the right of way is unimproved and does not currently provide access, the vacations will not impact access or use of the public way and the vacations will not impact land ownership."

SUMMARY OF DISCUSSION AND PASSAGE OF ORDINANCE 5145 ON DEC. 5, 2022:

At 6:28 p.m., **Mayor Stutsman** invited comments from **City Planner Rhonda Yoder**. She provided a brief overview of Ordinance 5145 as well as its background and context. She also recommended passage of the ordinance.

Mayor Stutsman asked Councilors if they had any other questions or comments about Ordinance 5145. He also stated that **Associate Superintendent Alan Metcalfe** and **attorney Bill Davis**, who were representing Goshen Community Schools, were present and available to answer any questions. There were none and there were no comments from audience members. **Councilor Eichorn** stated that she does work for Goshen Community Schools, but would not benefit from the Council's action on Ordinance 5145 or Ordinance 5146.

At 6:30 p.m., Council President Weddell indicated that Councilors were ready to vote.

On a voice vote, Councilors approved Ordinance 5145, *Vacation of Public Ways in the City of Goshen, Indiana on First Reading*, by a 7-0 margin, with all Councilors present voting "yes" at 6:30 p.m. Youth Advisor Velasquez Valdes also voted "yes."

Councilors gave unanimous consent to the Mayor to proceed with the Second Reading of Ordinance 5145.



Mayor Stutsman called for the introduction, on Second Reading, of Ordinance 5145, *Vacation of Public Ways in the City of Goshen, Indiana*. Council President Weddell asked the Clerk-Treasurer to read Ordinance 5145 by title only, which was done.

Weddell/Schrock moved to approve Ordinance 5145 on Second and Final Reading.

Mayor Stutsman asked members of the public and Councilors if they had any other questions or comments about Ordinance 5145. There were none.

Council President Weddell indicated that Councilors were ready to vote.

On a voice vote, Councilors approved Ordinance 5145, *Vacation of Public Ways in the City of Goshen, Indiana* on Second Reading, by a 7-0 margin, with all Councilors present voting "yes" at 6:31 p.m. Youth Advisor Velasquez Valdes also voted "yes."

3) Public Hearing and Common Council consideration of Ordinance 5146, *Vacation of Public Ways in the City of Goshen, Indiana*

At 6:31 p.m., Mayor Stutsman convened a public hearing on Ordinance 5146. No one asked to speak so the hearing was closed.

Mayor Stutsman then called for the introduction of Ordinance 5146, *Vacation of Public Ways in the City of Goshen, Indiana*. Council President Weddell asked the Clerk-Treasurer to read Ordinance 5146 by title only, which was done.

Weddell/Eichorn moved to approve Ordinance 5146 on First Reading.

BACKGROUND:

Ordinance 5146 would approve and confirm the request from Goshen Community Schools for the City of Goshen to vacate the public ways described as: an unimproved north/south alley, extending north from Reynolds Street, between 11th and 12th Street; and a portion of Purl Street along the east boundary of Wurster's 3rd Addition, between the vacated north/south alley, to confirm a prior vacation; and a portion of 10th Street along the north boundary of Wurster's 3rd Addition, between the vacated east/west alley, to confirm a prior vacation.

In addition, title in fee simple to the vacated right of way shall be transferred to the adjoining property owners in the above described real estate.

However, these proceedings shall not deprive any public utility of the use of all or part of the public ways herein being vacated if, at the time these proceedings were initiated, the utility was occupying and using all or part of that public way for the location and operation of its facilities. Further, with these vacations the City shall require and retain a general utility easement over the entire area of each of the three described vacations.

According to a memorandum by **City Planner Rhonda Yoder**, the Goshen Plan Commission met on Nov. 15, 2022, and considered a request for the vacations of unimproved public right of way for Goshen High School, generally located at 501 Lincolnway East, zoned Residential R-1, for a north/south alley, extending north from Reynolds Street, between 11th and 12th Streets, and for a portion of Purl Street along the east boundary of Wurster's 3rd Addition, between the vacated north/south alley, to confirm a prior vacation; and a portion of 10th Street along the north boundary of Wurster's 3rd Addition, between the vacated east/west alley, to confirm a prior vacation, with the following outcome:



Forwarded to the Goshen Common Council with a favorable recommendation by a vote of 7-0. The recommendation was based upon the following:

1. The proposed vacations will not hinder the growth or orderly development of the neighborhood, as the right of way to be vacated has not functioned as public right of way for a number of years.
2. The proposed vacations will not make access difficult or inconvenient, as there will be no change to access.
3. The proposed vacations will not hinder access to a church, school or other public building or place, as the vacations will not impact any of the described access.
4. The proposed vacations will not hinder the use of the public way, as the areas to be vacated have not been used as a public way for a number of years.
5. That these proceedings shall not deprive any public utility of the use of all or part of the public ways herein being vacated if, at the time these proceedings were initiated, the utility was occupying and using all or part of that public way for the location and operation of its facilities, and the City shall require and retain a general utility easement over the vacations to provide continued access to the existing facilities within the vacated right of way.

Yoder reported that, "No inquiries were received prior to Plan Commission, and at the Plan Commission meeting there were no public comments."

According to a staff analysis by Yoder:

"Goshen Community Schools requests vacations of unimproved public right of way for Goshen High School, generally located at 501 Lincolnway East, zoned Residential R-1, as follows:

- A north/south alley, extending north from Reynolds Street, between 11th and 12th Streets, west of and adjacent to Lots 57, 58 and 59 in Thomas' 2nd Addition;
- A portion of Purl Street along the east boundary of Wurster's 3rd Addition, between the vacated north/south alley, to confirm a prior vacation; and
- A portion of 10th Street along the north boundary of Wurster's 3rd Addition, between the vacated east/west alley, to confirm a prior vacation.

"The request includes a new alley vacation, for a north/south alley extending north from Reynolds Street, and affirmation of a portion of two prior vacations (Purl Street and 10th Street), based on possible ambiguity in the descriptions, so the entire vacation of each area is confirmed.

"There are existing utilities in the new area to be vacated, and utility easements were required and established as part of the prior vacations of Purl Street and 10th Street, so a general utility easement is required for the new vacated area, and the vacated areas of Purl Street and 10th Street being affirmed will retain utility easements.

In addition, Yoder reported: "The north/south alley right of way is currently unimproved and does not provide access, and the two vacations to be affirmed are already functioning as vacated areas, so the vacations will not impact access or use of the public way. Following the vacation, the vacated north/south alley will be transferred to the adjoining property owner, Goshen Community Schools, and for the two vacations to be affirmed the property has already been transferred to Goshen Community Schools."

SUMMARY OF PUBLIC HEARING, DISCUSSION AND PASSAGE OF ORDINANCE 5146 ON DEC. 5, 2022:

At 6:32 p.m., Mayor Stutsman invited comments from City Planner Rhonda Yoder about Ordinance 5146. She provided a brief overview as well as its background and context. She also recommended passage of the ordinance.

Mayor Stutsman asked Councilors if they had any other questions or comments about Ordinance 5145. There were none.



At 6:33 p.m., Mayor Stutsman invited public comments on Ordinance 5146. No one asked to speak, so the Mayor closed the public comment period.

Council President Weddell indicated that Councilors were ready to vote.

On a voice vote, Councilors approved Ordinance 5146, *Vacation of Public Ways in the City of Goshen, Indiana* on First Reading, by a 7-0 margin, with all Councilors present voting "yes" at 6:34 p.m. Youth Advisor Velasquez Valdes also voted "yes."

Councilors gave unanimous consent to the Mayor to proceed with the Second Reading of Ordinance 5146.

Mayor Stutsman called for the introduction, on Second Reading, of Ordinance 5146, *Vacation of Public Ways in the City of Goshen, Indiana*. Council President Weddell asked the Clerk-Treasurer to read Ordinance 5146 by title only, which was done.

Weddell/Eichorn moved to approve Ordinance 5146 on Second and Final Reading.

Mayor Stutsman asked members of the public and Councilors if they had any other questions or comments about Ordinance 5146. There were none.

Council President Weddell said that Councilors were ready to vote.

On a voice vote, Councilors approved Ordinance 5146, *Vacation of Public Ways in the City of Goshen, Indiana* on Second Reading, by a 7-0 margin, with all Councilors present voting "yes" at 6:34 p.m. Youth Advisor Velasquez Valdes also voted "yes."

4) Ordinance No. 5147, *Establishing Various Fees and Parking Regulations Regarding City Owned Electric Vehicle Charging Stations*

Mayor Stutsman called for the introduction of Ordinance 5147, *Establishing Various Fees and Parking Regulations Regarding City Owned Electric Vehicle Charging Stations*. Council President Weddell asked the Clerk-Treasurer to read Ordinance 5147 by title only, which was done.

Weddell/Pérez moved to approve Ordinance 5147 on First Reading.

BACKGROUND:

Ordinance 5147 would establish various fees and parking regulations regarding City-owned electric vehicle charging stations. According to a memorandum by Assistant City Attorney Matt Lawson:

"Section 1 of the Ordinance deals with the "**Spaces Designated for Electric Vehicle Charging**" and amends the current parking prohibitions set forth in Goshen City Code §4.4.1.1 by adding a seventh item to the current list providing: (7) In a parking space designated for electric vehicle charging unless the vehicle is capable of be charged by the charging equipment available for such parking space and the vehicle is engaged in the charging process.

§4.4.1.1(7) can be enforced through the existing structure for parking violations.

"Section 2 of the Ordinance adds an entirely new section (§4.4.1.12) to Goshen's current parking code and establishes a "**Fee for Use of City-Owned Electric Vehicle Charging Stations.**"



Section 2 establishes a flat hourly rate of \$1.17 per hour for the first four (4) hours of active charging at a City-owned charging station and creates an additional parking fee of \$3.83 per hour, in addition to the \$1.17 (for a total of \$5 per hour) after the first four (4) hours. A four (4) hour timeframe has been established to facilitate the turnover needed for greater access and usage of City-owned charging stations.

"As a condition of the City's application for the grant funding that was used to obtain the City's electric vehicle charging station located in the City of Goshen parking lot south of Lincoln Avenue and east of Water Street, the City agreed to provide the first 2 hours of charging at this grant-supported charging station (only) at no cost to users for the first 2 years after its installation.

"As such, Section 2 of the Ordinance also establishes a separate fee for the one grant funded charging station located in the City of Goshen. Specifically, after the first two (2) hours of free charging, the Ordinance establishes a flat hourly rate of \$1.17 per hour plus an additional parking fee of \$1.83 (for a total of \$3 per hour) for each hour after the two (2) free hours.

"The fees established by the Ordinance comply with Indiana Code §36-1-3-8(a)(6) which requires any charge established by the City to be reasonably related to reasonable and just rates and charges for the electric vehicle charging services provided by the City of Goshen."

SUMMARY OF DISCUSSION AND PASSAGE OF ORDINANCE 5147 ON DEC. 5, 2022:

Mayor Stutsman invited **City Director of Environmental Resilience Aaron Sawatsky Kingsley** to discuss Ordinance 5147. **Kingsley** said that also present tonight to answer technical questions was **Leah Thill of South Bend, a senior environmental planner for the Michiana Area Council of Governments (MACOG).**

Kingsley provided the background, context and rationale for Ordinance 5147. He said the ordinance was designed to help the City establish appropriate fees for electric vehicle (EV) charging. He said the City hasn't had fees to date at its sole charging station at City Hall. The charging station at the Goshen Library is overseen by the library, which **Kingsley** said would be making any decisions on charging fees.

Kingsley said the City is interested in installing more charging stations for public use and staff members recognize that as more people obtain electric vehicles, it is appropriate to have a fee. Still, he said the fees must be calibrated so as not to discourage use. **Kingsley** said he was part of a group, which included Leah Thill, which tried to determine the appropriate fee. He said Ordinance 5147 reflects the group's recommendation.

Kingsley said determining the right charging fee is not an exact science and that EV adoption is still in an early phase, so there will be changes over time. Still, he said group members believe this proposal is a good step forward.

Mayor Stutsman said the City has had the electric charger behind City Hall more than two years now and that it has received increased usage. As the number of electric vehicles increases, the Mayor said that he has received more complaints about the same motorists dominating the chargers and plugging in their vehicles for multiple hours.

Mayor Stutsman said the City's goal is to keep the charging spots available for short-term charging. He said the intent of Ordinance 5147 is not to make a lot of money, but to help the City meet its electrical costs for the chargers. The Mayor invited questions and comments from Councilors

Councilor Schrock asked is money raised through the vehicle charging fee could be used to pay for more charging stations or was the goal just to break event on the electrical costs. **Mayor Stutsman** said the City cannot sell electrical power for more than its worth, but parking spaces can be "rented."



So, **Mayor Stutsman** said that under Ordinance 5147, the first few hours of charging would be free. After that, the City would impose a parking fee so spots would remain available for use by other electric vehicles.

Leah Thill of MACOG agreed and said that the parking fee would not generate a lot of revenue. She said the City of Plymouth offers two hours of free charging at its charging station followed by a fee of \$2 per hour for parking. Thill said that as soon as the two-hour limit is reached, most people move their vehicles. So, she said the fee isn't generating much money.

Mayor Stutsman said the City is hoping to get a grant to install a super charging station in 2024. **Thill** said MACOG will control about \$170,000 in federal funding that will be available in 2026. She said that is a small amount compared with the cost of roads and bridges.

Thill said that the fees proposed in Ordinance 5147 would just cover the electrical base rate, plus 10% that wouldn't cover all operating costs. She said that after an initial period, the City should consider higher charges to cover its installation and operating costs.

Mayor Stutsman said the charging station behind City Hall is owned and was installed by the City to charge its electric vehicle. So, he said it's important that it remain accessible to City vehicles.

Council President Weddell asked if there will be a way to ensure that City vehicles will always be able to be charged. **Kingsley** responded that ultimately the City is planning to install two more level-two chargers, with one dedicated to City vehicle use. There are also plans to install a charger for City vehicle use at the new Parks maintenance facility and another at the Street Department. **Mayor Stutsman** added that the City only has two electric vehicles – a Tesla and a Ford Lightning – and may or may not buy more Ford trucks depending on the cost.

Council President Weddell said based on usage statistics he has seen, it doesn't appear that the City will be able to meet its electrical costs with the proposed rate. **Thill** said the City is only covering its base rate only and not utility riders, which makes up 20% of the bill. She added that it wasn't her role to recommend a higher rate.

Councilor Pérez asked if it would be better to start charging a higher rate now since it would be necessary to raise the rate after five or six years. **Mayor Stutsman** said the charger behind City Hall would operate under different guidelines, so he recommended keeping the rate the same for now so it wouldn't be confusing.

Council President Weddell said he spoke to an acquaintance, who has two Teslas, and they discussed Ordinance 5147. That person said it was "crazy" to charge by the hour and that the City should instead charge per kilowatt hour because that is what is being drawn and every vehicle is different.

Councilor Pérez said that was a good observation because he has an electric vehicle and people focus on the kilowatt hour. **Councilor Nisley** added that charging varies depending on the battery type.

Thill said that part of the discussion focused on how long people charge their vehicles. He said once a vehicle is 80% charged, it can take as long to charge the remaining 20% as it did to charge the batteries to 80 percent. She said people can spend hours to charge the last 20%, so the goal is to promote turnover at the charging stations.

Councilor King joked that perhaps Tesla owners wouldn't care about having to pay \$2 an hour to charge their vehicles. **Mayor Stutsman** said that once charging goes from being free to costing \$2, people will closely watch how much they have to pay. **Council President Weddell** said the Tesla owner he spoke with over the weekend showed him his smart phone with spreadsheets that displayed charging information going back a decade. He said the man's electric charge cost per mile was three to four cents and he also had a breakdown of other expenses.



Councilor King prompted laughter when she joked that she understood why the Tesla owner was **Council President Weddell's** friend. **Council President Weddell** said he was in awe of the information he was shown.

Leah Thill said that last year the Indiana Legislative Assembly approved House Bill 1221, which made it legal for cities to charge for kilowatt hours for the first time without being considered a public utility.

Councilor Riegsecker asked what the proposed rate would be if a vehicle was parked more than five hours. **Theresa Sailor, Grant Writer and Educator for the City Environmental Resilience Department**, responded that the fee for the first five hours would be \$9 at the Lincoln Avenue charging station and \$9.68 for the City Hall charger.

Councilor Pérez asked that, based on conversation about kilowatt hours, it would be good to table and revise Ordinance 5147. **Kingsley** responded that changing the ordinance would be something to think about "since this is new territory for all of us." **Councilor Nisley** said he wanted staff to look into the city charging per kilowatt hour instead of a parking charge. **Council President Weddell** said that may make sense because all cars are different and will draw electricity differently. At the same time, he said that since charging the last 20 percent for vehicles can take so long, maybe that's where a parking fee comes into play.

Mayor Stutsman said all cars use gas differently, so it depends how Councilors want to set fees for charging. He said City staff has created Ordinance 5147, which he is supporting, as the suggested way to move forward. Still, the Mayor said the staff can consider another option if the Council would like to table the ordinance.

Councilor King asked if the staff considered and discarded the idea of charging by kilowatts. **Kingsley** said the staff did so. **Councilor King** said if the staff calculated and thought through charging by kilowatts and proposed another approach, she was comfortable with Ordinance 5147. **Councilor Pérez** said he was unaware of that.

Theresa Sailor clarified that City staff cannot confirm the precision of the time people are charging vehicles.

Councilor Riegsecker said that it would be difficult for some people to calculate the cost of charges by kilowatts compared with knowing that they would have two hours of free charging followed by a per-hour charge.

Councilor Eichorn asked if other cities are charging by hour or by kilowatts. **Thill** said most are assessing fees based on hours for parking.

Council President Weddell said he understands that the City of Plymouth charge station had many users when charging was free, but that usage declined dramatically when people had to pay after two hours. **Thill** confirmed that, noting that it was clear local residents primarily were using the Plymouth charging station. She added that cities want the chargers to be used, but also want to make them available to visitors, which is why she recommends fees.

Council President Weddell asked **Thill** if any communities assess fees per kilowatt hour at charging stations. **Thill** said she knew of a network, Electrify America (a subsidiary of Volkswagen), that has established many fast chargers and is a proponent of fees based on kilowatt hours because consumers are paying for exactly what they get. She noted that there is a substantial difference of fees that can be assessed at conventional vs. fast chargers.

Council President Weddell said Councilors weren't questioning the competency of City staff by asking about the best way to charge fees because they are just learning about the intricacies of charging stations.

Mayor Stutsman said if Councilors want another approach, they should indicate that and City staff can explore it.

Councilor Pérez said he would recommend proceeding with Ordinance 5147 and then perhaps reconsidering it based on updated data in a year or two,



Councilor King asked if it would be good for the Council to reconsider the issue when the City installs a fast charger. **Thill** responded that it may be a few years until the City gets a super charger. However, she said that the number of electric vehicles may increase by a factor of 100 in the next eight years and that is a modest projection.

Mayor Stutsman said one newer gas station in Goshen has already installed the wiring to add an electric charging station. **Thill** said all new housing developments should also consider installing charging stations.

Councilor Schrock asked if the private sector will be installing charging stations soon. **Thill** and the **Mayor** said they would, adding that cities are planning them to encourage more visitors.

Councilor Riegsecker asked if City vehicles would have to pay to use the City charging stations. **Mayor Stutsman** said they would not; just the City's cost of electricity paid to NIPSCO.

Asked by **Councilor Riegsecker** if usage can be tracked. **Mayor Stutsman** said it is tracked.

Council President Weddell thanked **Thill** and City staff for the information, adding that he especially appreciated the last five minutes of the conversation. **Thill** said she was happy to talk about EVs at any time.

There were no further questions or comments from Councilors about Ordinance 5147.

At 6:56 p.m., Mayor Stutsman invited public comments on Ordinance 5147.

Myron D. Yoder of Goshen said he has two older electric vehicles – a 2011 Nissan Leaf and a 2012 van – and both take a while to charge. He said he moved to Goshen because of the availability of a charging spot at the Goshen library because he is a renter. He asked if the chargers behind City Hall were being replaced.

Mayor Stutsman responded that they will be replaced with a smart charge station, which will facilitate better tracking and allow fees to be charged. He also said it will be a charge point network.

Yoder said he also uses the charging station behind City Hall and has seen vehicles with out-of-state license plates also using it. He said he would favor paying by kilowatt hour. **Yoder** added that he charges his vehicles at the public library at night because it can take six or seven hours. He suggested that perhaps there could be a lower fee for night charging.

Mayor Stutsman said that could be something the City could consider.

Yoder said he is grateful to the City for the charging stations, saying he no longer uses any gas.

No one else asked to speak, so the Mayor closed the public comment period at 7:01 p.m.

Councilor Riegsecker asked if the City was part of EV network. **Kingsley** said it is.

Council President Weddell thanked **Myron Yoder** for his comments and said they had a good conversation before the meeting. He noted that the City gained a new resident because **Yoder** wanted to live near a charging station.

Mayor Stutsman said that the City Hall charging station has been used extensively since it was opened and it has been an asset for the City.

There were no further comments from Councilors, who also indicated they were ready to vote.



On a voice vote, Councilors approved Ordinance 5147, *Establishing Various Fees and Parking Regulations Regarding City Owned Electric Vehicle Charging Stations* on First Reading, by a 7-0 margin, with all Councilors present voting “yes” at 7:02 p.m. Youth Advisor Velasquez Valdes also voted “yes.”

Councilor Nisley declined to give his consent to proceed with the Second Reading of Ordinance 5147. He said he wanted to hear more from City staff about charging by kilowatts. Mayor Stutsman asked that Councilor Nisley contact staff and describe the information he wanted.

Because there was not unanimous Council consent to proceed, Mayor Stutsman tabled the Second Reading of Ordinance 5147 to the Council’s next scheduled meeting, which is Dec. 19, 2022.

5) Ordinance 5148, *Establishing a Water Quality Management Planning Grant Fund*

Mayor Stutsman called for the introduction of Ordinance 5148, *Establishing a Water Quality Management Planning Grant Fund*. Council President Weddell asked the Clerk-Treasurer to read Ordinance 5148 by title only, which was done.

