



Board of Public Works & Safety and Stormwater Board

Regular Meeting Agenda

2:00 p.m., January 23, 2023

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

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

Call to Order by Mayor Jeremy Stutsman

Approval of Minutes: Jan. 9, 2023

Approval of Agenda

- 1) Police Department:** Approve the hiring of Daniil V. Shendel #223 as a probationary patrol officer, retroactive to Monday Jan. 16, 2023
- 2) Police Department:** Approve the hiring of Matthew T. Whelchel #224 as probationary patrol officer, retroactive to Monday Jan. 16, 2023
- 3) Legal Department for Fire Department:** Conditional offer of employment to Jared A Smith
- 4) Dale Klassen request:** Release of sewer usage fees during house rehab
- 5) Allison & Kyle Stiffney request:** Approve height reduction of fence and replacement and update of existing patio at 702 S. 6th Street with some encroachment into the City's right-of-way
- 6) Patriot Tree Corp.:** Request to close a portion of 8th Street, Jan. 24 or Jan. 25, 2023
- 7) Legal Department:** Resolution 2023-01, Acquisition of Real Estate at 1402 West Wilden Avenue
- 8) Legal Department:** Agreement with Eurofins Eaton Analytical, LLC for 2023 Drinking Water Compliance Standards Testing
- 9) Legal Department:** Approve the settlement agreement and mutual release to settle the claim made by Anita Shannon, and authorize Mayor Stutsman to execute the agreement



10) Legal Department: Approve agreement with the Arion Consultants, Inc. for work on the Lower Elkhart River Water Quality Management Planning Grant in the not to exceed amount of the City of Goshen's Grant award of \$154,725

11) Planning & Zoning Department: Approval of Community Based Development Organization Agreement for Multi-Unit Housing Rehabilitation for Program Year 2022

12) Water & Sewer Department: Request for road closure on Chicago Avenue between North Harrison Street and North Riverside Boulevard

13) Engineering Department: Approve the acceptance of the infrastructure and maintenance bond for the 2022 Concrete Paving project

14) Engineering Department: Approve revocable license agreement to encroach into easement with Keystone RV Co., 2694 Hackberry Drive, for building expansion/improvements

15) Engineering Department: Approve Change Order No. 5 to extend the completion date for over seeding to May 15, 2023, and completion of all other punch list items to May 31, 2023

16) Clerk-Treasurer's Office: Approve encumbrances from the 2022 Budget to the 2023 Budget

Privilege of the Floor

CITY OF GOSHEN STORMWATER BOARD

Regular Meeting Agenda

2:00 p.m., January 23, 2023

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

Members: Mayor Stutsman, Mike Landis and Mary Nichols

17) Stormwater Department: Public hearing and proposed agreement regarding erosion and sediment control issues associated with the Green Oaks of Goshen construction project located at 282 Johnston Street

Approval of Civil City and Utility Claims

Adjournment



**BOARD OF PUBLIC WORKS & SAFETY & STORMWATER BOARD
MINUTES OF THE JANUARY 9, 2023 REGULAR MEETING**

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

Present: Mayor Jeremy Stutsman, Mike Landis, Mary Nichols and Barb Swartley

Absent: None

CALL TO ORDER: Mayor Jeremy Stutsman called the meeting to order at 2:00 p.m.

REVIEW/APPROVE MINUTES: Mayor Stutsman presented the minutes of the Dec. 19, 2022 Regular Meeting. Board member Barb Swartley moved to approve the minutes as presented and the motion was seconded by Board member Mike Landis. Motion passed 4-0.

REVIEW/APPROVE AGENDA: Mayor Stutsman presented the meeting agenda with the addition of item #13. *Engineering Department: Request for an Environmental Restrictive Covenant.* Board member Swartley moved to approve the agenda as amended. Board member Landis seconded the motion. Motion passed 4-0.

1) Opening of bids: Two single-axle dump trucks and equipment (bids due 1:45 p.m., Jan. 9, 2023)

Opportunity: Two 2022 or newer single-axle trucks with heavy duty dump body with underbody scrapper that meet the needs and desires of the City of Goshen Street Department. Besides the Single-Axle Dump Trucks (Items 1 and 2), offers also were solicited for the following optional item: Optional Item 3: Spreader (up to two).

Mayor Stutsman announced that the Clerk-Treasurer's Office didn't receive any bids for the two single-axle dump trucks and equipment.