Weddell/Pérez moved to approve Ordinance 5148 on First Reading.

BACKGROUND:

Ordinance 5148 would establish a Water Quality Management Planning Grant Fund.

The City of Goshen, in partnership with the Elkhart River Restoration Association, applied for and was awarded a Section 205j Water Quality Planning Program Grant for the Lower Elkhart River Watershed Management Plan. Because of that, it is necessary to establish a separate fund for each grant received to account for all receipts and disbursements of the grant funds, including any matching funds.

SUMMARY OF DISCUSSION AND PASSAGE OF ORDINANCE 5148 ON DEC. 5, 2022:

Mayor Stutsman provided the background and rationale for Ordinance 5148 and the goal of the study. Council President Weddell said the City now has to create a fund, which Ordinance 5148 would do.

There were no other comments or questions from Councilors about Ordinance 5148.

At 7:04 p.m., Mayor Stutsman invited public comments on Ordinance 5148. No one asked to speak, so the Mayor closed the public comment period.

There were no further comments from Councilors, and Council President Weddell said Councilors were ready to vote.

On a voice vote, Councilors approved Ordinance 5148, *Establishing a Water Quality Management Planning Grant Fund* on First Reading, by a 7-0 margin, with all Councilors present voting “yes” at 7:04 p.m. Youth Advisor Velasquez Valdes also voted “yes.”

Councilors gave unanimous consent to the Mayor to proceed with the Second Reading of Ordinance 5148.



Mayor Stutsman called for the introduction, on Second Reading, of Ordinance 5148, *Establishing a Water Quality Management Planning Grant Fund*. Council President Weddell asked the Clerk-Treasurer to read Ordinance 5148 by title only, which was done.

Weddell/King moved to approve Ordinance 5148 on Second and Final Reading.

Mayor Stutsman asked Councilors and audience members if they had questions or comments about Ordinance 5148. There were none.

Council President Weddell said Councilors were ready to vote.

On a voice vote, Councilors approved Ordinance 5148, Establishing a Water Quality Management Planning Grant Fund on Second Reading, by a 7-0 margin, with all Councilors present voting "yes" at 7:05 p.m. Youth Advisor Velasquez Valdes also voted "yes."

6) Ordinance 5149, 2022 Bonus Pay

Mayor Stutsman called for the introduction of Ordinance 5149, *2022 Bonus Pay*. Council President Weddell asked the Clerk-Treasurer to read Ordinance 5149 by title only, which was done.

Weddell/Pérez moved to approve Ordinance 5149 on First Reading.

BACKGROUND:

Ordinance 5149 would provide a bonus to City employees. The ordinance states that the following justifies the bonus: "The public health emergency caused by the spread of COVID-19 has placed extra burdens and work stresses on City of Goshen employees;

"The aftereffects of the public health emergency caused by the pandemic have continued to negatively impact our staff due to delayed projects now moving forward at the same time that current projects are also moving forward, as well supply chain issues and employee shortages negatively affecting all such projects.

"Over the last year and a half, inflation has increased far more than we would have expected.

"The Mayor requests and Council desires to provide for bonus pay to compensate the City's dedicated employees for bearing the additional burdens and work stresses resulting from the aftereffects of the public health emergency, and to help counteract the effects of abnormally high inflation."

If Ordinance 5149 was approved, the Common Council would ordain:

"(A) This ordinance applies to all City of Goshen employees, excluding elected officials, meeting the following eligibility requirements:

"(1) The employee must be actively employed with the City on December 5, 2022.

"(2) The employee must fill a position that is regularly scheduled to work at least Twenty (20) hours per week or 1,040 hours each year, and is not filling a temporary, intermittent, or seasonal position, as well as Members of the City of Goshen Board of Public Works and Safety.

"(B) Employees to which this Ordinance applies under Section (A) above shall be entitled to receive a one-time bonus payment in the following amounts:



"(1) Five Hundred Dollars (\$500.00) for those employees filling positions that are regularly scheduled to work a typical work week of Forty (40) hours, or at least 2,080 hours each year; and

"(2) Three Hundred Fifty Dollars (\$350.00) for those employees filling positions that are regularly scheduled to work at least Twenty (20) hours but less than Forty (40) hours per week, or at least 1,040 hours but less than 2,080 hours each year.

"(C) Payment of the Bonus Pay will be made in December 2022, in a lump sum, less any required withholdings.

"(D) This increase will not be added to employee base wages for purposes of calculating any increase in pay for 2023 or subsequent years."

SUMMARY OF DISCUSSION AND PASSAGE OF ORDINANCE 5149 ON DEC. 5, 2022:

Mayor Stutsman thanked the Common Council for considering Ordinance 5149, which he emailed to Councilors, the news media and others before the Dec. 5 meeting. He also distributed copies of the ordinance at the Dec. 5 meeting (**EXHIBIT #2**) to Councilors and the public.

Mayor Stutsman said over the past few weeks he has reviewed the City budget extensively with Department Heads to assess how the City was doing financially and the balances that would be carried into 2023. He said he had considered proposing a bonus, but it only seemed possible in the past few days, so he decided to propose it. The Mayor said the timing of bringing the proposal to the Dec. 5 meeting was prompted by the necessity to pay any bonus before the end of the year, and that this would take a few weeks for the Clerk-Treasurer's Office to process.

Before the meeting, **Mayor Stutsman** distributed a memorandum, dated Dec. 5, 2022, that outlined how and why Ordinance 5149 was proposed and why it should be approved (**EXHIBIT #3**). He emailed the memorandum to Councilors, the news media and others before the meeting and provided copies to Councilors and the public at the Dec. 5 meeting. He read the memorandum into the record as follows:

To: Goshen City Council Members

From: Mayor Jeremy Stutsman

Cc: City of Goshen Department Heads and City Staff

Date: December 5, 2022

Subject: Employee Bonus

The events of 2020 have changed not only how we operate as City Government but also how busy we are on a day-to-day basis. In late 2020, I requested approval to issue a \$1000.00 COVID-19 bonus to our staff as an acknowledgement of the extra work that came with an already busy workload.

As we came out of 2020 and worked through both 2021 and 2022, one thing has become clearer: The results of the pandemic have affected our economy and our community's workforce availability. Pre-2020 we were in a better position to compete with private sector wages; all departments saw brief periods throughout the year that would allow for some staff downtime, which in turn gave us time to catch up on secondary priorities, projects and planning and we had more reasonable workloads.

As our economy continues to move forward, department workloads have not diminished.



"Over the last two years, our business and residential communities have been working fast to recover, which is keeping our staff jumping from one project to the next. They have been helping keep the private sector moving as quickly as possible. I am not aware of any departments in the City of Goshen experiencing any type of a break in the high workload or any time that could be considered downtime.

In addition, we are all well aware of how inflation has affected us over the last year and a half. The impact on our staff is no different. Inflation has reached historic highs, hitting 7.7% year-over-year in October. Unfortunately, we should not expect relief anytime soon. The rising cost of goods will further erode staff wages.

For these reasons, I am requesting the authorization through City Ordinance to issue a year-end bonus of \$500.00 per full-time staff member and a prorated amount for our permanent part-time staff.

Considering that we have 266 full-time and 12 permanent part-time staff, this will cost just under \$140,000.00. This will not take an additional appropriation because we have the money in the budget we can move around. We have this money available due to the efficiencies and conservative use of our budget by our city staff. No elected official will receive this bonus.

The idea for this only came up in the last couple of weeks. It has been the last several days that I realized it could be a reality. I have been working through the 2022 budget to better understand where we are for the end of the year. During this process I have been in discussions with Department Heads. The plain and simple: our departments and staff are continually checking projects off, they are getting great things done for our community, and they all are overloaded with their to-do lists.

I have worked with the Legal Department to create Ordinance #5149. If passed, this will authorize the \$500 bonus. I have talked to a few council members about this and received positive responses. It was my intent to bring it to the December 19th council meeting; however, following discussions with Clerk-Treasurer Aguirre. I would like to ask the council to add it to the agenda tonight for our December 5th meeting. CT Aguirre and his staff are busy with all the year-end filings and work. CT Aguirre would prefer this to be passed sooner than later so it can be worked into one of the last two paychecks and still allow his staff to keep up with the remainder of their work load.

I am grateful for our staff and the consistent dedication they show in their jobs. Please join me in supporting their efforts and saying thank you with this year-end bonus. I do not plan on this becoming a yearly request.

*Sincerely,
Jeremy P. Stutsman*

Afterward, Mayor Stutsman Mayor Stutsman said he wouldn't normally read a memorandum at a Council meeting but wanted to do so because he wasn't sure all Councilors had a chance to read it before the meeting. He said he would be happy to answer any questions from Councilors or respond to any suggestions. There were none.



At 7:10 p.m., Mayor Stutsman invited public comments on Ordinance 5149. There were none.

Mayor Stutsman said he would be working with the Clerk-Treasurer's Office to identify budget lines the bonuses would be paid from and that those would come back to the Council as category transfers.

Council President Weddell thanked the Mayor for bringing forward the proposed bonuses. He said that for every position, whether in government or private industry, it is good to show appreciation to the staff. He said it goes a long way for morale. He said the bonus will be a "significant amount of money" and it will show City staff members that their work is appreciated.

Mayor Stutsman said he knows the bonus won't counteract the impact of inflation, but it will help. He repeated that this won't be a yearly request, but there have been two abnormal years, which he hopes will level out.

Councilor King said she supported the bonuses and thanked the Mayor "for looking out for staff."

Councilor Riegsecker said he has spent many hours reviewing numbers showing the impact of inflation and agreed with the proposal. He said the bonuses are warranted and he hopes City staff members can enjoy Christmas with their families. He added that the proposal was a "great idea."

Mayor Stutsman said he appreciated the Council's support, adding that staff members work very hard.

There were no further comments from Councilors, who also indicated they were ready to vote.

On a voice vote, Councilors approved Ordinance 5149, 2022 Bonus Pay on First Reading, by a 7-0 margin, with all Councilors present voting "yes" at 7:12 p.m. Youth Advisor Velasquez Valdes also voted "yes."

Councilors gave unanimous consent to the Mayor to proceed with the Second Reading of Ordinance 5149.

Mayor Stutsman called for the introduction, on Second Reading, of Ordinance 5149, *2022 Bonus Pay*. Council President Weddell asked the Clerk-Treasurer to read Ordinance 5149 by title only, which was done.

Weddell/Pérez moved to approve Ordinance 5149 on Second and Final Reading.

Mayor Stutsman asked if Councilors or members of the public had any other questions or comments about Ordinance 5149. There were none.

Councilors indicated they were ready to vote.

On a voice vote, Councilors approved Ordinance 5149, 2022 Bonus Pay on Second Reading, by a 7-0 margin, with all Councilors present voting "yes" at 7:13 p.m. Youth Advisor Velasquez Valdes also voted "yes."

Elected Official Reports:

Councilor Eichorn reported that meetings of the City Community Relations Commission will now be held at 6 p.m. in the City Annex Building. He said the most recent meeting was this past week, and she said the Annex was a better locale for the meeting. She said it went well and she is glad they are starting at 6 p.m.



Mayor Stutsman asked if CRC members were OK with the change in meeting locations. **Councilor Eichorn** said they were and that meeting in the Annex would facilitate better discussions.

Councilor Riegsecker said that on Facebook he noticed a lot of comments about companies installing fiber optic cable throughout the City. He said people were upset about the disruptions from this work, including yards being torn up two or three times. He asked for some discussion about this and what residents can expect in the coming months and years.

Mayor Stutsman said the fiber optic companies are utilities and have access to the City rights of way. He said the City issues permits for them to do their work and doesn't have the ability to deny them permits. He said the City can slow their work if there is other construction activity in an area, but the City cannot stop them. The Mayor said a company came through the City last year and residents experienced some of the same issue they are facing now; yards aren't being restored and crews are showing up without public notice.

Mayor Stutsman said he and City staff are just as frustrated about it as residents. He added that he has started to talk about the issue with other elected officials because this is the second fiber optic company to come through the City. He said fiber lines are being installed over sewer and water lines, so when there are breaks, their lines will have to be moved. He added that fiber is essential in every community, but there has to be a way to know about how many more companies will be operating in the City. And some problems they caused need to be addressed.

Councilor Riegsecker asked who should be contacted if residents have complaints about fiber optic companies.

Mayor Stutsman said City Hall receives many phone calls, as does the Engineering Department, because people are calling the fiber optic companies and they aren't responding. He said on occasion he has contacted the companies and asked that they fix problems they created.

City Director of Public Works & Utilities Dustin Sailor said the Mayor covered the issue well. He said the Engineering Department receives many phone calls about the fiber optic companies and he has one staff member who works on this issue. He said the staff member contacts fiber optic companies two or three times a week.

Sailor said this time of year is especially difficult because there isn't a good way to restore yards during the winter and many of the companies are not from this area, but from Texas and southern states. Workers from those states aren't used to the cold weather, so restoration of yards is a problem. He said the City is currently holding last year's fiber optic company responsible because of 30-35 cross bores beside sanitary stormwater pipes. He added that residents experiencing problems with fiber optic companies can contact the Engineering Department.

Mayor said the City may need to purchase more rights of way because of this issue. Still, he conceded that the City needs more fiber optic lines.

Council President Weddell said Comcast, Frontier and Surf have all been installing fiber optic in the City.

Councilor King said some neighborhood want more fiber optic lines. She asked if the City can impose conditions when it issues permits to the fiber optic companies.

Sailor said the City tries to keep the companies from installing fiber optic near water and sewer lines, but if there is available space, the City must allow them to install their lines.

Mayor Stutsman said that at times the fiber optic companies work so fast that they actually install lines on private property. They then have to deal with property owners.

Councilor Eichorn said she drove through a neighborhood yesterday and said she saw small yellow flags everywhere. She asked if that was an area where fiber optic would be installed. **Mayor Stutsman** said that would be hard to say because NIPSCO is also doing a lot of work in the City.



Mayor Stutsman said the companies must get permits and provide traffic control measures, but said there's not a lot the City can do to make sure they do their work properly.

Councilor Riegsecker asked what the law stated regarding the placement of little flags in yards and what residents can do about them. **Sailor** said after two weeks they can be removed.

Mayor Stutsman said people should call the fiber optic companies if they have questions or complaints. If they don't get a response, they should then call the City, which can advocate on their behalf.

Councilor Eichorn said the City does a good job responding to fiber optic company complaints.

Councilor Riegsecker said he attended a Cemetery Board meeting and got an update on what is happening. He said he learned that the Cemeteries Department is getting software updates. He said the City is done with seasonal staff for the year and is looking for a new full-time employee. He also said a site assessment plan has been developed regarding the land available in three cemeteries and what can be done with it. Councilor Riegsecker said that the department also may add cremation gardens and a "natural" burial site. He added that the term of board member **Michelle Kercher** expired this year and she has been appointed to a new four-year term.

Mayor Stutsman said **Director of Cemeteries Burt Matteson** is working with the consultant that developed the site assessment to carry out some planning in Violett Cemetery to determine where to locate plots and roads.

Councilor Pérez thanked Councilors, saying that he asked if any might be available to meet with the current and past **youth advisors**. He said he and **Councilor King** and **Clerk-Treasurer Aguirre** met with them and learned about their experiences as youth advisors and what they are doing now. He said he was grateful for the youth advisor program.

Councilor Pérez said today he forwarded to **Police Chief José Miller** an article about the shortage of police officers. He asked Chief Miller how the Police Department is doing filling open positions and what can be done to better recruit officers and keep the community safe. **Chief Miller** responded that the department is in a better position than it was a year ago. He said there are two positions that need to be filled and then the department technically will be at full staff. Still, he said the department is eight or nine officers short because they are not yet fully trained. Chief Miller added that more retirements are expected, in 2023 and 2024; so it will be important to fill positions promptly.

Mayor Stutsman said the City intends to plan ahead and quickly fill the positions next year before retirements to cut down on the absences of officers who are training. He said that might mean that the Police Department may seek an additional appropriation to hire more officers.

Councilor Pérez said he also wanted to discuss the importance of doing more to address domestic violence. He said Goshen College recently received a grant to reduce sexual assault, stalking and domestic violence. He said the City should be proactive in addressing these issues and support non-profit organizations that work in these areas.

Clerk-Treasurer Aguirre distributed a draft Common Council schedule for 2023 which listed proposed Council meetings, holidays and special dates (**EXHIBIT #4**). He asked Councilors to review the draft calendar and inform him and **Mayor Stutsman** of any scheduled Council meetings they cannot attend. Aguirre said the calendar is scheduled to be voted on at the Dec. 19, 2022 Council meeting. **Mayor Stutsman** said that if three Councilors indicate they cannot attend the same meeting, that meeting likely will be canceled.

Councilor Pérez said he previously informed Mayor Stutsman and **Councilors Eichorn and Weddell** that he cannot attend the next two Council meetings – on Dec. 19 and Dec. 27. He said he will be out of the country.



There were no further comments by elected officials.

Councilor Eichorn made a motion to adjourn the meeting. Councilors unanimously approved the motion to adjourn the meeting.

Mayor Stutsman adjourned the meeting at 7:31 p.m.

EXHIBIT #1: A one-page spreadsheet, titled "City of Goshen Trash and Recycling Statistics," which was distributed to Councilors at the meeting by City Director of Environmental Resilience Aaron Sawatsky Kingsley during consideration of agenda item 1) Presentation: City of Goshen Climate Action Plan progress. The spreadsheet showed early data on the impact of the change in the City's solid waste and recycling program.

EXHIBIT #2: Ordinance 5149, 2022 Bonus Pay, a proposal to provide bonuses to City of Goshen employees. Mayor Stutsman emailed the ordinance to Councilors before the Dec. 5 meeting and distributed copies to Councilors at the meeting. Copies also were made available to the public at the meeting.

EXHIBIT #3: A memorandum, dated Dec. 5, 2022, by Mayor Stutsman that outlined how Ordinance 5149 was developed and why it should be approved. The Mayor emailed the memorandum to Councilors, the news media and others before the meeting and provided copies to Councilors and the public at the Dec. 5 meeting.

EXHIBIT #4: Draft 2023 Goshen City Council Calendar of Council meetings, holidays and special dates distributed to Councilors during the Elected Officials Reports by Clerk-Treasurer Aguirre. He asked Councilors to review the draft calendar, which is scheduled to be voted on at the Dec. 19, 2022 Council meeting.

APPROVED:

Jeremy P. Stutsman, Mayor of Goshen

ATTEST:

Richard R. Aguirre, City Clerk-Treasurer



Richard Aguirre, City Clerk-Treasurer
CITY OF GOSHEN

202 South Fifth Street, Suite 2 • Goshen, IN 46528-3714

Phone (574) 533-8625 • Fax (574) 533-9740

richardaguirre@goshencity.com • www.goshenindiana.org

To: Goshen Common Council
From: Clerk-Treasurer Richard R. Aguirre
Date: Dec. 19, 2022
Subject: Operations of the Clerk-Treasurer Office

As Councilors know, I took the oath of office as the City of Goshen's Clerk-Treasurer on July 8, 2021, so I've been on the job just over 17 months. Counted another way, I've been part of two City budget cycles, two State Board of Accounts audits, 40 City pay periods, scores of Council and Board of Works meetings (and agendas and minutes) and have helped process tens of millions of dollars in claims.

It's been a challenging and enormously rewarding time as I've become part of a government and an organization that puts residents first. Following the example of many elected and employed servant leaders in the City of Goshen, I've also established as my office's top priorities delivering excellent public service, increased accountability for the public's funds, efficient operations and greater openness.

As a way of enhancing public accountability, I would like to brief the Common Council at the Dec. 19 meeting about some of the accomplishments of my staff since July 2021. The report will include a summary of improvements we have made or are making in our time and attendance system for payroll, our new banking services agreement (which is generating greater interest income), the savings we facilitated for the City's cell phone services, our improved external and internal customer service, better record keeping, and other efforts to increase accountability and transparency.



Department of Environmental Resilience

410 West Plymouth Avenue • Goshen, IN 46526
Phone (574) 534-0076 • www.goshenindiana.org
Aaron Sawatsky-Kingsley, Department Head



Charging Stations Fee Ordinance Background

EV sales history

In the U.S., it took eight years to sell one million electric vehicles and fewer than three years to sell the next million. The Edison Electric Institute (EEI) projects the next one million will be sold by the end of 2022. Annual sales of EVs will be nearly 5.6 million in 2030, reaching more than 32% of annual light-duty sales. This estimate is up from previous estimates made in 2018. There is a projected need for 12.9 million charge ports to support the projected 26.4 million EVs that will be on U.S. roads in 2030. (Edison Electric Institute. June 21, 2022. <https://www.eei.org/News/news/All/eei-projects-26-million-electric-vehicles-will-be-on-us-roads-in-2030>)

Providing charging when and where people need it

As more people purchase electrical vehicles, the need will grow for destination, neighborhood and workplace charging. In the early adoption phase, the City of Goshen recognized that the City had the opportunity to share charging resources with the public as the City builds stations to support the City's fleet. The community shared approach also allows the City to utilize grant and partner funding to bring additional resources to Goshen that support travelers and residents as the community's infrastructure grows to accommodate electric vehicle transportation options. *Currently public charging is only available in Goshen at City Hall, the Goshen Public Library, Goshen College, and the newly installed station in the parking lot south of Lincoln and east of Water Street.*

The City's first charging station was installed in January 2020 behind City Hall. It was installed as the primary charger for the City's Tesla Model 3. It has also served as a downtown area destination charger as well as a workplace and neighborhood charging station. It has been free for use since installation. The utility data for this charger has shown increased use over the last three years. In 2020, the monthly average number of hours the charging station was used was 44 hours. In 2021, it doubled to 103 hours and in 2022 it was up to 162 hours. *(This is based on the maximum output of the charger. Some EVs cannot charge at that output which would increase the number of average hours.)* This station's utility costs related to charging were on average \$69/month in 2020, \$146/month in 2021, and \$234/month in 2022. This data includes fleet charging.

In November of this year the City installed an EV Charging Station in the City owned parking lot between south of Lincoln Avenue and east of Water Street. This was grant, public, and private funded project. The requirement of the grant was 2 hours of free charging for two years after activation. This site was chosen because it was near the downtown, commercial, retail, and restaurant businesses and also provided access to the Millrace Trail. It is a destination charging station that will provide needed charging for travelers. It could also be a workplace charging station for the many people who work in that area.

In 2023, the Environmental Resilience Department will be adding an additional station at City Hall and one at Rieth Interpretative Center. Both will support the City fleet and be available for public charging.

Jeremy Stutsman
Mayor of Goshen



Department of Environmental Resilience

410 West Plymouth Avenue • Goshen, IN 46526
Phone (574) 534-0076 • www.goshenindiana.org
Aaron Sawatsky-Kingsley, Department Head



All of the current and planned (2023) stations are Level 2 charging stations where a vehicle can charge for approximately 25 miles of battery life for each hour of charging. Most vehicles take 8-12 hours to charge at a level 2 charging station, depending on the battery specifications. MACOG has approved funding for a Level 3 *fast* charging station to be built in 2026 or 2027. The fast charging station would be priced at a different level as the electric consumption is 10 times or more depending on the EV and the battery.

Proposed Rates

Leah Thill, Senior Environmental Planner at MACOG provided technical guidance in determining a rate that evaluated expenses and City expectations for use of the charging stations. The rate of \$1.17 per hour was calculated to cover utility charges for the electricity used. City purchased charging stations the user would pay the electricity charge of \$1.17 per hour for the first four hours. At the start of the fifth hour the user would be charged an additional \$3.83 per hour to encourage turnover and allow availability for multiple users given the limited number of charging stations in Goshen. It also reduces the number of users who leave their vehicle to just top off their battery because the charge is too small. Travelers who need the extended time charging to get to their next destination will find the fee acceptable and continue charging. If the user stays five hours, the cost is \$10.85.

The charging station south of Lincoln Avenue is grant supported. It requires 2 hours free charging for users during the first two years of operation. The hourly rate would be \$1.17 per hour beginning at the third hour with an additional parking fee of \$1.83 per hour (\$3.00 total). The parking fee would be less per hour as it is starting earlier. If a user stays five hours the cost is

11/29/2022

Jeremy Stutsman
Mayor of Goshen



CITY OF GOSHEN LEGAL DEPARTMENT
Matt Lawson, Assistant City Attorney

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

mattlawson@goshencity.com • www.goshenindiana.org
Phone (574) 537-3807 • Fax (574) 533-8626 • TDD (574) 534-3185

MEMO

TO: Common Council of the City of Goshen, IN
FROM: Matt Lawson, Asst. City Attorney
DATE: November 28, 2022
SUBJECT: Ordinance No. 5147 Establishing Various Fees and Parking Regulations Regarding City-Owned Electric Vehicle Charging Stations

The Legal Department has been working with the Michiana Area Council of Governments (“MACOG”) and the Goshen Department of Environmental Resilience to evaluate and determine the appropriate time limitations, fee structures, and regulations applicable to the use of City-owned electric vehicle charging stations and associated parking spaces as set forth in Ordinance No. 5147 Establishing Various Fees and Parking Regulations Regarding City-Owned Electric Vehicle Charging Stations which is attached for the Council’s consideration (hereafter the “Ordinance”).

Section 1 of the Ordinance deals with the “**Spaces Designated for Electric Vehicle Charging**” and amends the current parking prohibitions set forth in Goshen City Code §4.4.1.1 by adding a seventh item to the current list providing:

(7) In a parking space designated for electric vehicle charging unless the vehicle is capable of be charged by the charging equipment available for such parking space and the vehicle is engaged in the charging process.

§4.4.1.1(7) can be enforced through the existing structure for parking violations.

Section 2 of the Ordinance adds an entirely new section (§4.4.1.12) to Goshen’s current parking code and establishes a “**Fee for Use of City-Owned Electric Vehicle Charging Stations**”. Section 2 establishes a flat hourly rate of \$1.17 per hour for the first four (4) hours of active charging at a City-owned charging station and creates an additional parking fee of \$3.83 per hour, in addition to the \$1.17 (for a total of \$5 per hour) after the first four (4) hours. A four (4) hour timeframe has been established to facilitate the turnover needed for greater access and usage of City-owned charging stations.

As a condition of the City’s application for the grant funding that was used to obtain the City’s electric vehicle charging station located in the City of Goshen parking lot south of Lincoln Avenue and east of Water Street, the City agreed to provide the first 2 hours of charging at this grant supported charging station (only) at no cost to users for the first 2 years after its installation. As such, Section 2 of the Ordinance also establishes a separate fee for the one grant funded charging station located in the City of Goshen. Specifically, after the first two (2) hours of free charging, the Ordinance establishes a flat hourly rate of \$1.17 per hour plus an additional parking fee of \$1.83 (for a total of \$3 per hour) for each hour after the two (2) free hours. The fees established by the Ordinance comply with Indiana Code §36-1-3-8(a)(6) which requires any charge established by the City to be reasonably related to reasonable and just rates and charges for the electric vehicle charging services provided by the City of Goshen.

ORDINANCE NO. 5147

ESTABLISHING VARIOUS FEES AND PARKING REGULATIONS REGARDING CITY-OWNED ELECTRIC VEHICLE CHARGING STATIONS

WHEREAS, the City of Goshen seeks to encourage greater ownership and use of electric vehicles to reduce automobile air pollution, energy consumption, and greenhouse gas emissions from the transportation sector.

WHEREAS, the installation and availability of sufficient public electric vehicle charging infrastructure supports the transition to electric vehicles and contributes to the City of Goshen's commitment to sustainability which is in the best interest of the public health, safety and welfare.

WHEREAS, to serve the needs of residents and the traveling public, and to provide convenience of service to those that use electric vehicles, the City of Goshen has installed and continues to invest in the installation of electric vehicle charging stations throughout the City.

WHEREAS, the City of Goshen will incur significant costs relating to the equipment and services required to provide greater access to public vehicle charging stations, including estimated costs associated with the purchase of supply equipment (approximately \$12,000, plus installation costs), maintenance (approximately \$500/year), network subscriptions (approximately \$528/year), ChargePoint service fees (approximately 10%), and ongoing electrical utility costs that continue to increase yearly (a 16.5% increase to NIPSCO's base rate is pending).

WHEREAS, The City's electric vehicle charging station located in the City of Goshen parking lot south of Lincoln Avenue and east of Water Street was obtained, in part, through grant funding from the Indiana Department of Environmental Management under VW Project Funding Agreement Number VWL2-013, and as a condition of the City's application for receipt of such grant funds the City agreed to provide the first 2 hours of each charging at this grant supported charging station at no cost to users for the first 2 years after its installation.

WHEREAS, in accordance with Indiana Code §36-1-3-8(a)(6), the City may impose a service charge or user fee that is reasonably related to reasonable and just rates and charges for such services.

WHEREAS, for financial stability and to facilitate the turnover needed for greater access and usage of charging stations, the Goshen Common Council determines it necessary to impose certain time limitation, various fees, and regulations applicable to the use of City-owned electric vehicle charging stations and associated parking spaces.

NOW, THEREFORE, BE IT ORDAINED, by the Common Council of the City of Goshen, Indiana, as follows:

SECTION 1. Spaces Designated for Electric Vehicle Charging.

Goshen City Code Title 4, entitled "Motor Vehicles and Traffic," Article 4 entitled "Parking," Chapter 1 entitled "Generally," Section 1 shall be amended to read as follows:

4.4.1.1 Parking Prohibitions generally.

Sec. 1 No vehicle shall be parked:

- (1) Across the main line or marking of a parking space or in a position that the vehicle shall not be entirely within the area designated by the lines or markings.
- (2) In a road right-of-way in the opposite direction of oncoming traffic.
- (3) In any area where parking is prohibited.
- (4) In any city-owned parking lot in violation of the regulations posted for the lot.
- (5) For a period of time in excess of the posted time limitation.
- (6) In a parking space reserved in accordance with Indiana Code 5-16-9-2 for a vehicle of a person with a physical disability without displaying a placard issued under Indiana Code 9-14-5 or under the laws of another state, a registration plate of a person with a physical disability, or a registration plate of a disabled veteran.
- (7) In a parking space designated for electric vehicle charging unless the vehicle is capable of be charged by the charging equipment available for such parking space and the vehicle is engaged in the charging process.

SECTION 2. Fee for Use of City-Owned Electric Vehicle Charging Stations.

Goshen City Code Title 4, entitled “Motor Vehicles and Traffic,” Article 4 entitled “Parking,” Chapter 1 entitled “Generally,” shall be amended to add Section 12 to read as follows:

§ 4.4.1.12 Fee for Use of City-Owned Electric Vehicle Charging Stations

- (1) Any person using a City-owned electric vehicle charging station shall pay a flat hourly rate of \$1.17 per hour for the first four (4) hours of active charging.
- (2) Any person using a City-owned electric vehicle charging station beyond the first four (4) hours of active charging shall pay an additional parking fee of \$3.83 per hour, in addition to the charging fee paid under Section 4.4.1.12(1), which shall continue after the first four (4) hours.
- (3) Notwithstanding subsections (1) and (2), any person using the City’s electric vehicle charging station located in the City of Goshen parking lot south of Lincoln Avenue and east of Water Street shall not be charged a fee for the first two (2) hours of active charging. Any person using this City-owned electric vehicle charging station shall pay a flat hourly rate of \$1.17 per hour after the initial two (2) hours, plus an additional parking fee of \$1.83 per hour. Charges under this subsection (3) shall remain in effect through December 31, 2024, after which the use of the City’s electric vehicle charging station located in the City of Goshen parking lot south of Lincoln Avenue and east of Water Street shall be subject to the fees and charges under subsections (1) and (2).
- (4) Fees and charges under this Section shall be collected at the time of active charging at a City-owned charging station.

SECTION 4. Other Ordinances.

All ordinances and parts of ordinances inconsistent or in conflict with the terms of this ordinance are repealed to the extent of the inconsistency or conflict.

SECTION 5. Effective Date.

This ordinance shall become effective after passage, due attestation, and publication as required by law. Further, this ordinance shall remain in effect until amended or repealed by the Common Council.

PASSED by the Goshen Common Council on December ____, 2022.

Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on December ____, 2022, at the hour of _____:_____ .m.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and **ADOPTED** on December ____, 2022.

Jeremy P. Stutsman, Mayor



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: Goshen City Council

FROM: Jason Kauffman, Stormwater Coordinator, Stormwater Department

RE: **REVISION OF STORMWATER USER FEE FOR THE GOSHEN DEPARTMENT OF STORMWATER MANAGEMENT (STORMWATER BOARD RESOLUTION 2022-01)**
(JN: 2002-0039)

DATE: December 19, 2022

Earlier this year the Greater Elkhart County Stormwater Partnership (Partnership) composed of the City of Elkhart, City of Goshen, Elkhart County, and Town of Bristol agreed a review of the current stormwater user fee was necessary. Baker Tilly US, LLP (Baker Tilly) was retained to perform a rate analysis to determine whether the current stormwater user fee is sufficient to cover each Partner's stormwater program funding needs. A Baker Tilly representative will be present at the Council meeting to answer specific questions.

Upon completion of the rate study, Baker Tilly concluded the minimum rate should be increased from \$15 per equivalent residential unit (ERU) to \$36.10 per ERU annually. The Partnership's MS4 Advisory Board met on November 17, 2022, and agreed to recommend the user fee be increased over three phrases as follows: \$22.05 per year per ERU starting with billing in calendar year 2023; \$29.10 per year per ERU starting with billing in calendar year 2026; and \$36.10 per year per ERU starting with billing in calendar year 2029.

On November 21st the Goshen Stormwater Board held a public hearing on proposed Resolution No. 2022-01 *Revision of Stormwater User Fees for the Goshen Department of Stormwater Management* and after hearing no public comment adopted the Resolution.

Following the Council's discussion this evening, the Goshen Stormwater Department requests the Goshen City Council vote on the first reading of Ordinance 5144 *Revision of Stormwater User Fees for the Goshen Department of Stormwater Management*. Please note, Goshen legal counsel advised the first and second reading of Ordinance No. 5144 can occur during the same meeting.

ORDINANCE 5144

REVISION OF STORMWATER USER FEES FOR THE GOSHEN DEPARTMENT OF STORMWATER MANAGEMENT

WHEREAS, Indiana Code ' 36-1-3-1 *et seq.* permits any unit in the State of Indiana to exercise any power or to perform any function necessary to the public interest in the context of its governmental or internal affairs, which is not prohibited by the Constitution of the United States or of the State of Indiana, or denied or pre-empted by any other law, or is not expressly granted by any other law to another governmental entity;

WHEREAS, the Goshen Common Council, by Ordinance 4295 adopted May 17, 2005, established the City of Goshen Department of Stormwater¹ Management;

WHEREAS, the City of Goshen Department of Stormwater Management is a utility pursuant to the provisions of Indiana Code 8-1.5-5 and authorized to establish stormwater user fees pursuant to said statutes;

WHEREAS, all of the territory located within the corporate boundaries of the City of Goshen is subject to the jurisdiction of the City of Goshen Department of Stormwater Management and constitutes a special taxing district for the purpose of providing for the collection and disposal of stormwater of the district in a manner that protects the public health and welfare;

WHEREAS, all of the territory in the district is considered to have received a special benefit from the stormwater collection and disposal facilities of the district, education, water quality monitoring, and National Pollution Discharge Elimination System program compliance equal to or greater than the utility fees imposed on the territory under Indiana Code 8-1.5-5 in order to pay all or part of the costs of such facilities and programs;

WHEREAS, the Municipal Separate Storm Sewer System (MS4) entities comprising the Greater Elkhart County MS4 Partnership — City of Elkhart, City of Goshen, Town of Bristol, and County of Elkhart — entered into an Interlocal Agreement, recorded with the Elkhart County Recorder's Office as Instrument No. 2006-04747 ("Interlocal Agreement") effective on October 8, 2005, which established a multi-jurisdiction advisory board to establish uniform rates across all MS4 Partnership entities;

WHEREAS, the Interlocal Agreement was approved by all MS4 entities and their respective legislative and executive bodies, including approval by the City of Goshen Common Council on August 3, 2005;

WHEREAS, Indiana Code § 8-1.5-5-7 requires that every Department of Stormwater Management charge a user fee equal to the minimum amount necessary for the operation and

¹ Stormwater is sometimes referred to as storm water, but for the purposes of this Ordinance, both terms will have the same meaning.

maintenance of the stormwater system;

WHEREAS, the Greater Elkhart County MS4 Partnership retained Baker Tilly US, LLP to perform a rate analysis to determine whether the minimum amount necessary for the operation and maintenance of the stormwater system has increased since 2006 and, if so, what is the current minimum amount necessary;

WHEREAS, the Board of the City of Goshen Department of Stormwater Management introduced Resolution 2022-01 with terms substantially identical to this Ordinance, advertised a public hearing in accordance with the provisions of Indiana Code 5-3-1 with publication in *The Goshen News* and has conducted a public hearing on November 21, 2022, with respect to the stormwater user fees to be assessed and collected pursuant to the terms and provisions of the Board's Resolution;

WHEREAS, the City of Goshen Department of Stormwater Management has reviewed the current costs of operating and maintaining the stormwater system along with the rate study prepared by Baker Tilly US, LLP and found that it is necessary to amend the City's rate structure and stormwater user fees;

WHEREAS the Board of the City of Goshen Department of Stormwater Management has found and determined that the user fees to be assessed and collected pursuant to the Board's Resolution 2022-01 are the minimum amount necessary for the operation and maintenance of the stormwater system within the City of Goshen, Indiana, and therefore adopted Resolution 2022-01 on November 21, 2022; and

WHEREAS pursuant to Indiana Code ' 8-1.5-5-7(b), the Goshen Common Council is required to approve the stormwater user fees to be assessed and collected pursuant to the Board's Resolution.

NOW, THEREFORE, BE IT ORDERED, ESTABLISHED, AND ORDAINED that the Goshen Common Council approves the stormwater user fees to be assessed and collected, and amends Ordinance 4624, as amended, to read as follows:

1. Stormwater User Fee.

A stormwater user fee shall be imposed on each and every tax parcel of real estate within the City of Goshen, Indiana which directly or indirectly contributes to the stormwater system of the City of Goshen, which charge shall be assessed against the owner, who shall be considered the user for purposes of the Resolution of the Board of the City of Goshen Department of Stormwater Management and this Ordinance. This charge is deemed to be reasonable and necessary to pay for the regulation, planning, operation, maintenance, repair, replacement, and improvement of the existing and future City of Goshen stormwater system.

2. Stormwater Rates.

Until December 31, 2022, the stormwater user fees will remain at the rate of Fifteen

Dollars (\$15.00) per year per ERU. Starting with billing in calendar year 2023, the stormwater user fees will be Twenty-Two and 05/100 Dollars (\$22.05) per year per ERU. Starting with billing in calendar year 2026, the stormwater user fees will be Twenty-Nine and 10/100 Dollars (\$29.10) per year per ERU. Starting with billing in calendar year 2029, the stormwater user fees will be Thirty-Six and 10/100 Dollars (\$36.10) per year per ERU. The above stormwater rates are designed to cover the cost of rendering stormwater service to the users of the City of Goshen stormwater system and will be the basis for the assessment of the stormwater user fee. The rates above are established so as to maintain adequate fund reserves to provide for reasonably expected variations in the cost of providing services, variations in the requirements for providing such services, as well as future improvements and capital needs. These rates may be evaluated and adjusted, as necessary, with regard to their sufficiency to satisfy the needs of the City of Goshen Department of Stormwater Management; otherwise, these rates will remain in effect.

3. Fee Structure and Calculation.

- a. There is assessed a stormwater user fee to each owner of residential real estate and non-residential real estate located within the City of Goshen, Indiana which contain impervious area. The fee is based upon the assigned ERU as determined below. Such user fee shall be calculated and assessed each year on a tax parcel basis.
- b. All real estate having impervious area within the corporate boundaries of the City of Goshen, Indiana will be assigned an ERU in accordance with the following provisions:
 - i. Residential Real Estate. A residential tax parcel containing three (3) or less dwelling units shall be assigned one (1) ERU. Residential tax parcels containing more than three (3) dwelling units shall be assigned an ERU based upon the parcel's individually measured impervious area in square feet divided by three thousand six hundred (3,600) square feet. This division will be calculated and rounded to the first decimal place.
 - ii. Non-Residential Real Estate. Each tax parcel of non-residential real estate shall be assigned an ERU based upon the parcel's individually measured impervious area in square feet divided by three thousand six hundred (3,600) square feet. This division will be calculated and rounded to the first decimal place.
 - iii. The identification of real estate tax parcels and key numbers, the classification of primary use, the determination of whether a tax parcel contains a dwelling unit, the number of dwelling units a tax parcel contains, and the classification of the type of dwelling unit and type of real estate shall be based upon the existing data in the computerized

system used by the Elkhart County Auditor to generate tax assessment information for the respective determination date used for making the stormwater user fee assessments. The calculation of the individually measured impervious area on a tax parcel shall be computed using a scale of 1:600 based upon the existing data in the Elkhart County geographic information system (GIS) database for the respective determination date used for making the stormwater user fee assessments. If for any reason the calculation of the individually measured impervious area on a tax parcel cannot be accurately computed using a scale of 1:600 based upon the existing data in the Elkhart County GIS database for the respective determination date, the calculation of the individually measured impervious area on a tax parcel shall be computed in the following order of priority:

1. using a scale of 1:600, based upon the existing data in the most recent Elkhart County GIS database prior to the respective determination date used for making the stormwater user fee assessments; or
2. based upon the existing data in the Elkhart County Auditor's system database for the respective determination date used for making the stormwater user fee assessments.

The individually measured impervious area on a tax parcel computed in accordance with the provisions above may be adjusted based upon the data from any permitted construction, additions, demolitions, and other changes on a tax parcel which occur after the date of the aerial photography utilized in the Elkhart County GIS database or based upon the actual verified conditions on the tax parcel, or both.

- iv. For each current year stormwater user fee assessment, the determination date shall be March 1st of the prior year.
- c. The assessment for any tax parcel with a calculated stormwater user fee equal to or less than Two and 25/100 Dollars (\$2.25) will be waived. There shall be no other exceptions or exemptions from the assignment of ERUs and the assessment of a stormwater user fee for a particular type or classification of real estate tax parcel within the City of Goshen, Indiana.

4. Collection of User Fees.

- a. The collection of the stormwater user fees authorized by the Resolution of the Board of the City of Goshen Department of Stormwater Management and this Ordinance shall be effectuated through a charge appearing each year on the property tax statements of the affected property owner. One-half (2) of the

stormwater user fee charged each year for a real estate tax parcel shall be billed on each of the spring and fall property tax statements for that parcel. The user fee shall be due and payable at the same time as the property taxes appearing on the spring and fall property tax statements are due and payable. In the event only one (1) property tax statement is billed for a real estate tax parcel, the entire annual stormwater user fee for that parcel authorized by the Board's Resolution and this Ordinance shall be billed on that property tax statement which shall be due and payable at the same time as the property taxes appearing on the property tax statement are due and payable.

- b. If the user fee is not paid when due, the user shall be charged and assessed a late payment penalty by the Elkhart County Treasurer in the same way and in the same manner that delinquent property taxes are charged and assessed.
- c. If the user fee and penalty is not paid when due, they shall be collected by the Elkhart County Treasurer in the same way that delinquent property taxes are collected.