2) Police Department: Promote Corey M. Mosher #177 to Police Sergeant, retroactive to Jan. 6, 2023

City Police Chief José Miller asked the Board to approve the promotion of Officer Corey M. Mosher to the rank of Sergeant from the position of Patrol Officer, retroactive to Jan. 6, 2023. Chief Miller said Officer Mosher has worked for the Police Department about seven years and has demonstrated he will be an asset as a supervisor. He currently is a K-9 handler and Field Training Officer for the Department.

Swartley/Landis moved to approve promotion of Officer Corey M. Mosher from the position of Patrol Officer to the rank of Sergeant, retroactive to Jan. 6, 2023. Motion passed 4-0.

After the Board approved the promotion, Mayor Stutsman swore Sgt. Corey M. Mosher into office.

3) Fire Department: Hire Douglas A. Burggraf Jr. as a Probationary Firefighter effective Jan. 9, 2023

City Assistant Chief of Operations Anthony Powell told the Board that Douglas A. Burggraf Jr. has passed all of the pension requirements for the State of Indiana. He requested that the Board hire Burggraf as a Probationary Firefighter for the Goshen Fire Department effective today, Jan. 9, 2023.



Swartley/Landis moved to approve the hiring of Douglas A. Burggraf Jr. as a Probationary Firefighter for the Goshen Fire Department effective today, Jan. 9, 2023. Motion passed 4-0.

After the Board approved the hiring, Mayor Stutsman swore Douglas A. Burggraf Jr. into office as a Probationary Firefighter.

4) Fire Department: Hire James M. White as a Probationary Firefighter effective 9, 2023

City Assistant Chief of Operations Anthony Powell told the Board that James M. White has passed all of the pension requirements for the State of Indiana. He requested that the Board hire White as a Probationary Firefighter for the Goshen Fire Department effective today, Jan. 9, 2023.

Swartley/Landis moved to approve the hiring of James M. White as a Probationary Firefighter for the Goshen Fire Department effective today, Jan. 9, 2023. Motion passed 4-0.

After the Board approved the hiring, Mayor Stutsman swore James M. White into office as a Probationary Firefighter.

5) Fire Department: Hire Jordan L. Hunter as a Probationary Firefighter effective Jan. 9, 2023

City Assistant Chief of Operations Anthony Powell told the Board that Jordan L. Hunter has passed all of the pension requirements for the State of Indiana. He requested that the Board hire Hunter as a Probationary Firefighter for the Goshen Fire Department effective today, Jan. 9, 2023.

Swartley/Landis moved to approve the hiring of Jordan L. Hunter as a Probationary Firefighter for the Goshen Fire Department effective today, Jan. 9, 2023. Motion passed 4-0.

After the Board approved the hiring, Mayor Stutsman swore Jordan L. Hunter into office as a Probationary Firefighter.

6) Fire Department: Promote Matthew Whitford to Fire Sergeant effective Feb. 20, 2023

City Assistant Chief of Operations Anthony Powell told the Board that Matthew Whitford has passed all of the tests and standards required for promotion. He asked the Board to approve the promotion of Whitford to the rank of Sergeant for the Goshen Fire Department, effective Feb. 20, 2023.

Swartley/Landis moved to approve the promotion of Matthew Whitford to the rank of Sergeant for the Goshen Fire Department, effective Feb. 20, 2023. Motion passed 4-0.

After the Board approved the promotion, Mayor Stutsman swore Sgt. Whitford into office.

7) LaCasa Inc. request: Approve the closure of the alley between 214 S. 8th St. and 212 S. 8th St. to replace the foundation wall of 214 S. 8th, Jan. 10-17, 2023

LaCasa Housing Development Manager Aaron Lehman asked the Board to approve the closure of the alley between 214 S. 8th St. and 212 S. 8th St. from Tuesday Jan. 10 through Tuesday, Jan. 17.

In a written request, Brad Hunsberger, vice president of Real Estate Development, wrote that LaCasa would be replacing the foundation wall of 214 S. 8th immediately adjacent and south of the subject alley, with excavation work from Jan. 10-17.



Hunsberger indicated that LaCasa will post barricades on the 8th Street side of the alley to prevent cars from entering the alley and will install waddles and inlet protection to prevent sediment from entering the storm drainage system from this project. At the completion of the project, LaCasa we will sweep and clean the alley to restore it to the previous condition. LaCasa staff members have notified the next door neighbors of this request. Lehman said he has been in touch with the Street Department to request barricades to block the alley.