5. Appeals of ERU Determination.

- a. If, in the opinion of any user, the ERU assigned to the user's real estate tax parcel is inaccurate in light of the number of dwellings or amount of impervious area on the property, the user shall have the right to contest the ERU determination and thus the stormwater user fee assessed in accordance with the provisions contained in this section.
- b. The user shall obtain and complete a Petition to Appeal Stormwater Assessment Form which shall be filed with the City of Goshen Stormwater Department with verifiable documentation supporting the user's claim. To be timely for any current year stormwater user fee assessment, a Petition to Appeal must be filed no later than the date on which the spring installment of the user fee shall be due and payable. The City of Goshen Stormwater Coordinator shall refer the petition to the City of Goshen Stormwater Board.
- c. The City of Goshen Stormwater Department shall investigate the user's claim and, upon review, shall render a written determination that either the original ERU determination and assessment should be affirmed or that the user's rate should be adjusted and how much the adjustment should be.
- d. The determination made by the City of Goshen Stormwater Department shall be forwarded to the user by certified mail, return receipt requested. The user shall have fifteen (15) days from date of receipt to request reconsideration if dissatisfied with the decision from the City of Goshen Stormwater Department. Any additional facts concerning the dispute shall be reduced to writing and

submitted, along with a copy of the original petition and supporting documents, to the City of Goshen Stormwater Coordinator. The City of Goshen Stormwater Coordinator shall refer the matter to the Board of the City of Goshen Department of Stormwater Management. The City of Goshen Stormwater Coordinator shall submit a written report of the determination in the case, along with any documents used, in denying the user's claim or in recommending an adjustment.

- e. Thereafter, the Board of the City of Goshen Department of Stormwater Management shall review all documentation and conduct an informal hearing to determine and resolve the dispute based upon the documentation submitted and any oral testimony. The Board shall issue a determination which shall be binding upon the City of Goshen Department of Stormwater Management and the user. The hearing shall be recorded and the minutes of the hearing provided upon request at a cost per page as determined by the Secretary for the Board which rate shall be amended from time to time.
- f. Any user aggrieved by the final Board determination shall have the right to judicial review of such determination in accordance with Indiana law.
- g. If a user's stormwater user fee assessment is reduced or eliminated by the Board of the City of Goshen Department of Stormwater Management or court of law, the user shall be refunded accordingly for any overpayment made from the earlier of the date the stormwater user fee assessment was paid or was due and payable.
- h. A dispute or appeal of an ERU determination for stormwater user fee assessment shall not be a valid reason for non-payment of the originally assessed stormwater user fee.

6. Stormwater Utility Fund.

All stormwater user fees and penalties collected and interest earned thereon shall be deposited in the MS4 Stormwater Utility Fund.

7. Definitions.

For purposes of the Resolution of the Board of the City of Goshen Department of Stormwater Management and this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- a. Equivalent Residential Unit (ERU). The number of units, equal to the assumed average amount of impervious area of a single-family residential parcel of real estate within the City of Goshen, Indiana, which is established at three thousand six hundred (3,600) square feet of impervious area. The unit value, which will be carried out and rounded off to one (1) decimal place, being the equivalent of

one-tenth (0.1) of an ERU, is also the basis for calculating the assessment of stormwater user fees for the City of Goshen stormwater system.

- b. Impervious Area. Those areas which prevent or impede the infiltration of stormwater into the soil as it enters under natural conditions prior to development. Common impervious areas include, but are not limited to roof tops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, gravel surfaces, awnings and other fabric or plastic coverings, and other surfaces which prevent or impede the natural infiltration of stormwater run-off which existed prior to development.
- c. Non-Residential Real Estate. All real estate tax parcels which are not described by the definition of residential real estate shall be defined as non-residential. Non-residential real estate will include:
 - i. Agricultural real estate;
 - ii. Commercial real estate;
 - iii. Industrial real estate;
 - iv. Institutional real estate;
 - v. Church real estate;
 - vi. School real estate;
 - vii. Federal, state, and local government real estate;
 - viii. Utility real estate; and
 - ix. Any other real estate not mentioned in this list and which is not described by the definition of residential real estate.
- d. Residential Real Estate. A separate tax parcel of real estate which is primarily used for dwelling purposes on which a building is situated which building contains one (1) or more dwelling units which dwelling units are each used or are intended to be used primarily for living, sleeping, cooking, and eating. Residential real estate shall include all types of dwelling units including single-family homes, duplexes, triplexes, and row type homes. Residential real estate shall also include condominium dwellings, apartment dwellings, and mobile home parks.

8. Repeal of Prior Ordinances.

All resolutions, or parts thereof, that are inconsistent, or conflict, with the terms of this resolution are repealed to the extent of the inconsistency or conflict.

9. Severability.

If any provision of this ordinance shall be held invalid, such provision shall be deemed severable and the invalidity thereof shall not affect the remaining provisions of this ordinance.

10. Effective Date.

The Resolution of the Board of the City of Goshen Department of Stormwater Management and this Ordinance shall be in full force and effect from and after its passage, approval and adoption according to the laws of the State of Indiana. This Ordinance is effective on February 1, 2023, so long as (1) it is approved by the City of Goshen Common Council and (2) a similar ordinance applying the same rate increases outlined in Section 2 above is approved by the Elkhart County Commissioners and Elkhart County Council, as well as the Town of Bristol, and the City of Elkhart.

PASSED by the Common Council of the City of Goshen on December _____, 2022.

Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on the _____ day of _____, 2022, at the hour of ____:____.m.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on the _____ day of _____, 2022.

Jeremy P. Stutsman, Mayor

RESOLUTION NO. 2022-01
GREATER ELKHART COUNTY STORMWATER PARTNERSHIP
ADVISORY BOARD

A RESOLUTION SUPPORTING THE AMENDMENT OF
THE STORMWATER USER FEE ORDINANCES WITH THE
CITY OF ELKHART, CITY OF GOSHEN, COUNTY OF ELKHART, AND TOWN OF BRISTOL

RECITALS

- A. The 1972 amendments to the Federal Water Pollution Control Act, later referred to as the Clean Water Act, prohibit the discharge of any pollutant to navigable waters of the United States from a point source unless the discharge is authorized by a National Pollutant Discharge Elimination System ("NPDES") permit.
- B. In 1990, the United States Environmental Protection Agency ("EPA") adopted final rules that addressed stormwater issues in communities of 100,000 or more via the Phase I Stormwater NPDES Permit Regulations.
- C. In 1999, the EPA adopted final rules, via the Phase II Stormwater NPDES Permit Regulations, that addressed stormwater issues in urbanized areas of less than 100,000.
- D. In 2003, the Indiana Department of Environmental Management ("IDEM") adopted rules for the Phase II Stormwater NPDES Permit Regulations.
- E. The Municipal Separate Storm Sewer System ("MS4") entities comprising the Greater Elkhart County MS4 Partnership ("Partnership"), consisting of City of Elkhart, City of Goshen, Town of Bristol, and County of Elkhart (collectively, "Partners"), entered into an Interlocal Agreement, recorded with the Elkhart County Recorder's Office as Instrument No. 2006-04747 ("Interlocal Agreement") effective on October 8, 2005, which established a multi-jurisdiction advisory board ("Advisory Board") to, in part, establish uniform rates across all MS4 Partnership entities.
- F. In 2006, the Partnership Advisory Board proposed and the Partners agreed to and passed, by their respective boards, a stormwater user fee in the amount of \$15.00 per Equivalent Residential Unit ("ERU") with one ERU being a single residential parcel or 2,800 square feet of impervious area for non-residential parcels.

G. In 2010, the Partnership, through its Advisory Board, proposed and the Partners passed updated Ordinances to increase the ERU value for non-residential parcels to 3,600 square feet of impervious area and to revise the definition of "Residential Real Estate".

H. Indiana Code § 8-1.5-5-7 requires that every Department of Stormwater Management charge a user fee equal to the minimum amount necessary for the operation and maintenance of the stormwater system.

I. Since 2006, the State of Indiana has enhanced the requirements placed upon the Partners and has modified the NPDES permit process.

J. In 2022, the Advisory Board agreed that a review of the stormwater user fee was necessary to review the current stormwater user fee and the stormwater budgets for the Partners. Following this assessment, Baker Tilly US, LLP ("Baker Tilly") was retained to perform a rate analysis to determine whether the minimum amount necessary for the operation and maintenance of the stormwater system has increased since 2006 and, if so, what is the current minimum amount necessary.

K. Upon completion of the rate study, Baker Tilly concluded that the minimum rate should be \$36.10 per year ("Minimum Rate"), but that the Partners could select to increase the rate over a three phase approach to ultimately raise the rate to the Minimum Rate.

NOW, THEREFORE, BE IT RESOLVED by the Advisory Board of the Partnership as follows:

1. Recommendation of User Fee Amendment. Based upon the confirmed results of the Baker Tilly rate study, the Advisory Board recommends that the User Fee per ERU for each and every Partner be amended according to the following three phase schedule:

Phase 1. Starting January 1, 2023, the stormwater user fees will be \$22.05 per year per ERU.

Phase 2. Starting January 1, 2026, the stormwater user fees will be \$29.10 per year per ERU.

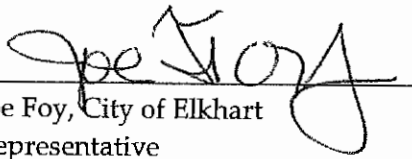
Phase 3. Starting January 1, 2029, the stormwater user fees will be \$36.10 per year per ERU.

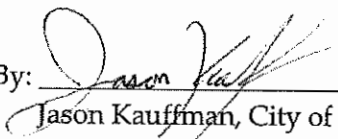
2. Amendatory Effect. In light of the terms of the Interlocal Agreement and the desire by all Partners that rates remain uniform throughout all MS4 entities in Elkhart County, the

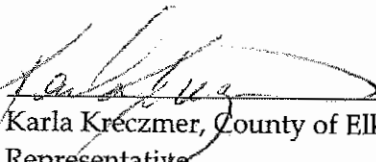
Advisory Board recommends that the three-phase user fee amendment only become effective for billing in calendar year 2023, if an Ordinance adopting the amendment is approved by each of the Partners.

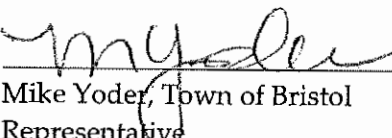
RESOLVED this November 17, 2022.

GREATER ELKHART COUNTY
MS4 PARTNERSHIP, ADVISORY BOARD

By: 
Joe Foy, City of Elkhart
Representative

By: 
Jason Kauffman, City of Goshen
Representative

By: 
Karla Kreczmer, County of Elkhart
Representative

By: 
Mike Yoder, Town of Bristol
Representative

RESOLUTION NO. 2022-01

REVISION OF STORMWATER USER FEES FOR THE GOSHEN DEPARTMENT OF STORMWATER MANAGEMENT

WHEREAS, Indiana Code ' 36-1-3-1 *et seq.* permits any unit in the State of Indiana to exercise any power or to perform any function necessary to the public interest in the context of its governmental or internal affairs, which is not prohibited by the Constitution of the United States or of the State of Indiana, or denied or pre-empted by any other law, or is not expressly granted by any other law to another governmental entity;

WHEREAS, the Goshen Common Council, by Ordinance 4295 adopted May 17, 2005, established the City of Goshen Department of Stormwater¹ Management;

WHEREAS, the City of Goshen Department of Stormwater Management is a utility pursuant to the provisions of Indiana Code ' 8-1.5-5 *et seq.* and authorized to establish stormwater user fees pursuant to said statutes;

WHEREAS, all of the territory located within the corporate boundaries of the City of Goshen is subject to the jurisdiction of the City of Goshen Department of Stormwater Management and constitutes a special taxing district for the purpose of providing for the collection and disposal of stormwater of the district in a manner that protects the public health and welfare;

WHEREAS, all of the territory in the district is considered to have received a special benefit from the stormwater collection and disposal facilities of the district, education, water quality monitoring, and National Pollution Discharge Elimination System program compliance equal to or greater than the utility fees imposed on the territory under Indiana Code ' 8-1.5-5 *et seq.* in order to pay all or part of the costs of such facilities and programs;

WHEREAS, the Municipal Separate Storm Sewer System (MS4) entities comprising the Greater Elkhart County MS4 Partnership — City of Elkhart, City of Goshen, Town of Bristol, and County of Elkhart — entered into an Interlocal Agreement, recorded with the Elkhart County Recorder's Office as Instrument No. 2006-04747 ("Interlocal Agreement") effective on October 8, 2005, which established a multi-jurisdiction advisory board to establish uniform rates across all MS4 Partnership entities;

WHEREAS, the Interlocal Agreement was approved by all MS4 entities and their respective legislative and executive bodies, including approval by the City of Goshen Common Council on August 3, 2005;

WHEREAS, Indiana Code § 8-1.5-5-7 requires that every Department of Stormwater

¹ Stormwater is sometimes referred to as storm water, but for the purposes of this Ordinance, both terms will have the same meaning.

Management charge a user fee equal to the minimum amount necessary for the operation and maintenance of the stormwater system;

WHEREAS, the Greater Elkhart County MS4 Partnership retained Baker Tilly US, LLP to perform a rate analysis to determine whether the minimum amount necessary for the operation and maintenance of the stormwater system has increased since 2006 and, if so, what is the current minimum amount necessary;

WHEREAS, the Board of the City of Goshen Department of Stormwater Management has advertised a public hearing in accordance with the provisions of Indiana Code ' 5-3-1 with publication in *The Goshen News* and has conducted a public hearing on November 21, 2022, with respect to the stormwater user fees to be assessed and collected pursuant to the terms and provisions of this Resolution;

WHEREAS, the City of Goshen Department of Stormwater Management has reviewed the current costs of operating and maintaining the stormwater system along with the rate study prepared by Baker Tilly US, LLP and finds that it is necessary to amend the City's rate structure and stormwater user fees;

WHEREAS the Board of the City of Goshen Department of Stormwater Management finds and determines that the user fees to be assessed and collected pursuant to this Resolution are the minimum amount necessary to help fund the operation and maintenance of the stormwater system and stormwater programs within the City of Goshen, Indiana.

WHEREAS pursuant to Indiana Code ' 8-1.5-5-7(b), the Goshen Common Council is required to approve the stormwater user fees to be assessed and collected pursuant to the Board=s Resolution.

NOW, THEREFORE, BE IT ORDERED, ESTABLISHED, AND RESOLVED by the Board of the City of Goshen Department of Stormwater Management approves the stormwater user fees to be assessed and collected, and amends Resolution No. 2006-1, as amended, to read as follows:

1. Stormwater User Fee.

A stormwater user fee shall be imposed on each and every tax parcel of real estate within the City of Goshen, Indiana which directly or indirectly contributes to the stormwater system of the City of Goshen, which charge shall be assessed against the owner, who shall be considered the user for purposes of this Resolution. This charge is deemed to be reasonable and necessary to pay for the regulation, planning, operation, maintenance, repair, replacement, and improvement of the existing and future City of Goshen stormwater system.

2. Stormwater Rates.

Until December 31, 2022, the stormwater user fees will remain at the rate of Fifteen

Dollars (\$15.00) per year per ERU. Starting January 1, 2023, the stormwater user fees will be Twenty-Two and 05/100 Dollars (\$22.05) per year per ERU. Starting January 1, 2026, the stormwater user fees will be Twenty-Nine and 10/100 Dollars (\$29.10) per year per ERU. Starting January 1, 2029, the stormwater user fees will be Thirty-Six and 10/100 Dollars (\$36.10) per year per ERU. The above stormwater rates are designed to cover the cost of rendering stormwater service to the users of the City of Goshen stormwater system and will be the basis for the assessment of the stormwater user fee. The rates above are established so as to maintain adequate fund reserves to provide for reasonably expected variations in the cost of providing services, variations in the requirements for providing such services, as well as future improvements and capital needs. These rates may be evaluated and adjusted, as necessary, with regard to their sufficiency to satisfy the needs of the City of Goshen Department of Stormwater Management; otherwise, these rates will remain in effect.

3. Fee Structure and Calculation.

- a. There is assessed a stormwater user fee to each owner of residential real estate and non-residential real estate located within the City of Goshen, Indiana which contain impervious area. The fee is based upon the assigned ERU as determined below. Such user fee shall be calculated and assessed each year on a tax parcel basis.
- b. All real estate having impervious area within the corporate boundaries of the City of Goshen, Indiana will be assigned an ERU in accordance with the following provisions:
 - i. Residential Real Estate. A residential tax parcel containing three (3) or less dwelling units shall be assigned one (1) ERU. Residential tax parcels containing more than three (3) dwelling units shall be assigned an ERU based upon the parcel=s individually measured impervious area in square feet divided by three thousand six hundred (3,600) square feet. This division will be calculated and rounded to the first decimal place.
 - ii. Non-Residential Real Estate. Each tax parcel of non-residential real estate shall be assigned an ERU based upon the parcel=s individually measured impervious area in square feet divided by three thousand six hundred (3,600) square feet. This division will be calculated and rounded to the first decimal place.
 - iii. The identification of real estate tax parcels and key numbers, the classification of primary use, the determination of whether a tax parcel

contains a dwelling unit, the number of dwelling units a tax parcel contains, and the classification of the type of dwelling unit and type of real estate shall be based upon the existing data in the computerized system used by the Elkhart County Auditor to generate tax assessment information for the respective determination date used for making the stormwater user fee assessments. The calculation of the individually measured impervious area on a tax parcel shall be computed using a scale of 1:600 based upon the existing data in the Elkhart County geographic information system (GIS) database for the respective determination date used for making the stormwater user fee assessments. If for any reason the calculation of the individually measured impervious area on a tax parcel cannot be accurately computed using a scale of 1:600 based upon the existing data in the Elkhart County GIS database for the respective determination date, the calculation of the individually measured impervious area on a tax parcel shall be computed in the following order of priority:

1. using a scale of 1:600, based upon the existing data in the most recent Elkhart County GIS database prior to the respective determination date used for making the stormwater user fee assessments; or
2. based upon the existing data in the Elkhart County Auditor's system database for the respective determination date used for making the stormwater user fee assessments.

The individually measured impervious area on a tax parcel computed in accordance with the provisions above may be adjusted based upon the data from any permitted construction, additions, demolitions, and other changes on a tax parcel which occur after the date of the aerial photography utilized in the Elkhart County GIS database or based upon the actual verified conditions on the tax parcel, or both.

- iv. For each current year stormwater user fee assessment, the determination date shall be March 1st of the prior year.
- c. The assessment for any tax parcel with a calculated stormwater user fee equal to or less than Two and 25/100 Dollars (\$2.25) will be waived. There shall be no other exceptions or exemptions from the assignment of ERUs and the assessment of a stormwater user fee for a particular type or classification of real estate tax parcel within the City of Goshen, Indiana.

4. Collection of User Fees.

- a. The collection of the stormwater user fees authorized by this Resolution shall be effectuated through a charge appearing each year on the property tax statements of the affected property owner. One-half (2) of the stormwater user fee charged each year for a real estate tax parcel shall be billed on each of the spring and fall property tax statements for that parcel. The user fee shall be due and payable at the same time as the property taxes appearing on the spring and fall property tax statements are due and payable. In the event only one (1) property tax statement is billed for a real estate tax parcel, the entire annual stormwater user fee for that parcel authorized by this Resolution shall be billed on that property tax statement which shall be due and payable at the same time as the property taxes appearing on the property tax statement are due and payable.
- b. If the user fee is not paid when due, the user shall be charged and assessed a late payment penalty by the Elkhart County Treasurer in the same way and in the same manner that delinquent property taxes are charged and assessed.
- c. If the user fee and penalty is not paid when due, they shall be collected by the Elkhart County Treasurer in the same way that delinquent property taxes are collected.

5. Appeals of ERU Determination.

- a. If, in the opinion of any user, the ERU assigned to the user=s real estate tax parcel is inaccurate in light of the number of dwellings or amount of impervious area on the property, the user shall have the right to contest the ERU determination and thus the stormwater user fee assessed in accordance with the provisions contained in this section.
- b. The user shall obtain and complete a Petition to Appeal Stormwater Assessment Form which shall be filed with the City of Goshen Stormwater Department with verifiable documentation supporting the user=s claim. To be timely for any current year stormwater user fee assessment, a Petition to Appeal must be filed no later than the date on which the spring installment of the user fee shall be due and payable. The City of Goshen Stormwater Coordinator shall refer the petition to the City of Goshen Stormwater Board.
- c. The City of Goshen Stormwater Department shall investigate the user=s claim and, upon review, shall render a written determination that either the original ERU determination and assessment should be affirmed or that the user=s rate

should be adjusted and how much the adjustment should be.

- d. The determination made by the City of Goshen Stormwater Department shall be forwarded to the user by certified mail, return receipt requested. The user shall have fifteen (15) days from date of receipt to request reconsideration if dissatisfied with the decision from the City of Goshen Stormwater Department. Any additional facts concerning the dispute shall be reduced to writing and submitted, along with a copy of the original petition and supporting documents, to the City of Goshen Stormwater Coordinator. The City of Goshen Stormwater Coordinator shall refer the matter to the Board of the City of Goshen Department of Stormwater Management. The City of Goshen Stormwater Coordinator shall submit a written report of the determination in the case, along with any documents used, in denying the user's claim or in recommending an adjustment.
- e. Thereafter, the Board of the City of Goshen Department of Stormwater Management shall review all documentation and conduct an informal hearing to determine and resolve the dispute based upon the documentation submitted and any oral testimony. The Board shall issue a determination which shall be binding upon the City of Goshen Department of Stormwater Management and the user. The hearing shall be recorded and the minutes of the hearing provided upon request at a cost per page as determined by the Secretary for the Board which rate shall be amended from time to time.
- f. Any user aggrieved by the final Board determination shall have the right to judicial review of such determination in accordance with Indiana law.
- g. If a user's stormwater user fee assessment is reduced or eliminated by the Board of the City of Goshen Department of Stormwater Management or court of law, the user shall be refunded accordingly for any overpayment made from the earlier of the date the stormwater user fee assessment was paid or was due and payable.
- h. A dispute or appeal of an ERU determination for stormwater user fee assessment shall not be a valid reason for non-payment of the originally assessed stormwater user fee.

6. Stormwater Utility Fund.

All stormwater user fees and penalties collected and interest earned thereon shall be deposited in the MS4 Stormwater Utility Fund.

7. Definitions.

For purposes of this Resolution, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- a. Equivalent Residential Unit (ERU). The number of units, equal to the assumed average amount of impervious area of a single-family residential parcel of real estate within the City of Goshen, Indiana, which is established at three thousand six hundred (3,600) square feet of impervious area. The unit value, which will be carried out and rounded off to one (1) decimal place, being the equivalent of one-tenth (0.1) of an ERU, is also the basis for calculating the assessment of stormwater user fees for the City of Goshen stormwater system.
- b. Impervious Area. Those areas which prevent or impede the infiltration of stormwater into the soil as it enters under natural conditions prior to development. Common impervious areas include, but are not limited to roof tops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, gravel surfaces, awnings and other fabric or plastic coverings, and other surfaces which prevent or impede the natural infiltration of stormwater run-off which existed prior to development.
- c. Non-Residential Real Estate. All real estate tax parcels which are not described by the definition of residential real estate shall be defined as non-residential. Non-residential real estate will include:
 - i. Agricultural real estate;
 - ii. Commercial real estate;
 - iii. Industrial real estate;
 - iv. Institutional real estate;
 - v. Church real estate;
 - vi. School real estate;
 - vii. Federal, state, and local government real estate;
 - viii. Utility real estate; and
 - ix. Any other real estate not mentioned in this list and which is not described by the definition of residential real estate.
- d. Residential Real Estate. A separate tax parcel of real estate which is primarily used for dwelling purposes on which a building is situated which building contains one (1) or more dwelling units which dwelling units are each used or

are intended to be used primarily for living, sleeping, cooking, and eating. Residential real estate shall include all types of dwelling units including single-family homes, duplexes, triplexes, and row type homes. Residential real estate shall also include condominium dwellings, apartment dwellings, and mobile home parks.

8. Repeal of Prior Resolutions

All resolutions, or parts thereof, that are inconsistent, or conflict, with the terms of this resolution are repealed to the extent of the inconsistency or conflict.


9. Severability.

The terms and provisions of this Resolution are determined to be severable; the invalidity or unenforceability of any section, sentence, clause, term, or provision of this Resolution shall not affect the validity of any other section, sentence, clause, term, or provision of this Resolution which can be given meaning without such invalid part or parts.

10. Effective Date.

This Resolution shall be in full force and effect from and after its passage, approval and adoption according to the laws of the State of Indiana. This resolution and any ordinance based on this resolution are intended to be effective on January 1, 2023, so long as (1) it is approved by the City of Goshen Common Council and (2) a similar ordinance applying the same rate increases outlined in Section 2 above is approved by the Elkhart County Commissioners and Elkhart County Council, as well as the Town of Bristol, and the City of Elkhart.

PASSED and ADOPTED by the Board of the City of Goshen Department of Stormwater Management on November 21, 2022.



Jeremy P. Stutsman, Mayor



Mary Nichols, Member



Michael A. Landis, Member



MUNICIPAL ADVISORS

Baker Tilly Municipal Advisors, LLC
112 IronWorks Ave, Ste C
Mishawaka, IN 46544
United States of America

T: +1 (574) 935 5178
F: +1 (574) 935 5928
bakertilly.com

October 28, 2022

Greater Elkhart County Stormwater Partnership
4230 Elkhart Road
Goshen, Indiana 46526

Re: MS4 Financial Analysis - Elkhart County Stormwater Partners

Dear Board Members:

The attached schedules (listed below) present unaudited and limited information for the purpose of discussion and consideration in the preliminary planning stage of a Stormwater rate study by the appropriate officers, officials and advisors of the Utility and the use of these schedules should be restricted to this purpose, for internal use only.


Pages

PRO FORMA FINANCIAL DATA

- 2 Historical Financial Summary
- 3 - 7 Comparison of Account Balances with Minimum Balances Recommended
- 8 - 11 Pro Forma Annual Cash Operating Disbursements
- 12 Pro Forma Annual Revenue Requirements and Annual Operating Receipts - Before Annexation
- 13 Pro Forma Annual Revenue Requirements and Annual Operating Receipts - After Annexation
- 14 Schedule of Present and Proposed Rates and Charges

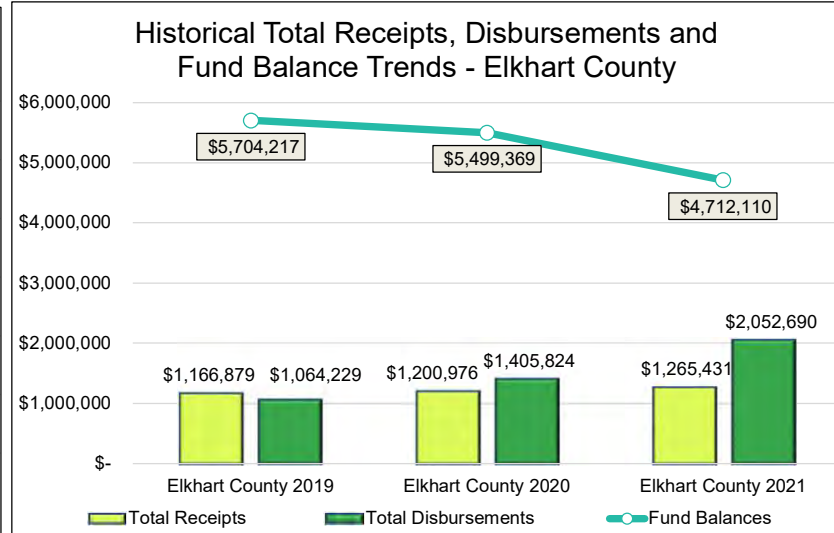
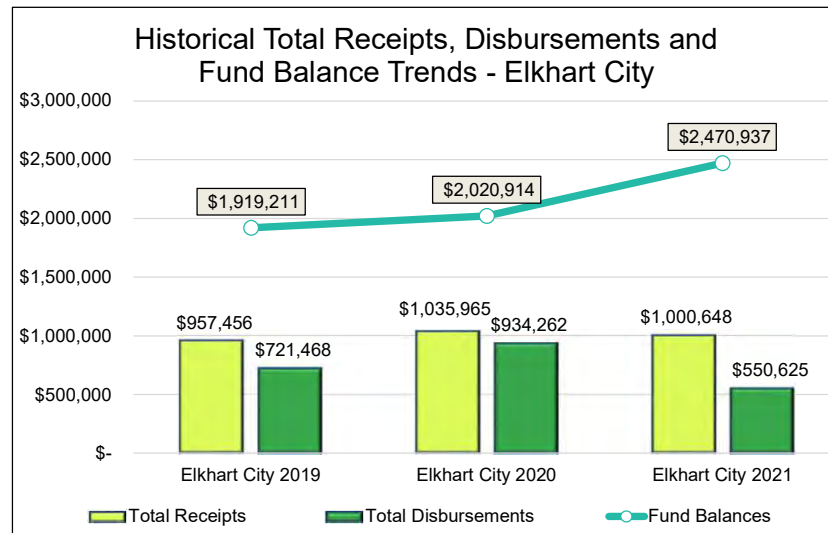
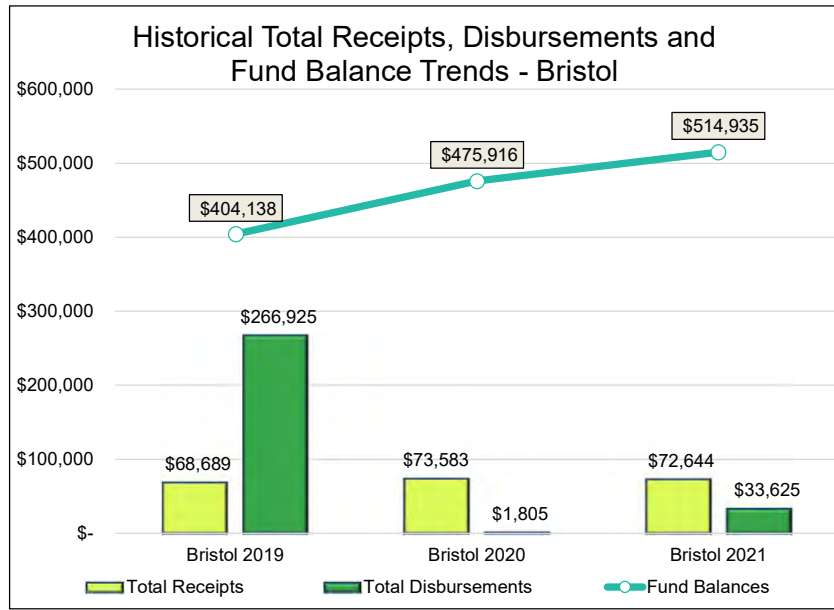
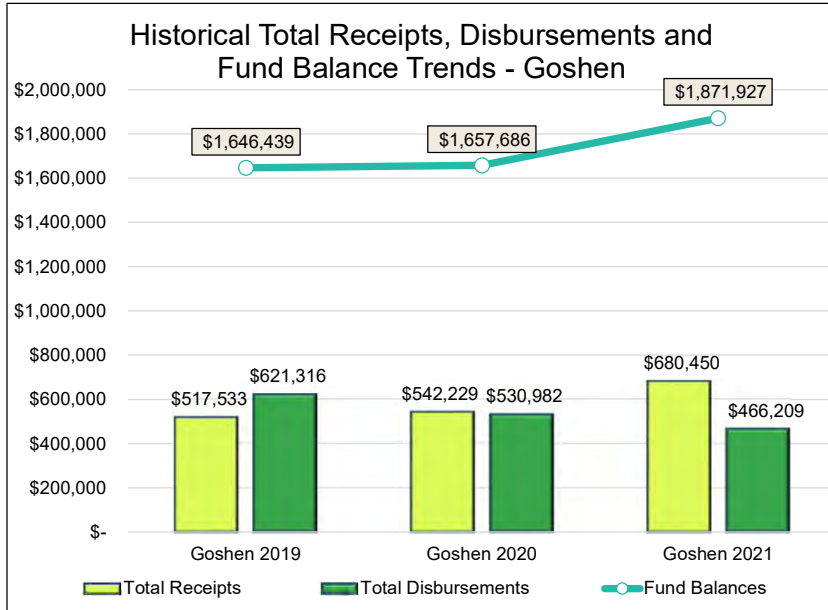
We would appreciate your questions or comments on this information and would provide additional information upon request.

Very truly yours,


Jeffrey P. Rowe, Partner

GREATER ELKHART COUNTY (INDIANA) STORMWATER PARTNERSHIP

HISTORICAL FINANCIAL SUMMARY



(Subject to the attached letter dated October 28, 2022)
(Internal Use Only)

GREATER ELKHART COUNTY (INDIANA) STORMWATER PARTNERSHIP

**BRISTOL COMPARISON OF ACCOUNT BALANCES WITH
MINIMUM BALANCES RECOMMENDED**

<u>Cash and Investments:</u>	<u>Account Balances 12/31/2021</u>	<u>Minimum Balance Recommended</u>	<u>Variance</u>
Stormwater MS-4 HR 9500 fund (1)	\$514,935	\$26,566	\$488,369
Stormwater improvement fund (2)	-	80,000	(80,000)
 Totals	 <u>\$514,935</u>	 <u>\$106,566</u>	 <u>\$408,369</u>

(1) **Stormwater MS-4 HR 9500 Fund:** The balance maintained in the stormwater MS-4 HR 9500 fund should be sufficient to pay the expenses of operation, repair, and maintenance of the utility for the next succeeding six (6) calendar months.

Pro Forma operation and maintenance disbursements (page 8)	\$53,132
Times factor for 6 months	<u>50.00%</u>
 Recommended Reserve	 <u>\$26,566</u>

(2) **Stormwater Improvement Fund:** No minimum balance required. However, as a general rule an amount equal to one year's budgeted capital expenditures is typically maintained in this account to provide a funding source for ongoing capital improvements.

Recommended Reserve	<u>\$80,000</u>
---------------------	-----------------

(Subject to the attached letter dated October 28, 2022)
(Internal Use Only)

GREATER ELKHART COUNTY (INDIANA) STORMWATER PARTNERSHIP

**GOSHEN COMPARISON OF ACCOUNT BALANCES WITH
MINIMUM BALANCES RECOMMENDED**

<u>Cash and Investments:</u>	<u>Account Balances 12/31/2021</u>	<u>Minimum Balance Recommended</u>	<u>Variance</u>
Stormwater Management Fund (1)	\$1,871,926	\$368,138	\$1,503,788
Stormwater improvement fund (2)	-	1,250,000	(1,250,000)
 Totals	 <u>\$1,871,926</u>	 <u>\$1,618,138</u>	 <u>\$253,788</u>

(1) **Stormwater Management Fund**: The balance maintained in the stormwater management fund should be sufficient to pay the expenses of operation, repair, and maintenance of the utility for the next succeeding six (6) calendar months.

Pro Forma operation and maintenance disbursements (page 9)	\$736,275
Times factor for 6 months	<u>50.00%</u>
Recommended Reserve	<u>\$368,138</u>

(2) **Stormwater Improvement Fund**: No minimum balance required. However, as a general rule an amount equal to one year's budgeted capital expenditures is typically maintained in this account to provide a funding source for ongoing capital improvements.

Recommended Reserve	<u>\$1,250,000</u>
---------------------	--------------------

(Subject to the attached letter dated October 28, 2022)
(Internal Use Only)

GREATER ELKHART COUNTY (INDIANA) STORMWATER PARTNERSHIP

**ELKHART CITY COMPARISON OF ACCOUNT BALANCES WITH
MINIMUM BALANCES RECOMMENDED**

<u>Cash and Investments:</u>	<u>Account Balances 12/31/2021</u>	<u>Minimum Balance Recommended</u>	<u>Variance</u>
Operating fund (1)	\$2,411,690	\$372,971	\$2,038,719
Capital fund (2)	59,246	1,600,000	(1,540,754)
Totals	<u>\$2,470,936</u>	<u>\$1,972,971</u>	<u>\$497,965</u>

(1) **Operating Fund:** The balance maintained in the operating fund should be sufficient to pay the expenses of operation, repair, and maintenance of the utility for the next succeeding six (6) calendar months.

Pro Forma operation and maintenance disbursements (page 10)	\$745,941
Times factor for 6 months	<u>50.00%</u>
Recommended Reserve	<u>\$372,971</u>

(2) **Capital Fund:** No minimum balance required. However, as a general rule an amount equal to one year's budgeted capital expenditures is typically maintained in this account to provide a funding source for ongoing capital improvements.

Recommended Reserve	<u>\$1,600,000</u>
---------------------	--------------------

(Subject to the attached letter dated October 28, 2022)
(Internal Use Only)

GREATER ELKHART COUNTY (INDIANA) STORMWATER PARTNERSHIP

**ELKHART COUNTY COMPARISON OF ACCOUNT BALANCES WITH
MINIMUM BALANCES RECOMMENDED**

<u>Cash and Investments:</u>	<u>Account Balances 12/31/2021</u>	<u>Minimum Balance Recommended</u>	<u>Variance</u>
Operating fund (1)	\$4,517,946	\$614,632	\$3,903,314
Stormwater improvement fund (2)	-	809,100	(809,100)
 Totals	 <u>\$4,517,946</u>	 <u>\$1,423,732</u>	 <u>\$3,094,214</u>

(1) **Operating Fund:** The balance maintained in the operating fund should be sufficient to pay the expenses of operation, repair, and maintenance of the utility for the next succeeding six (6) calendar months.

Pro Forma operation and maintenance disbursements (page 11)	\$1,229,264
Times factor for 6 months	<u>50.00%</u>
Recommended Reserve	<u>\$614,632</u>

(2) **Stormwater Improvement Fund:** No minimum balance required. However, as a general rule an amount equal to one year's budgeted capital expenditures is typically maintained in this account to provide a funding source for ongoing capital improvements.

Recommended Reserve	<u>\$809,100</u>
---------------------	------------------

(Subject to the attached letter dated October 28, 2022)
(Internal Use Only)

GREATER ELKHART COUNTY (INDIANA) STORMWATER PARTNERSHIP

**COMBINED COMPARISON OF ACCOUNT BALANCES WITH
MINIMUM BALANCES RECOMMENDED**

<u>Cash and Investments:</u>	<u>Account Balances 12/31/2021</u>	<u>Minimum Balance Recommended</u>	<u>Variance</u>
Operating fund (1)	\$9,316,497	\$1,382,306	\$7,934,191
Capital fund (2)	<u>59,246</u>	<u>3,739,100</u>	<u>(3,679,854)</u>
	<u><u>\$9,375,743</u></u>	<u><u>\$5,121,406</u></u>	<u><u>\$4,254,337</u></u>

(1) **Operating Fund:** The balance maintained in the operating fund should be sufficient to pay the expenses of operation, repair, and maintenance of the utility for the next succeeding six (6) calendar months.

Pro Forma operation and maintenance disbursements (page 8 - 11)	\$2,764,612
Times factor for 6 months	<u>50.00%</u>
Recommended Reserve	<u><u>\$1,382,306</u></u>

(2) **Capital Fund:** No minimum balance required. However, as a general rule an amount equal to one year's budgeted capital expenditures is typically maintained in this account to provide a funding source for ongoing capital improvements.

Recommended Reserve	<u><u>\$3,739,100</u></u>
---------------------	---------------------------

(Subject to the attached letter dated October 28, 2022)
(Internal Use Only)

GREATER ELKHART COUNTY (INDIANA) STORMWATER PARTNERSHIP

BRISTOL PRO FORMA ANNUAL CASH OPERATING DISBURSEMENTS

	<u>Calendar Year 2021</u>	<u>Adjustment</u>	<u>Ref.</u>	<u>Pro Forma</u>
Annual Operating Disbursement:				
Salaries and wages	\$ -	\$6,000	(1)	\$6,000
Contractual services	-	38,500	(2)	38,500
Miscellaneous	6,102			6,102
	<u>6,102</u>	<u>44,500</u>		<u>6,102</u>
Subtotal:	<u>\$6,102</u>	<u>\$44,500</u>		50,602
Unforeseen contingencies and inflation (5%)				<u>2,530</u>
Pro Forma Annual Cash Operating Disbursements				<u><u>\$53,132</u></u>

(1) To reflect current year budgeted wages per Town Manager.

(2) To reflect estimated annual ongoing future engineering costs per Town Manager.

(Subject to the attached letter dated October 28, 2022)
(Internal Use Only)

GREATER ELKHART COUNTY (INDIANA) STORMWATER PARTNERSHIP

GOSHEN PRO FORMA ANNUAL CASH OPERATING DISBURSEMENTS

	Calendar Year 2021	Adjustment	Ref.	Pro Forma
Annual Operating Disbursement:				
Salaries and wages	\$269,784	(\$56,884)	(1)	\$212,900
Employee pensions and benefits	129,094	(8,094)	(1)	121,000
Materials and supplies	1,470	4,403	(2)	5,873
Repairs and maintenance	3,462			3,462
Contractual services	37,205	17,446	(2)	54,651
Regulatory Fees	14,961			14,961
Miscellaneous	5,767			5,767
Additional operating costs	-	317,661	(3)	317,661
Totals	\$461,743	\$274,532		\$736,275

(1) To reflect utility management estimates for future staffing costs.

(2) Based on 3-year historical average.

(3) Based on estimated additional costs that are currently paid by sources outside of the Stormwater Utility that are anticipated to be fully paid by Stormwater by 2024, per the Stormwater Coordinator.

(Subject to the attached letter dated October 28, 2022)
(Internal Use Only)

GREATER ELKHART COUNTY (INDIANA) STORMWATER PARTNERSHIP

ELKHART CITY PRO FORMA ANNUAL CASH OPERATING DISBURSEMENTS

	<u>Calendar Year 2021</u>	<u>Adjustment</u>	<u>Ref.</u>	<u>Pro Forma</u>
Annual Operating Disbursement:				
Salaries and wages	\$269,248	\$66,139	(1)	\$335,387
Employee pensions and benefits	82,968	52,297	(1)	135,265
Materials and supplies	77,800			77,800
Contractual services	33,463	66,537	(2)	100,000
Regulatory Fees	30,221			30,221
Miscellaneous	45,488	(13,741)	(2)	31,747
	<u>\$539,188</u>	<u>\$171,232</u>		710,420
Subtotal:				710,420
Unforeseen contingencies and inflation (5%)				<u>35,521</u>
Pro Forma Annual Cash Operating Disbursements				<u><u>\$745,941</u></u>

- (1) Adjustments to include an allowance for two currently vacant positions to be filled.
- (2) Per City Stormwater Manager.

(Subject to the attached letter dated October 28, 2022)
(Internal Use Only)

GREATER ELKHART COUNTY (INDIANA) STORMWATER PARTNERSHIP

ELKHART COUNTY PRO FORMA ANNUAL CASH OPERATING DISBURSEMENTS

	<u>Calendar Year 2021</u>	<u>Adjustment</u>	<u>Ref.</u>	<u>Pro Forma</u>
Annual Operating Disbursement:				
Salaries and wages	\$380,388			\$380,388
Employee pensions and benefits	61,757			61,757
Materials and supplies	277,753			277,753
Repairs and maintenance	92,560	(\$44,783)	(1)	47,777
Contractual services	246,369	(49,983)	(1)	196,386
Regulatory Fees	103,562			103,562
Insurance	80,178			80,178
Miscellaneous	22,927			22,927
	<hr/>	<hr/>		<hr/>
Subtotal:	<u>\$1,265,494</u>	<u>(\$94,766)</u>		1,170,728
				<hr/>
Unforeseen contingencies and inflation (5%)				58,536
				<hr/>
Pro Forma Annual Cash Operating Disbursements				<u>\$1,229,264</u>

(1) Based on 3-year historical average.