Swartley/Landis moved to approve the closure of the alley between 214 S. 8th St. and 212 S. 8th St. from Tuesday Jan. 10 through Tuesday, Jan. 17. Motion passed 4-0.

8) Legal Department: Purchase Agreement for 6 Ton Class Compact Excavator & Equipment

Brandy Toms, a paralegal with the City Legal Department, asked the Board to approve and authorize Mayor to execute the purchase agreement with Bobcat of Michiana for the purchase of a 6-Ton class compact excavator and equipment, for the total purchase price of \$96,722.13 for the City Water and Sewer Department.

Toms said Bobcat of Michiana will be paid as follows for this purchase:

2022 Bobcat E60 R2-Series Compact Excavator	\$91,646.75
Angle blade attachment	\$ 2,597.76
Extra counter weight	\$ 2,477.62
Total purchase price	\$96,722.13

Swartley/Landis moved to approve and authorize Mayor to execute the purchase agreement with Bobcat of Michiana for the purchase of a 6-Ton class compact excavator and equipment, for the total purchase price of \$96,722.13. Motion passed 4-0.

9) Water Utility: Approve the recommended 2023 allocation of the \$1.10 monthly sewer and water bill repair fee (0.40 cents to the Water Maintenance Fund and 0.70 cents to the Sewer Maintenance Fund)

Kent Holdren, Superintendent of City Water Treatment and Sewer Department, told the Board that pursuant to City Ordinance 4531, the Board of Public Works and Safety and Stormwater is required annually to review the Residential Water and Sewer Line Maintenance Repair Fund balances and decide on how the \$1.10 repair fee is to be divided and assessed per the monthly water and sewer bills.

Holdren said the total expenditure in 2022 was \$38,198.25 for water and \$78,412.05 for sewer. Based on the expenditure and year-end balance information included in the Board's meeting packet, Holdren recommended that \$0.40 cents be allocated to the Water Fund and \$0.70 cents be allocated to the Sewer Fund in 2023.

Swartley/Landis moved to approve the recommendation of the Goshen Utility Department to allocate 0.40 cents to the Water Maintenance Fund and 0.70 cents to the Sewer Maintenance Fund for the 2023 billing year. The motion passed 4-0.

10) Engineering Department: Approve annual agreement with Michiana Area Council of Governments (MACOG) to supply the City of Goshen with traffic counts, for \$2,000

City Civil Traffic Engineer Josh Corwin told the Board that attached the Board's agenda packet was the annual agreement with the Michiana Area Council of Governments (MACOG) to supply the City of Goshen with Traffic Counts at locations listed in the agreement.



Corwin said MACOG will also complete two intersection analyses of the City's choice, which will include collecting traffic counts at the intersection, turn movements, signal timing data, digital photography, accident data, GPS data and a geometric layout of the intersection. Engineering is still determining which intersections the City will ask to be done. The agreement is in the amount of \$2,000.

Swartley/Landis moved to approve the agreement with MACOG for \$2,000 for annual traffic counts. The motion passed 4-0.

11) Stormwater Department: Approve the agreement with Greencroft Goshen, LLC for the completion of the home at 2111 Whispering Pines Court

City Civil Traffic Engineer Josh Corwin told the Board that the home at 2111 Whispering Pines Court has passed its final building inspection and the project is substantially complete except for exterior stabilization work. This final requirement cannot be completed at this time due to weather conditions.

He said the Stormwater Department thus submits agreements for the Completion of the Construction Project for approval and authorizations for the Board to execute. The property owner, Greencroft Goshen, LLC, agrees to complete all stabilization work by June 15, 2023. The expected cost of work is \$1,485 and a surety to guarantee the timely and proper completion of the work is not required.

Swartley/Landis moved to approve and authorize the Board to execute the agreement with Greencroft Goshen, LLC for the Completion of the Construction Project at 2111 Whispering Pines Court. The motion passed 4-0.

12) Stormwater Department: Approve agreement with Westview Capital, LLC and Allen Edwin Homes for the completion of the home at 1341 Sand Hills Point

City Civil Traffic Engineer Josh Corwin told the Board that the home at 1341 Sand Hills Point has passed its final building inspection and the project is substantially complete except for exterior stabilization work. This final requirement cannot be completed at this time due to weather conditions.