(Subject to the attached letter dated October 28, 2022)
(Internal Use Only)

GREATER ELKHART COUNTY (INDIANA) STORMWATER PARTNERSHIP

**PRO FORMA ANNUAL REVENUE REQUIREMENTS
AND ANNUAL OPERATING RECEIPTS - BEFORE ANNEXATION**
(Amounts rounded to the nearest \$100)

	<u>Individual Revenue Requirements</u>				<u>Combined Revenue Requirements</u>
	<u>Bristol</u>	<u>Goshen</u>	<u>Elkhart City</u>	<u>Elkhart County</u>	
<u>Revenue Requirements:</u>					
Operation and maintenance disbursements (pages 8 - 11)	\$53,100	\$736,300	\$745,900	\$1,229,300	\$2,764,600
Allowance for replacements and improvements	80,000 (1)	1,250,000 (2)	1,600,000 (1)	809,100 (3)	3,739,100
Total Annual Revenue Requirements	133,100	1,986,300	2,345,900	2,038,400	6,503,700
Less miscellaneous receipts	-	(137,500) (4)	-	-	(137,500)
Net Annual Revenue Requirements	<u>\$133,100</u>	<u>\$1,848,800</u>	<u>\$2,345,900</u>	<u>\$2,038,400</u>	<u>\$6,366,200</u>
<u>Annual Receipts:</u>					
Stormwater fees current (5)	\$72,600	\$543,000	\$1,000,600	\$1,032,100	\$2,648,300
Additional stormwater fees from proposed rate increase (6)	101,900	762,300	1,404,700	1,449,000	3,717,900
Total estimated stormwater receipts after rate increase	<u>\$174,500</u>	<u>\$1,305,300</u>	<u>\$2,405,300</u>	<u>\$2,481,100</u>	<u>\$6,366,200</u>
Surplus/(shortfall)	<u>\$41,400</u>	<u>(\$543,500)</u>	<u>\$59,400</u>	<u>\$442,700</u>	<u>\$ -</u>

(1) Per Town/Stormwater Manager.

(2) Based on the average annual capital improvement costs from the 5-year capital plan provided by the City's Stormwater Coordinator.

(3) Based on 3-year historical average after adjusting to remove special projects, plus an allowance of \$500,000 for future special projects.

(4) Based on a 3-year historical average after adjusting to remove payroll reimbursements accounted for in the operation and maintenance disbursements.

(5) Based on calendar year 2021 actual receipts.

(6) Based on 2021 Stormwater receipts times the proposed combined rate increase as reflected on page 2 of the Rate Study dated November 4, 2022.

(Subject to the attached letter dated October 28, 2022)
(Internal Use Only)

GREATER ELKHART COUNTY (INDIANA) STORMWATER PARTNERSHIP

**PRO FORMA ANNUAL REVENUE REQUIREMENTS
AND ANNUAL OPERATING RECEIPTS - AFTER ANNEXATION**
(Amounts rounded to the nearest \$100)

	<u>Individual Revenue Requirements</u>				<u>Combined Revenue Requirements</u>
	<u>Bristol</u>	<u>Goshen</u>	<u>Elkhart City</u>	<u>Elkhart County</u>	
<u>Revenue Requirements:</u>					
Operation and maintenance disbursements (pages 8 - 11)	\$53,100	\$736,300	\$745,900	\$1,229,300	\$2,764,600
Allowance for replacements and improvements	80,000 (1)	1,250,000 (2)	1,600,000 (1)	809,100 (3)	3,739,100
Total Annual Revenue Requirements	133,100	1,986,300	2,345,900	2,038,400	6,503,700
Less miscellaneous receipts	-	(137,500) (4)	-	-	(137,500)
Net Annual Revenue Requirements	<u>\$133,100</u>	<u>\$1,848,800</u>	<u>\$2,345,900</u>	<u>\$2,038,400</u>	<u>\$6,366,200</u>
<u>Annual Receipts:</u>					
Stormwater fees current (5)	\$72,600	\$543,000	\$1,000,600	\$1,032,100	\$2,648,300
Additional stormwater fees from proposed rate increase (6)	101,900	762,300	1,404,700	1,449,000	3,717,900
Approximate Annexed property receipt adjustments (7)	-	200	40,000	(40,200)	-
Total estimated stormwater receipts after rate increase and annexation	<u>\$174,500</u>	<u>\$1,305,500</u>	<u>\$2,445,300</u>	<u>\$2,440,900</u>	<u>\$6,366,200</u>
Surplus/(shortfall)	<u>\$41,400</u>	<u>(\$543,300)</u>	<u>\$99,400</u>	<u>\$402,500</u>	<u>\$ -</u>

(1) Per Town/Stormwater Manager.

(2) Based on the average annual capital improvement costs from the 5-year capital plan provided by the City's Stormwater Coordinator.

(3) Based on 3-year historical average after adjusting to remove special projects, plus an allowance of \$500,000 for future special projects.

(4) Based on a 3-year historical average after adjusting to remove payroll reimbursements accounted for in the operation and maintenance disbursements.

(5) Based on calendar year 2021 actual receipts.

(6) Based on 2021 Stormwater receipts times the proposed combined rate increase as reflected on page 2 of the Rate Study dated November 4, 2022.

(7) Based on 2021 ERU amounts for the anticipated annexed properties as provided by Stormwater management.

(Subject to the attached letter dated October 28, 2022)
(Internal Use Only)

GREATER ELKHART COUNTY (INDIANA) STORMWATER PARTNERSHIP

SCHEDULE OF PRESENT AND PROPOSED RATES AND CHARGES

<u>Annual Rate per Customer Type:</u>	<u>Present</u>	<u>Phase I</u>	<u>Proposed Phase II</u>	<u>Phase III</u>
		(2)	(2)	(2)
Residential	\$15.00	\$22.05	\$29.10	\$36.10
Non-Residential (per ERU) (1)	15.00	22.05	29.10	36.10

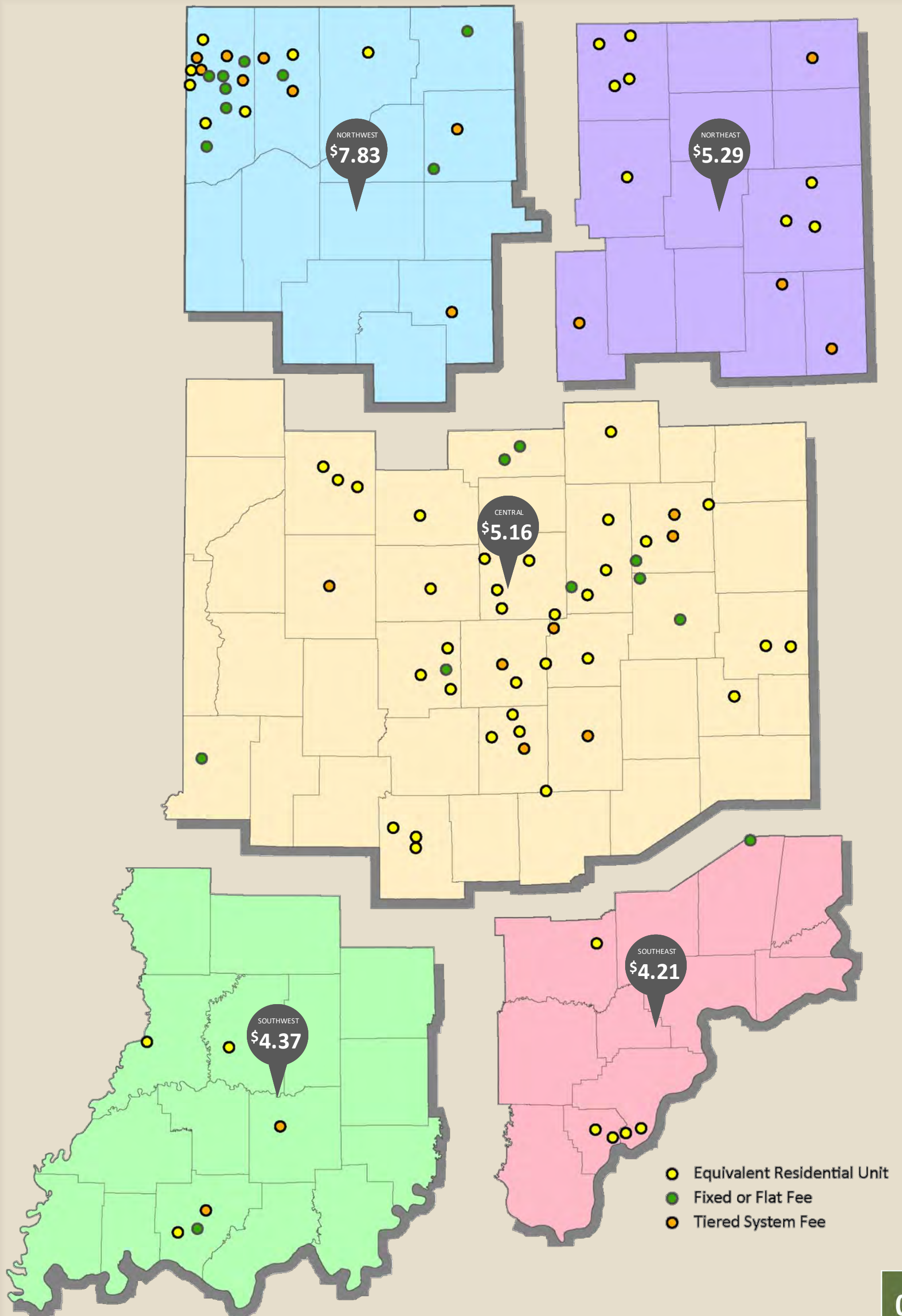
(1) 1 ERU (Equivalent Residential Unit) = 3,600 square feet

(2) Based on the rate increase proposed on page 2 of the Rate Study dated November 4, 2022. The increase is proposed to be split across three phases.

(Subject to the attached letter dated October 28, 2022)
(Internal Use Only)

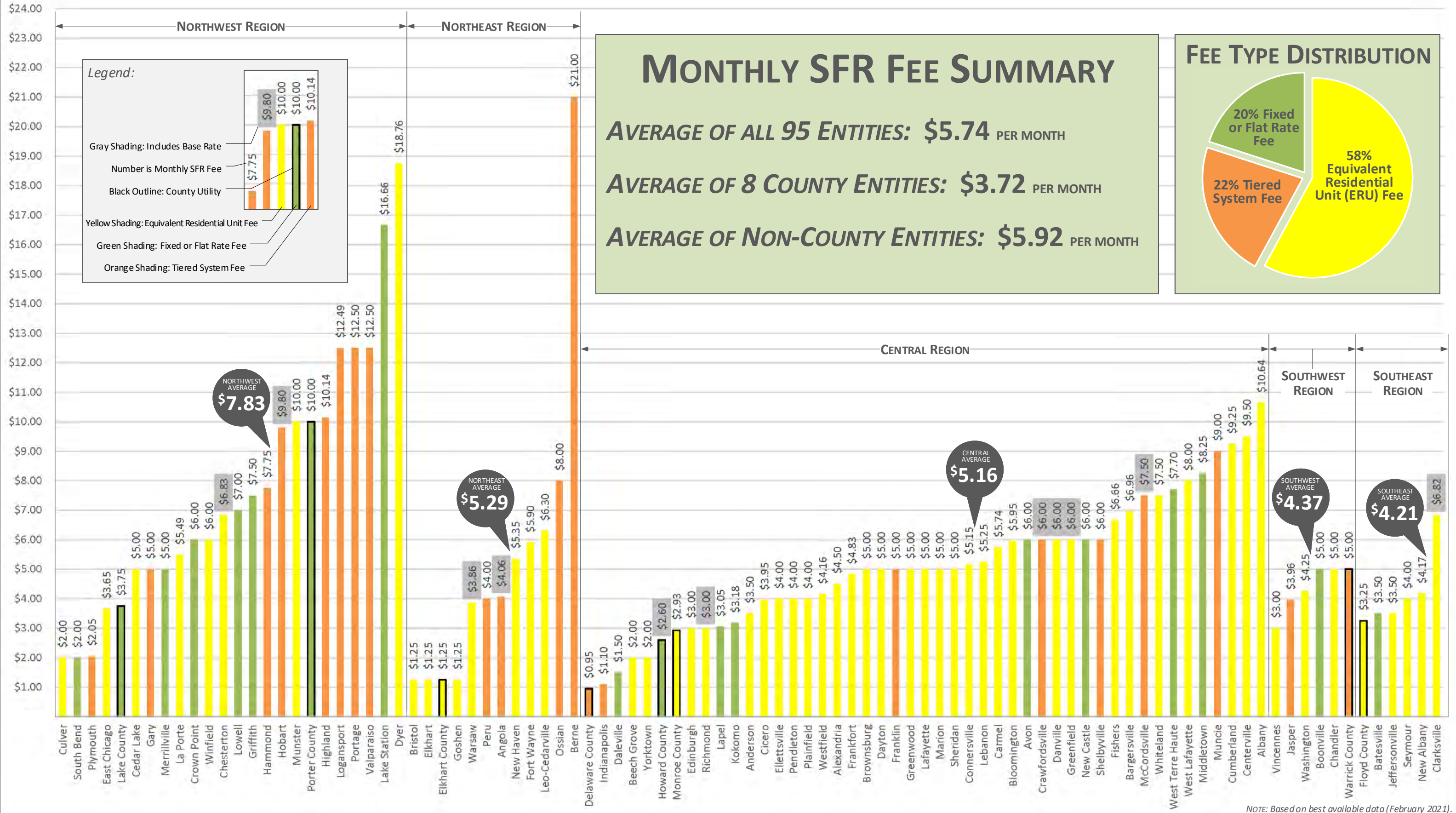
AVERAGE MONTHLY SFR STORMWATER FEE

BY REGION



INDIANA STORMWATER UTILITIES

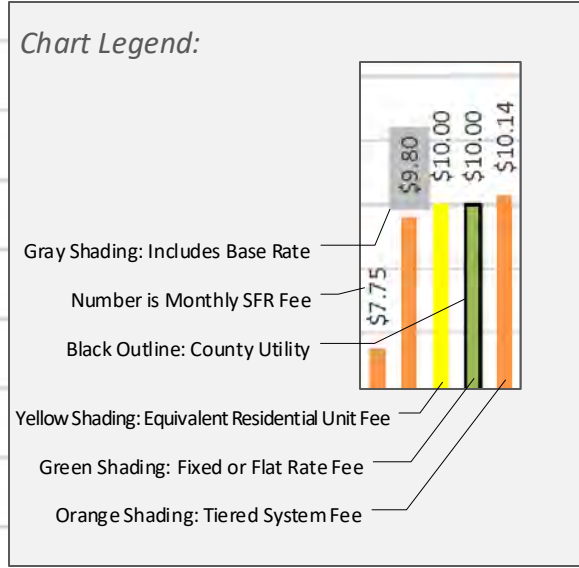
MONTHLY SFR FEES AND FEE TYPES



NOTE: Based on best available data (February 2021).

INDIANA STORMWATER UTILITIES

MONTHLY SFR FEES AND FEE TYPES

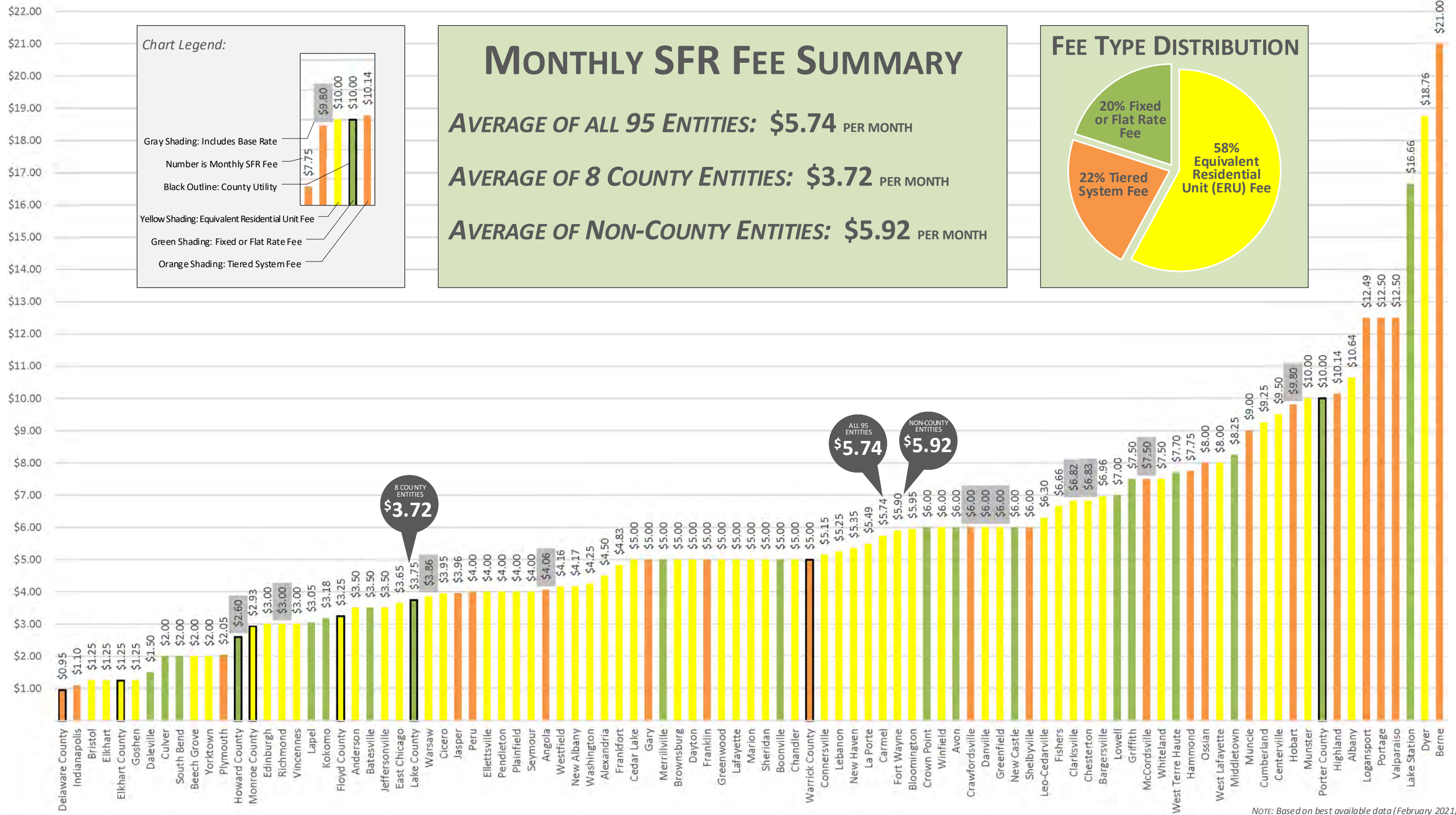
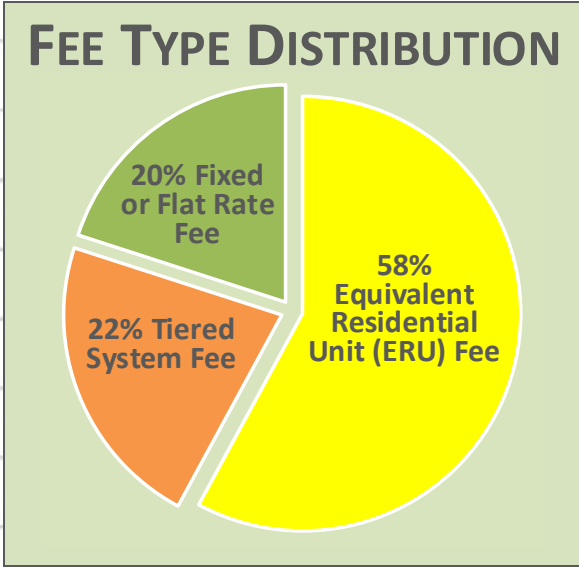


MONTHLY SFR FEE SUMMARY

AVERAGE OF ALL 95 ENTITIES: \$5.74 PER MONTH

AVERAGE OF 8 COUNTY ENTITIES: \$3.72 PER MONTH

AVERAGE OF NON-COUNTY ENTITIES: \$5.92 PER MONTH



NOTE: Based on best available data (February 2021).

ORDINANCE 5150

Additional Appropriations

WHEREAS it has been determined that it is necessary to appropriate more money than the amount appropriated in the current year’s annual budget,

WHEREAS pursuant to notice given, the Goshen Common Council conducted a public hearing on the proposed additional appropriation,

NOW THEREFORE, BE IT ORDAINED that Goshen Common Council makes the following additional appropriation of money in excess of the current year’s budget for the fund(s) named:

<u>ECONOMIC IMPROVEMENT DISTRICT FUND</u> 219-570-00-431.0503 EID / Professional Services	\$40,000.00
<u>CUMULATIVE CAPITAL IMPROVEMENT – FIRE STATION</u> 433-510-00-445.0501 CCI FIRE / Other Equipment	\$135,000.00
<u>PLYMOUTH AVENUE TIF</u> 484-560-00-442.0000 TIF PLYM AVE / Capital Projects	\$7,614.41

PASSED by the Goshen Common Council on _____, 2022.

Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on _____, 2022, at _____ a.m./p.m.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on _____, 2022.

Jeremy P. Stutsman, Mayor



**Engineering Department
CITY OF GOSHEN**

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

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

MEMORANDUM

TO: City Council

FROM: Engineering Department

RE: **BLACKPORT DRIVE RECONSTRUCTION – DES# 2100020
INDOT/LPA AGREEMENT
PN: 2022-0016**

DATE: December 19, 2022

The Redevelopment Commission previously approved an Local Public Agency/Consultant agreement with BLN (Beam, Longest, & Neff, the City's engineering consulting firm) for the Blackport Drive Reconstruction for a maximum payable amount that shall not exceed \$936,200. The City of Goshen is responsible for 20% of the contract amount, or \$187,240. The current estimated construction cost for the project is \$4,901,000 and the current estimate for right-of-way acquisition is \$1,300,000. While the \$936,200 design fee is a higher percentage of the construction estimate than what is typical, the higher fee is standard for projects with significant design complexities similar to what is expected with the proposed Blackport project.

On December 13th, the Redevelopment Commission approved the INDOT/LPA agreement for the Blackport project with a 3-1 vote. At this time, we are requesting the Council's approval and execution of the INDOT/LPA Agreement for the Blackport Drive Reconstruction. The amount shown in the contract is \$480,000, which is the 80% of the original \$600,000 approved for PE and the amount currently included in MACOG's TIP. However, language in the contract states that any amendment to the amount included in the TIP is considered an amendment to the contract amount. MACOG already has an amendment for the full amount (80% of \$936,200, or \$748,960) that is on the agenda for the December meeting of the Policy Board. While waiting for an updated contract is an option, it is not necessary and will likely delay progress on the project several months until MACOG's TIP and the contract can be processed and updated.

Attached with this memo is an email correspondence between staff, MACOG, and INDOT confirming the above.

Thank you for your consideration of this request.

**GOSHEN COMMON COUNCIL
RESOLUTION 2022-28**

**Project Coordination Contract with the State of Indiana
for the Preliminary Engineering for the
Pavement Replacement Project on Blackport Drive**

WHEREAS the City of Goshen has applied, and the Indiana Department of Transportation (InDOT) has approved the City's application for federal funds for the preliminary engineering services for the pavement replacement project on Blackport Drive from East Monroe Street to East Lincoln Avenue (hereinafter referred to as the "Project").

WHEREAS federal funds will be made available to pay eighty percent (80%) of eligible Project costs. The maximum amount of federal funds allocated to the Project is dependent upon the Metropolitan Planning Organization's current Transportation Improvement Program (TIP) allocation. As of November 21, 2022, the maximum amount of federal funds allocated is \$480,000 according to the TIP dated September 14, 2022.

WHEREAS the City agrees to fund the City's share of cost for this Project, including any cost in excess of the City's twenty percent (20%) of eligible Project costs which are not covered by federal funds.

WHEREAS the Goshen Redevelopment Commission approved the terms and conditions of the Project Coordination Contract on December 13, 2022, and agreed to fund the City's share of cost for this Project, including any cost in excess of the City's twenty percent (20%) of eligible Project costs which are not covered by federal funds.

WHEREAS pursuant to Indiana Code § 36-1-7 et seq., a power that may be exercised by one governmental entity may be exercised by one entity on behalf of another governmental entity if the entities enter into a written agreement under Indiana Code § 36-1-7-3.

WHEREAS all aspects for the completion of the Project will be coordinated between the City and InDOT pursuant to the terms and conditions of the Project Coordination Contract attached to this resolution.

NOW, THEREFORE, BE IT RESOLVED that the Goshen Common Council approves the terms and conditions of the Project Coordination Contract with the State of Indiana for the Project attached to and made a part of this resolution.

BE IT FURTHER RESOLVED that pursuant to Section III, paragraph 3.4 of the Project Coordination Contract, the Goshen Common Council authorizes payment to InDOT for the City's share of the Project costs in accordance with the terms of Attachment A of the Project Coordination Contract, and further authorizes the City to fulfill all other pre-letting obligations of the Project Coordination Contract.

PASSED by the Goshen Common Council on _____, 20____.

Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on _____, 20____, at the
hour of ____:____ __.m.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on _____, 20____.

Jeremy P. Stutsman, Mayor

INDIANA DEPARTMENT OF TRANSPORTATION - LOCAL PUBLIC AGENCY

PROJECT COORDINATION CONTRACT

CONTRACT #0000000000000000000068924

Des. No.: 2100020

LPA DUNS/UEI #SN1FLHNTQJZ3

CFDA No.: 20.205

This Contract is entered into by and between the State of Indiana, acting by and through the Indiana Department of Transportation, (hereinafter referred to as "INDOT"), and the CITY OF GOSHEN, a local public agency in the State of Indiana (hereinafter referred to as the "LPA"), and collectively referred to as the "PARTIES" is executed pursuant to the terms and conditions set forth herein and shall be effective as of the date of approval by the Office of the Indiana Attorney General. In consideration of those mutual undertakings and covenants, the PARTIES agree as follows:

NOTICE TO PARTIES

Whenever any notice, statement or other communication is required under this Contract, it shall be sent to the following address, unless otherwise specifically advised.

- A. Notice to INDOT, regarding contract provisions shall be sent to:

Office of LPA and Grant Administration
Attention: Director of LPA and Grant Administration
100 North Senate Avenue, Room N758-LPA
Indianapolis, Indiana 46204

With a copy to:

Chief Legal Counsel and Deputy Commissioner
Indiana Department of Transportation
100 North Senate Avenue, Room N758-Legal
Indianapolis, Indiana 46204

- B. Notices to INDOT regarding project management shall be sent to respective District Office:

INDOT Fort Wayne District
5333 Hatfield Road
Fort Wayne, Indiana 46808

- C. Notices to the LPA shall be sent to:

City of Goshen
202 South Fifth Street
Suite 1
Goshen, IN 46528

submittal in accordance with INDOT's modifications or comments, if any. If the LPA fails to provide a submittal, untimely provides the submittal, or the submittal is not approvable, the schedule, cost, and federal funds for the Project may be jeopardized.

- 2.5. The LPA shall complete all right-of-way acquisition, utility coordination and acquire the necessary permit(s) and submit documentation of such to INDOT. The utility coordination shall be in accordance with 105 IAC 13.
- 2.6. If the LPA fails to meet any of the requirements of Sections 2.1, 2.2, 2.4, or 2.5 above, INDOT will not let the construction Project. If INDOT, and FHWA where necessary, approve LPA's submittals, INDOT shall schedule the Project for letting at the next reasonable date.
- 2.7. The cost of the invoice of the construction, utility, and/or railroad work shall be paid by the LPA no later than thirty (30) calendar days from the date of letting.
- 2.8. The LPA shall make timely payments of costs to INDOT to avoid delays and increased costs to the Project. If the LPA fails to make timely payments of the full amount invoiced by INDOT, within sixty (60) calendar days past the due date, INDOT shall be authorized to cancel all contracts relating to this Contract, including the contracts listed in II.A.1 of **Attachment A**, which is attached hereto and incorporated herein by referenced, and/or proceed in accordance with I.C. 8-14-1-9 to compel the Auditor of the State of Indiana to make a mandatory transfer of funds from the LPA's allocation of the Motor Vehicle Highway Account to INDOT's account.
- 2.9. The LPA shall be responsible for all costs associated with additional provisions and/or expenses in excess of the federal funds allocated to the Project. The LPA, in conjunction with FHWA (if applicable) and INDOT shall review and approve all change orders submitted by the field Project Engineer/Supervisor, and such approvals shall not be unreasonably withheld.
- 2.10. The LPA shall provide competent and adequate engineering, testing, and inspection service to ensure the performance of the work is in accordance with the construction contract, plans and specifications and any special provisions or approved change orders. If, in INDOT's opinion, the services enumerated in this Section are deemed to be incompetent, inadequate or are otherwise insufficient, or if a dispute arises, INDOT shall, in its sole discretion, have the right to supplement the services or replace the engineers or inspectors providing these services at the sole expense of the LPA.
 - 2.10.1. If project inspection will be provided by full-time LPA employees, the personnel must be employees of the LPA. Temporary employment or retainage-based payments are not permissible. INDOT must pre-approve, in writing, the LPA's personnel. Only costs incurred after INDOT's written notice to proceed to the LPA shall be eligible for federal-aid participation. All claims for federal aid shall be submitted to the District office, referenced on Page 1 of the Contract for payment.
 - 2.10.2. If project inspection will be provided by the LPA's consultant, INDOT must approve, in writing, the consultant personnel prior to their assignment to the Project. The LPA shall execute a contract with a consultant setting forth the scope of work and fees. The LPA shall submit this contract to INDOT prior to INDOT's Ready for Contracts date for the Project. Only costs incurred after INDOT's written notice to proceed to the LPA and the LPA's written notice to proceed to the consultant shall be eligible for federal aid participation. All claims for federal aid shall be submitted to the District office, referenced on page 1 of this Contract for payment.
- 2.11. The LPA shall submit reports, including but not limited to quarterly reports, to INDOT regarding the Project's progress and the performance of work per INDOT standard reporting methods. If the required reports are not submitted, federal funds may be withheld.

- 2.12.** The LPA hereby agrees that all utilities which cross or otherwise occupy the right-of-way of said Project shall be regulated on a continuing basis by the LPA in accordance with INDOT's Utility Procedure and Accommodation Policy (See <http://www.in.gov/indot/2389.htm>). The LPA shall execute written use and occupancy contracts as defined in this Policy.
- 2.13.** If FHWA or INDOT invokes sanctions per Section 6.6.2. of this Contract, or otherwise denies or withholds federal funds (hereinafter called a citation or cited funds) for any reason and for all or any part of the Project, the LPA agrees as follows:
- 2.13.1.** In the event of a correctable noncompliance, the LPA shall make the corrections to the satisfaction of FHWA and INDOT in a reasonable amount of time. In the event the LPA fails to make the required corrections, Sections 2.14.2 and 2.14.3 (as applicable) shall apply.
- 2.13.2.** In the event a citation for noncompliance: (1) is unable to be corrected, (2) the LPA fails to make corrections, (3) the LPA makes corrections which are not acceptable to FHWA and INDOT, or (4) for whatever reason the FHWA citation continues in force beyond a reasonable amount of time, Section 2.14.2 shall apply and adjustments shall be made as follows:
- A. The LPA shall reimburse INDOT the total amount of all right-of-way costs that are subject to FHWA citation which have been paid by INDOT to the LPA.
 - B. If no right-of-way costs have been paid by INDOT to the LPA or on the LPA's behalf, INDOT shall not pay any claim or billing for right-of-way that is subject to the FHWA citation.
 - C. The LPA is not entitled to bill INDOT or to be reimbursed for any of its right-of-way liabilities or costs that are subject to any FHWA citation in force.
- 2.13.3.** If FHWA issues a citation denying or withholding all or any part of construction costs due to LPA's noncompliance with right-of-way requirements, and construction work has commenced, the following shall apply:
- A. INDOT may elect to terminate, suspend, or continue construction work in accordance with the provisions of the construction contract.
 - B. INDOT may elect to pay its obligations under the provisions of the construction contract.
 - C. If the noncompliance can be corrected, the LPA shall make the corrections in a reasonable amount of time to the satisfaction of FHWA and INDOT.
 - D. In the event a citation for noncompliance: (1) is unable to be corrected, (2) the LPA fails to make corrections, (3) the LPA makes corrections which are not acceptable to FHWA and INDOT, or (4) for whatever reason the FHWA citation continues in force beyond a reasonable amount of time, and construction work has been terminated or suspended, the LPA shall reimburse INDOT the full amount the LPA paid for said construction work, less the amount of federal funds allowed by FHWA.
- 2.13.4.** The LPA shall reimburse INDOT the total cost of the Project, not eligible for federal participation.
- 2.13.5.** If for any reason INDOT is required to repay to FHWA the sum(s) of federal funds paid to the LPA or any other entity through INDOT under the terms of this Contract, then the LPA shall repay to INDOT such sum(s) within forty-five (45) days after receipt of an invoice

from INDOT. Payment for any and all costs incurred by the LPA which are not eligible for federal funding shall be the sole obligation of the LPA.

III. INDOT RESPONSIBILITIES.

- 3.1. INDOT shall have full authority and access to inspect and review all plans, specifications, and special provisions for the Project, regardless of when those plans, specifications, special provisions, or other such Project documents were created.
- 3.2. After the LPA has submitted and INDOT has accepted all pre-letting documents, INDOT will prepare the Engineer's Estimate for construction of the Project.
- 3.3. If the LPA owes INDOT money which is more than sixty (60) days past due, INDOT will not open the construction bids for the Project.
- 3.4. Not later than sixty (60) calendar days after receipt by INDOT of a certified copy of a resolution from the LPA's fiscal body authorizing the LPA to make payment to INDOT according to the terms of **Attachment A**, and fulfillment of all other pre-letting obligations of this Contract, INDOT shall, in accordance with applicable laws and rules, including I.C. 8-23-9, I.C. 8-23-10, and 105 I.A.C. 11, conduct a scheduled letting.
- 3.5. Subject to the LPA's written approval, INDOT shall award the construction contract for the Project according to applicable laws and rules.
- 3.6. Not later than seven (7) calendar days after INDOT awards the construction contract described above, INDOT shall invoice the LPA for the LPA's share of the construction cost.
- 3.7. If INDOT has received the LPA's share of the Project construction cost and if the lowest qualified bidder has not otherwise been disqualified, INDOT shall issue notice to proceed for the Project to the contractor within fourteen (14) calendar days of its receipt of the LPA's share of the construction cost.
- 3.8. INDOT shall have the right and opportunity to inspect any construction under this Contract to determine whether the construction is in conformance with the plans and specifications for the Project.
- 3.9. In the event the engineering, testing, and inspection services provided by the LPA, in the opinion of INDOT, are deemed to be incompetent or inadequate or are otherwise insufficient or a dispute arises, INDOT shall, in its sole discretion, have the right to supplement the engineering, testing, and inspection force or to replace engineers or inspectors employed in such work at the expense of the LPA. INDOT's engineers shall control the work the same as on other federal aid construction contracts.
- 3.10. After the final Project audit is approved by INDOT, the LPA shall, within forty-five (45) days after receipt of INDOT's invoice, make final payment to INDOT pursuant to **Attachment A** or INDOT shall, within forty-five (45) days after approval of the audit, refund any Project overpayment to the LPA.

IV. PROJECT FUNDS.

- 4.1. INDOT will not share in the cost of the Project. INDOT will disburse funds from time to time; however, INDOT will be reimbursed by the Federal Highway Administration (FHWA) or the LPA. Payment will be made for the services performed under this Contract in accordance with **Attachment A** (Project Funds).

V. TERM AND SCHEDULE.

- 5.1. If the LPA has the plans, special provisions, and cost estimate (list of pay items, quantities, and unit prices) for the Project ready such that federal funds can be obligated (INDOT obligates the funds about 7 weeks before the date bids are opened for the construction contract), between **July 1, 2025 and June 30, 2026**, INDOT will make the federal funds shown in Section I.B. and/or Section I.C. of **Attachment A** available for the Project, provided the Project is eligible, and provided the federal funds shown in Section I.B. of **Attachment A** are available.
- 5.2. In the event that federal funds for the Project are not obligated during the time listed in Section 5.1, but the LPA has the plans, special provisions, and cost estimate for the Project ready such that federal funds can be obligated between **July 1, 2026 and June 30, 2028**, INDOT will schedule the contract for letting, provided the Project is eligible, and provided the federal funds shown in Section I.B. and/or Section I.C. of **Attachment A** are available.
- 5.3. In the event that federal funds for the Project are not obligated during the period listed in Section 5.1 or Section 5.2, the federal funds allocated to the Project may be obligated in the fiscal year chosen by INDOT or the federal funds allocated to the Project will lapse. If the LPA provides notice to INDOT that any purchase order can be closed for any phase of the Project, then the federal funds that had been obligated and/or allocated to the Project shall be forfeited by the LPA as of the date of the notice. If a purchase order for any phase goes inactive after nine months, the federal funds shall be forfeited by the LPA.
- 5.4. If the Program is Group I or Group II, Sections 5.1, 5.2 and 5.3 do not apply, but will be obligated according to the fiscal year programmed in the most current MPO TIP, provided the MPO funding is within their fiscal year allocation.

VI. GENERAL PROVISIONS

- 6.1. **Access to Records.** The LPA shall maintain all books, documents, papers, correspondence, accounting records and other evidence pertaining to the cost incurred under this Contract, and shall make such materials available at their respective offices at all reasonable times during the period of this Contract and for five (5) years from the date of final payment under the terms of this Contract, for inspection or audit by INDOT and/or the Federal Highway Administration ("FHWA") or its authorized representative, and copies thereof shall be furnished free of charge, if requested by INDOT, and/or FHWA. The LPA agrees that, upon request by any agency participating in federally-assisted programs with whom the LPA has contracted or seeks to contract, the LPA may release or make available to the agency any working papers from an audit performed by INDOT and/or FHWA of the LPA in connection with this Contract, including any books, documents, papers, accounting records and other documentation which support or form the basis for the audit conclusions and judgments.
- 6.2. **Assignment of Antitrust Claims.** As part of the consideration for the award of this Contract, the LPA assigns to the State all right, title and interest in and to any claims the LPA now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.
- 6.3. **Audits.** The LPA acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC §5-11-1, *et seq.*, and audit guidelines specified by the State. The State considers the LPA to be a "sub-recipient" for purposes of this Contract. However, if required by applicable provisions of the Office of Management and Budget Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations), following the expiration of this Contract the LPA shall arrange for a financial and compliance audit of funds provided by the State pursuant to this Contract. Such audit is to be conducted by an independent public or certified public accountant (or as applicable, the Indiana State Board of Accounts), and performed in accordance with Indiana State Board of Accounts publication entitled

"Uniform Compliance Guidelines for Examination of Entities Receiving Financial Assistance from Governmental Sources," and applicable provisions of the Office of Management and Budget Circulars A-133 (Audits of States, Local Governments, and Non-Profit Organizations). The LPA is responsible for ensuring that the audit and any management letters are completed and forwarded to the State in accordance with the terms of this Contract.

For audits conducted pursuant to Indiana Code 5-11-1, and audited by the Indiana State Board of Accounts on the time schedule set forth by the Indiana State Board of Accounts, the LPA shall provide to the Indiana State Board of Accounts, all requested documentation necessary to audit the Local Public Agency in its entirety.

If the audit is conducted by an independent public or certified public account and not the Indiana State Board of Accounts, the LPA shall submit the completed audit to the Indiana State Board of Accounts within 10 (ten) days of the completion of the audit.

The audit shall be an audit of the actual entity, or distinct portion thereof that is the LPA, and not of a parent, member, or subsidiary corporation of the LPA, except to the extent such an expanded audit may be determined by the Indiana State Board of Accounts or the State to be in the best interests of the State.

6.4. Authority to Bind LPA. The signatory for the LPA represents that he/she has been duly authorized to execute this Contract on behalf of the LPA, and has obtained all necessary or applicable approvals to make this Contract fully binding upon the LPA when his/her signature is affixed and accepted by the State.

6.5. Certification for Federal-Aid Contracts Lobbying Activities. The LPA certifies, by signing and submitting this Contract, to the best of its knowledge and belief that the LPA has complied with Section 1352, Title 31, U.S. Code, and specifically, that:

A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the LPA, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal agreement, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan, or cooperative agreement.

B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal agreement, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, (Disclosure Form to Report Lobbying), in accordance with its instructions.

C. The LPA also agrees by signing this Contract that it shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

6.6. Compliance with Laws.

6.6.1. The LPA shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations there under, after execution of this

Contract shall be reviewed by INDOT and the LPA to determine whether the provisions of this Contract require formal modification.

- 6.6.2. The LPA acknowledges that federal requirements provide for the possible loss of federal funding to one degree or another when the requirements of Public Law 91-646 and other applicable federal and state laws, rules and regulations are not complied with.
- 6.6.3. The LPA acknowledges paragraph 7 of the Federal Highway Program Manual, Volume 7, Chapter 1, Section 3, entitled "Withholding Federal Participation" which is herewith quoted in part as follows: "Where correctable noncompliance with provisions of law or FHWA requirements exist, federal funds may be withheld until compliance is obtained. Where compliance is not correctable, the FHWA may deny participation in parcel or project costs in part or in total."
- 6.6.4. The LPA and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC §4-2-6, *et seq.*, IC §4-2-7, *et seq.* and the regulations promulgated thereunder. **If the LPA has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC 4-2-6-1, has a financial interest in the Contract, the LPA shall ensure compliance with the disclosure requirements in IC 4-2-6-10.5 prior to the execution of this Contract.** If the LPA is not familiar with these ethical requirements, the LPA should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If the LPA or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the LPA. In addition, the LPA may be subject to penalties under IC §§4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.
- 6.6.5. The LPA warrants that the LPA and its contractors shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities under this Contract. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the State.
- 6.6.6. As required by IC §5-22-3-7:
- (1) The LPA and any principals of the LPA certify that:
 - (A) the LPA, except for de minimis and nonsystematic violations, has not violated the terms of:
 - i. IC §24-4.7 [Telephone Solicitation Of Consumers];
 - ii. IC §24-5-12 [Telephone Solicitations]; or
 - iii. IC §24-5-14 [Regulation of Automatic Dialing Machines];in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and
 - (B) the LPA will not violate the terms of IC §24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.
 - (2) The LPA and any officials of the LPA certify that an affiliate or official of the LPA and any agent acting on behalf of the LPA or on behalf of an affiliate or official of the LPA except for de minimis and nonsystematic violations,
 - (A) has not violated the terms of IC §24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and

(B) will not violate the terms of IC §24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

6.7. Debarment and Suspension.

1. The LPA certifies by entering into this Contract that neither it nor its principals nor any of its contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the LPA.
2. The LPA certifies that it will verify the state and federal suspension and debarment status for all contractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred contractor. The LPA shall immediately notify INDOT if any contractor becomes debarred or suspended, and shall, at INDOT's request, take all steps required by INDOT to terminate its contractual relationship with the contractor for work to be performed under this Contract.

6.8. Disadvantaged Business Enterprise Program. Notice is hereby given to the LPA or a LPA Contractor that failure to carry out the requirements set forth in 49 CFR Sec. 26.13(b) shall constitute a breach of this Contract and, after notification, may result in termination of this Contract or such remedy as INDOT deems appropriate.

The referenced section requires the following policy and disadvantaged business enterprise ("DBE") assurance to be included in all subsequent contracts between the LPA and any contractors, vendors or suppliers:

The LPA shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The LPA shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the LPA to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as INDOT, as the recipient, deems appropriate.

As part of the LPA's equal opportunity affirmative action program, it is required that the LPA shall take positive affirmative actions and put forth good faith efforts to solicit proposals or bids from and to utilize disadvantaged business enterprise contractors, vendors or suppliers.

6.9. Disputes.

- 6.9.1.** Should any disputes arise with respect to this Contract, the LPA and INDOT agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.
- 6.9.2.** The LPA agrees that, the existence of a dispute notwithstanding, it shall continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the LPA fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by INDOT or the LPA as a result of such failure to proceed shall be borne by the LPA.
- 6.9.3.** If a party to the contract is not satisfied with the progress toward resolving a dispute, the party must notify in writing the other party of this dissatisfaction. Upon written notice, the PARTIES have ten (10) working days, unless the PARTIES mutually agree to extend this period, following the notification to resolve the dispute. If the dispute is not resolved

within ten (10) working days, a dissatisfied party will submit the dispute in writing according to the following procedure:

- 6.9.4.** The PARTIES agree to resolve such matters through submission of this dispute to the Commissioner of INDOT. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the LPA within ten (10) working days after presentation of such dispute for action. The presentation may include a period of negotiations, clarifications, and mediation sessions and will not terminate until the Commissioner or one of the PARTIES concludes that the presentation period is over. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If a party is not satisfied with the Commissioner's ultimate decision, the dissatisfied party may submit the dispute to an Indiana court of competent jurisdiction.
- 6.9.5.** INDOT may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by INDOT to the LPA of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for LPA to terminate this Contract, and the LPA may bring suit to collect these amounts without following the disputes procedure contained herein.
- 6.10. Drug-Free Workplace Certification.** As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the LPA hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The LPA will give written notice to the State within ten (10) days after receiving actual notice that the LPA, or an employee of the LPA in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Contract is in excess of \$25,000.00, the LPA certifies and agrees that it will provide a drug-free workplace by:

- A.** Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the LPA's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- B.** Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the LPA's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- C.** Notifying all employees in the statement required by subparagraph (1) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the LPA of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D.** Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (3)(2) above, or otherwise receiving actual notice of such conviction;
- E.** Within thirty (30) days after receiving notice under subdivision (3)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action

against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

6.11. Employment Eligibility Verification. The LPA affirms under the penalties of perjury that they do not knowingly employ an unauthorized alien. The LPA further agrees that:

A. The LPA shall enroll in and verify the work eligibility status of all its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. The LPA is not required to participate should the E-Verify program cease to exist. Additionally, the LPA is not required to participate if the LPA is self-employed and do not employ any employees.

B. The LPA shall not knowingly employ or contract with an unauthorized alien. The LPA shall not retain an employee or contract with a person that the LPA subsequently learns is an unauthorized alien.

C. The LPA shall require its contractors, who perform work under this Contract, to certify to the LPA that the contractor does not knowingly employ or contract with an unauthorized alien and that the contractor has enrolled and is participating in the E-Verify program. The LPA agrees to maintain this certification throughout the duration of the term of a contract with a contractor.

The State may terminate for default if the LPA fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

6.12. Force Majeure. In the event that any Party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected Party (hereinafter referred to as a "Force Majeure Event"), the Party who has been so affected shall immediately or as soon is reasonably possible under the circumstances give notice to the other Party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the Party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

6.13. Funding Cancellation Clause. As required by Financial Management Circular 3.3 and IC 5-22-17-5, when the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of the performance of this Contract, this Contract shall be canceled. A determination by the Director of the State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

6.14. Governing Laws. This Contract shall be governed, construed and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in the State of Indiana.

6.15. Indemnification. The LPA agrees to indemnify, defend, exculpate, and hold harmless the State of Indiana, and INDOT and/or its/their officials, agents, representatives, attorneys and employees, individually and/or jointly, from any and all claims, demands, actions, liability and/or liens that may be asserted by the LPA and/or by any other person, firm, corporation, insurer, government or other legal entity, for any claim for damages arising out of any and all loss, damage, injuries, and/or other

casualties of whatsoever kind, or by whomsoever caused, to the person or property of anyone on or other casualties of whatsoever kind, or by whomsoever caused, to the person or property of anyone on or off the right-of-way, arising out of or resulting from the performance of the contract or from the installation, existence, use, maintenance, condition, repairs, alteration and/or removal of any equipment or material, whether due in whole or in part to the acts and/or omissions and/or negligent acts and/or omissions:

- A. of the State of Indiana, INDOT, and/or its/their officials, agents, representatives, attorneys and/or employees, individually and/or jointly;
- B. of the LPA, and/or its officials, agents, representatives, attorneys and/or employees, individually and/or jointly;
- C. of any and all persons, firms, corporations, insurers, government or other legal entity engaged in the performance of the contract; and/or
- D. the joint negligence of any of them, including any claim arising out of the Worker's Compensation law or any other law, ordinance, order, or decree.

The LPA also agrees to pay all reasonable expenses and attorney's fees incurred by or imposed on the State of Indiana, INDOT and/or its/their officials, agents, representatives, attorneys, and/or employees, individually and/or jointly, in connection herewith in the event that the LPA shall default under the provisions of this section.

The LPA also agrees to pay all reasonable expenses and attorney's fees incurred by or imposed on the State of Indiana, INDOT and/or its/their officials, agents, representatives, attorneys, and/or employees, individually and/or jointly, in asserting successfully a claim against the LPA for indemnity pursuant to this contract.

6.16. Merger & Modification. This Contract constitutes the entire agreement between the PARTIES. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by all necessary PARTIES.

6.17. Non-Discrimination.

6.17.1. Pursuant to the Indiana Civil Rights Law, specifically including IC 22-9-1-10, and in keeping with the purposes of the Civil Rights Act of 1964 as amended, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the LPA covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state or local law ("Protected Characteristics"). The LPA certifies compliance with applicable federal laws, regulations and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this covenant may be regarded as a material breach of this Contract, but nothing in this covenant shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the LPA or any subcontractor.

6.17.2. INDOT is a recipient of federal funds, and therefore, where applicable, the LPA and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246 as amended by Executive Order 13672.

The LPA agrees that if the LPA employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, the LPA will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The LPA shall comply with Section 202 of executive order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of Contract.

It is the policy of INDOT to assure full compliance with Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and Section 504 of the Vocational Rehabilitation Act and related statutes and regulations in all programs and activities. Title VI and related statutes require that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (INDOT's nondiscrimination enforcement is broader than the language of Title VI and encompasses other State and Federal protections. INDOT's nondiscrimination enforcement shall include the following additional grounds: sex, sexual orientation, gender identity, ancestry, age, income status, religion, disability, limited English proficiency, or status as a veteran).

6.17.3. During the performance of this Contract, the LPA, for itself, its assignees and successors in interest (hereinafter referred to as the "LPA") agrees to the following assurances under Title VI of the Civil Rights Act of 1964:

- A. Compliance with Regulations:** The LPA shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, Title 49 CFR Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
- B. Nondiscrimination:** The LPA, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, sex, sexual orientation, gender identity, national origin, religion, disability, ancestry, or status as a veteran in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The LPA shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulation, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
- C. Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the LPA for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the LPA of the LPA's obligations under this Contract, and the Regulations relative to nondiscrimination on the grounds of race, color, sex, sexual orientation, gender identity, national origin, religion, disability, ancestry, income status, limited English proficiency, or status as a veteran.
- D. Information and Reports:** The LPA shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Indiana Department of Transportation and Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a LPA is in the exclusive possession of another who fails or refuses furnish this information, the LPA shall so certify to the Indiana Department of Transportation or the Federal

Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

- E. **Sanctions for Noncompliance:** In the event of the LPA's noncompliance with the nondiscrimination provisions of this Contract, the Indiana Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to: (a) withholding payments to the LPA under the Contract until the LPA complies, and/or (b) cancellation, termination or suspension of the Contract, in whole or in part.
- F. **Incorporation of Provisions:** The LPA shall include the provisions of paragraphs a through f in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The LPA shall take such action with respect to any subcontract or procurement as the Indiana Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance, provided, however, that in the event the LPA becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the LPA may request the Indiana Department of Transportation to enter into such litigation to protect the interests of the Indiana Department of Transportation, and, in addition, the LPA may request the United States of America to enter into such litigation to protect the interests of the United States of America.

6.18. Payment. All payments (if any) shall be made thirty-five (35) days in arrears in conformance with State fiscal policies and procedures and, as required by IC §4-13-2-14.8, the direct deposit by electronic funds transfer to the financial institution designated by the LPA in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by IC §4-13-2-20.

6.19. Penalties, Interest and Attorney's Fees. INDOT will in good faith perform its required obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law in part, I.C. 5-17-5, I.C. 34-54-8, and I.C. 34-13-1.

Notwithstanding the provisions contained in IC §5-17-5, any liability resulting from the State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

6.20. Pollution Control Requirements. If this Contract is for \$100,000 or more, the LPA:

- A. Stipulates any facility to be utilized in performance under or to benefit from this Contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended;
- B. Agrees to comply with all of the requirements of the Clean Air Act (including section 114) and the Federal Water Pollution Control Act (including section 308) and all regulations and guidelines issued there under; and
- C. Stipulates, as a condition of federal aid pursuant to this Contract, it shall notify INDOT and the FHWA of the receipt of any advice indicating that a facility to be utilized in performance under or to benefit from this Contract is under consideration to be listed on the EPA List of Violating Facilities.

6.21. Prohibited Telecommunications and Video Surveillance Equipment and Services.

In accordance with federal regulations (including 2 CFR 200.216 and 2 CFR 200.471), the Contractor is prohibited from purchasing, procuring, obtaining, using, or installing any telecommunication or video surveillance equipment, services, or systems produced by:

A. Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), OR

B. Hytera Communication Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities),

for any purpose to fulfill its obligations under this Contract. The Contractor shall be responsible to ensure that any subcontractor is bound by and complies with the terms of this provision. Breach of this provision shall be considered a material breach of this Contract.

6.22. Severability. The invalidity of any section, subsection, clause or provision of the Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of the Contract.

6.23. Status of Claims. The LPA shall be responsible for keeping INDOT currently advised as to the status of any claims made for damages against the LPA resulting from services performed under this Contract. The LPA shall send notice of claims related to work under this Contract to:

Chief Counsel
Indiana Department of Transportation
100 North Senate Avenue, Room N758
Indianapolis, Indiana 46204-2249

6.24. General. This Contract represents the entire understanding between the PARTIES relating to the subject matter and supersedes any and all prior oral and/or written communications, understandings or agreements relating to the subject matter. Any amendment or modification to this Contract must be in writing and be signed by duly authorized representatives of the PARTIES (and by all necessary approving State agencies or parties). Neither this Contract nor any portions of it may be assigned, licensed or otherwise transferred by the LPA without the prior written consent of INDOT. This Contract will be binding upon the PARTIES and their permitted successors or assigns. Failure of either Party to enforce any provision of this Contract will not constitute or be construed as a waiver of such provision or of the right to enforce such provision. All captions, section headings, paragraph titles and similar items are provided for the purpose of reference and convenience and are not intended to be inclusive, definitive or to affect the interpretation of this Contract. The Recitals and "Notice to PARTIES" on page 1 of the Contract are hereby made an integral part and specifically incorporated into this Contract.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that the undersigned is the LPA, or that the undersigned is the properly authorized representative, agent, member or officer of the LPA. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the LPA, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Contract other than that which appears upon the face hereof. **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC 4-2-6-1, has a financial interest in the Contract, the Party attests to compliance with the disclosure requirements in IC 4-2-6-10.5.**

Agreement to Use Electronic Signatures

I agree, and it is my intent, to sign this Contract by accessing State of Indiana Supplier Portal using the secure password assigned to me and by electronically submitting this Contract to the State of Indiana. I understand that my signing and submitting this Contract in this fashion is the legal equivalent of having placed my handwritten signature on the submitted Contract and this affirmation. I understand and agree that by electronically signing and submitting this Contract in this fashion I am affirming to the truth of the information contained therein. I understand that this Contract will not become binding on the State until it has been approved by the Department of Administration, the State Budget Agency, and the Office of the Attorney General, which approvals will be posted on the Active Contracts Database: <https://secure.in.gov/apps/idoa/contractsearch/>

In Witness Whereof, the LPA and the State have, through their duly authorized representatives, entered into this Contract. The PARTIES, having read and understood the foregoing terms of this Contract, do by their respective signatures dated below agree to the terms thereof.

CITY OF GOSHEN

Indiana Department of Transportation

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Electronically Approved by:
Department of Administration

Electronically Approved by:
State Budget Agency

By: (for) Rebecca Holwerda, Commissioner

By: (for) Zachary Q. Jackson, Director

Form approval has been granted by the Office of the Attorney General pursuant to IC 4-13-2-14.3(e) on March 22, 2022. FA 22-16

ATTACHMENT A
PROJECT FUNDS

I. Project Costs.

A. This contract is just for the one (1) phase checked below:

 X Preliminary Engineering or
 Right-of-Way or
 Construction;

B. If the Program is receiving federal-aid funds for the project, the LPA is allocated the funds through the MPO as written in their fiscally constrained TIP. Any adjustments (positive or negative) to the dollar amount listed in the TIP, or any increase or decrease in the funding from a prior year, authorized by the MPO that may not be reflected in the current TIP, are hereby considered adjustments to the contract between the LPA and INDOT, as the MPO must maintain fiscal constraint for all projects listed. Federal funds made available to the LPA by INDOT will be used to pay **80%** of the eligible Project costs. The maximum amount of federal-aid funds allocated to the Project is dependent upon the current TIP allocation. As of this date, **November 21, 2022**, the maximum amount according to the TIP dated **September 14, 2022**, is **\$480,000.00**. The most current MPO TIP page, or MPO authorization, is uploaded into INDOT's Scheduling Project Management System (SPMS).

OR

C. Federal-aid Funds made available to the LPA by INDOT will be used to pay % of the eligible Project costs. The maximum amount of federal funds allocated to the project is \$.

D. The LPA understands and agrees that it is INDOT's policy to only allow non-discretionary changes to a Project scope after bidding. Changes to the Project scope after bidding that are by the choice of the LPA and are not required to complete the Project will not be eligible for federal-aid funds and must be funded 100% locally.

E. The LPA understands and agrees that the federal-aid funds allocated to the Project are intended to accomplish the original scope of the Project as designed. If the Project bid prices are lower than estimated, the LPA may not utilize those federal-aid funds and the remaining balance of federal-aid funds will revert back to the Local Program.

F. If the Program is Group I or Group II, Section E. does not apply. If the Project bid prices are lower than estimated, the LPA may not utilize those federal-aid funds and the remaining balance of federal-aid funds will revert back to the MPO.

G. The remainder of the Project cost shall be borne by the LPA. For the avoidance of doubt, INDOT shall not pay for any costs relating to the Project unless the PARTIES have agreed in a document (which specifically references section I.D. of **Attachment A** of this Contract) signed by an authorized representative of INDOT, the Indiana Department of Administration, State Budget Agency, and the Attorney General of Indiana.

H. Every project must have a project end date based upon the reasonable timeframe for the project phase to be completed. If a project end date lapses, the project is no longer eligible for federal reimbursement in accordance with 2 CFR 200. See <https://www.in.gov/indot/2833.htm>.

I. Costs will be eligible for FHWA participation provided that the costs:

- (1) Are for work performed for activities eligible under the section of title 23, U.S.C., applicable to the class of funds used for the activities;
- (2) Are verifiable from INDOT's or the LPA's records;
- (3) Are necessary and reasonable for proper and efficient accomplishment of project objectives and meet the other criteria for allowable costs in the applicable cost principles cited in 49 CFR 18.22;
- (4) Are included in the approved budget, or amendment thereto; and
- (5) Were not incurred prior to FHWA authorization.

II. Billings.

A. Billing:

1. When INDOT awards and enters into a contract (i.e., construction, utility, and/or railroad) on behalf of the LPA, INDOT will invoice the LPA for its share of the costs. The LPA shall pay the invoice within thirty (30) calendar days from date of INDOT's billing.
2. The LPA understands time is of the essence regarding the Project timeline and costs and delays in payment may cause substantial time delays and/or increased costs for the Project.
3. If the LPA has not paid the full amount due within sixty (60) calendar days past the due date, INDOT shall be authorized to cancel all contracts relating to this Contract, including the contracts listed in II.A.1 of **Attachment A** and/or proceed in accordance with I.C. 8-14-1-9 to compel the Auditor of the State of Indiana to make a mandatory transfer of funds from the LPA's allocation of the Motor Vehicle Highway Account to INDOT's account.
4. Federal funds on projects which have not been billed for a twelve (12) month period are considered inactive and must be removed from the project in accordance with 2 CFR 200. To receive federal funding within the twelve (12) month period, INDOT must receive a billing within nine (9) months. See <https://www.in.gov/indot/2833.htm>.

III. Repayment Provisions.

If for any reason, INDOT is required to repay to FHWA the sum or sums of federal funds paid to the LPA or on behalf of the LPA under the terms of this Contract, then the LPA shall repay to INDOT such sum or sums within thirty (30) days after receipt of a billing from INDOT. If the LPA has not paid the full amount due within sixty (60) calendar days past the due date, INDOT may proceed in accordance with I.C. 8-14-1-9 to compel the Auditor of the State of Indiana to make a mandatory transfer of funds for the LPA's allocation of the Motor Vehicle Highway Account to INDOT's account until the amount due has been repaid.

From: [Allyson Ragan](#)
To: [Armstrong, David](#)
Cc: [Corwin, Josh](#)
Subject: Re: FW: Blackport Rd INDOT-LPA PE Contract DES 2100020
Date: Monday, November 28, 2022 7:46:15 AM

David, thank you for the explanation.

Josh, I think we are all on the same page about the total contract amount. Per David's comments, this number simply reflects the number in the TIP at the time. You may proceed with signatures.

Allyson

On Wed, Nov 23, 2022 at 8:16 AM Armstrong, David <DARMSTRONG@indot.in.gov> wrote:

Allyson,

The Contract is fine as it is. For funding it includes a note that the funding is per the TIP. If you want to change the number now, this could delay the contract, and NOA multiple weeks.

David Armstrong
Local Program Director

5333 Hatfield Road

Fort Wayne, IN 46808

Office: (260) 969-8277

Email: darmstrong@indot.in.gov

From: Allyson Ragan <aragan@macog.com>
Sent: Tuesday, November 22, 2022 3:50 PM
To: Corwin, Josh <joshcorwin@goshencity.com>; Armstrong, David <DARMSTRONG@indot.IN.gov>
Subject: Re: FW: Blackport Rd INDOT-LPA PE Contract DES 2100020

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

David,

Josh shared the INDOT-LPA agreement for Blackport with me. As mentioned in my previous email, I have processed a TIP modification to increase Blackport PE funding to reflect the full contract amount. Please see attached.

This will be sent to INDOT after our December Policy Board meeting, but I can send sooner if needed, as modifications do not require approval from our Policy Board.

Can you please update the INDOT-LPA agreement to reflect these new numbers?

Thanks,

Allyson

On Tue, Nov 22, 2022 at 3:38 PM Corwin, Josh <joshcorwin@goshencity.com> wrote:

From: Armstrong, David <DARMSTRONG@indot.IN.gov>
Sent: Monday, November 21, 2022 2:39 PM
To: Corwin, Josh <joshcorwin@goshencity.com>
Subject: Blackport Rd INDOT-LPA PE Contract DES 2100020

Josh,

Attached is a copy of the INDOT LPA PE Contract for your project(s). **This is only a copy and should not be signed, but may be used for any public meeting and votes.** Review the project scope, location, and Grantee address listed carefully. If you have any questions, concerns, or corrections with the contract, please contact your District Program Director. **If you will be holding a meeting to vote on this contract prior to signing it, please let me know when that will be.**

This contract will be sent to your legal signer(s) via DocuSign for their signature. As the ERC you should notify the legal signer(s) this contract will be routed to them via DocuSign for their signature.

Once the legal signer has viewed the contract, they will be prompted to click **'SEND SMS'** and an Authorization Code will be texted to their cell number. The Authorization Code texted is only valid for 48-hours from receipt. If a legal signer does not sign within a 48-hour period, a *new* Authorization Code will be required.

- A **New Authorization Code** can be generated by the legal signer simply opening the original e-mail and clicking the **'SEND SMS'** link *again*, and a new Authorization Code will be texted to their cell number.
- Link for **DocuSign Instructions for ERC & Legal Signer:**
<https://www.in.gov/indot/doing-business-with-indot/local-public-agency-programs/>
- Signatories can also generate an adobe pdf copy of their partially executed contract.

Important: For the contract to be a fully executed, legally binding contract, the contract will still require approvals from The Indiana Department of Administration (IDOA) and State Budget Agency (SBA). Furthermore, if the contract is an Amendment, it will also require the signature of The Office of the Attorney General (AG). These signatures will appear on the fully executed, legally binding contract as pictured here.

Once the contract is fully executed by INDOT, the District Program Director will e-mail a pdf file of the fully executed, legally binding contract to the locals ERC for their records.

Please do not hesitate to contact me if you have any questions or concerns

David Armstrong
Local Program Director

5333 Hatfield Road

Fort Wayne, IN 46808

Office: (260) 969-8277

Email: darmstrong@indot.in.gov

This email originated from outside of the organization. Do not click links or

CAUTION:

open attachments unless you recognize the sender and know the content is safe.

--

Allyson Ragan, MPA

Short-Range Transportation Planner

Michiana Area Council of Governments

227 W. Jefferson Boulevard

11th Floor County-City Building

South Bend, IN 46601

www.macog.com

P: 574.287.1829 ext. 507

F: 574.239.4072

aragan@macog.com

--

Allyson Ragan, MPA

Short-Range Transportation Planner

Michiana Area Council of Governments

227 W. Jefferson Boulevard

11th Floor County-City Building

South Bend, IN 46601

www.macog.com

P: 574.287.1829 ext. 507

F: 574.239.4072

aragan@macog.com

2023 GOSHEN CITY COUNCIL CALENDAR

All meetings are conducted in the Council Chambers, Police & Court Building, 111 E. Jefferson St. and are at 6 p.m. unless stated otherwise.

January

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

February

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

March

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

April

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

May

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

June

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

July

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

August

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

September

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

October

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

November

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

December

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

Key: Council meeting

Special dates

Holidays

Notes:

- Feb. 13: Joint meeting with School Board
- March 29–April 7: GCS Spring Break
- May 5: Council Retreat (Friday)
- Aug. 21–24: AIM Idea Summit
- Sept. 18: Budget 1st reading

- Oct. 2: Budget 2nd reading
- Oct. 23–27: GCS Fall Break
- Oct. 30: Additional budget meeting (if needed)
- Nov. 7: General Election
- Dec. 27: Year-end category transfers, 5:30 p.m.