He said the Stormwater Department thus submits agreements for the Completion of the Construction Project for approval and authorizations for the Board to execute. The property owner, Westview Capital, LLC, and builder, Allen Edwin Homes, agree to complete all stabilization work by June 15, 2023. The expected cost of work is \$2,260 and a surety check for that amount has been remitted to the Clerk-Treasurer's Office.

Swartley/Landis moved to approve and authorize the Board to execute the agreement with Westview Capital, LLC and Allen Edwin Homes for the Completion of the Construction Project at 1341 Sand Hills Point. The motion passed 4-0.

13) Utilities Department: Request for an Environmental Restrictive Covenant

Kent Holdren, Superintendent of City Water Treatment and Sewer Department, asked the Board to authorize Mayor Stutsman to sign an Environmental Restrictive Covenant for the City of Goshen North Water Plant, 308 North 5th Street. (EXHIBIT #1)

Holdren said that about four years ago, City staff found an underground storage tank while doing soil testing for a new generator at the City of Goshen North Water Plant.



Holdren said staff removed the tank, but did not remove the surrounding soil. He said the Indiana Department of Environmental Management (IDEM) required the City to install test wells, which detected diesel fuel, which had leaked from the tank. He said the City removed the soil the following year to install the generator and subsequent testing showed the diesel levels had dropped to acceptable levels for IDEM.

Holdren said the contaminants were in the upper water aquifer, so it isn't reaching the City's wells. He said that once approved, the Environmental Restrictive Covenant will be filed with the County Recorder's Office. It lists certain restrictions at certain depths on the property, so if the City sold the property in the future, the covenant will prohibit the placement of shallow wells.

Holdren said that after the covenant is filed with the County Recorder, he will take a copy to IDEM and this will allow the City to stop monitoring the wells for possible contaminants.

Mayor Stutsman said that **City Attorney Bodie Stegelmann** has asked that the Mayor be authorized to sign the Environmental Restrictive Covenant subject to a review by the City Legal Department.

Board member Landis asked if the City would ever sell this property or if the Environmental Restrictive Covenant was only being sought to stop the monitoring of the wells. **Holdren** said it was possible the City might sell the property, but he doubted it because it's a wellfield that is viable. But he said the Environmental Restrictive Covenant needs to be filed and recorded and IDEM requires this also.

Swartley/Landis moved to approve adding the Environmental Restrictive Covenant to the City property at 308 North 5th Street and authorize Mayor Stutsman to sign the covenant subject to a review by the City Legal Department. Motion passed 4-0.

Privilege of the Floor (opportunity for public comment for matters not on the agenda):

Mayor Stutsman opened Privilege of the Floor at 2:28 p.m.

There were no comments, so Mayor Stutsman closed Privilege of the Floor.

As all matters before the Board of Public Works & Safety were concluded, Mayor Stutsman/Board member Landis moved to approve Civil City and Utility claims and adjourn the meeting. Motion passed 4-0.

Mayor Stutsman adjourned the Board of Works meeting at 2:28 p.m.

EXHIBIT #1: Environmental Restrictive Covenant for the City of Goshen North Water Plant, 308 North 5th Street presented by Kent Holdren, Superintendent of City Water Treatment and Sewer Department, in support of agenda item #13. Utilities Department: Request for an Environmental Restrictive Covenant



APPROVED

Mayor Jeremy Stutsman

Mike Landis, Member

Mary Nichols, Member

Barb Swartley, Member

ATTEST

Richard R. Aguirre, City of Goshen Clerk-Treasurer



Jose' D. Miller

Chief of Police

111 E Jefferson St
Goshen, Indiana 46528

TO: Goshen Board of Public Works & Safety

Mayor Jeremy Stutsman
Member Mary Nichols
Member Mike Landis
Member Barb Swartley
Member DeWayne Riouse

Date: January 23rd, 2023

From: Jose' Miller, Chief of Police

Reference: The hiring of Daniil V. Shendel #223

I am requesting that the Board of Public Works and Safety **approve the hiring of Daniil V. Shendel for the position of probationary patrol officer.** Daniilo has passed all exams and has been approved by both the local and State pension boards. We are thrilled to have Daniil as a new police officer serving our community. I would like this hiring to **be retroactive to Monday January 16th, 2023.**

Daniil will be present for the Board of Works Meeting

A handwritten signature in black ink, appearing to be "J. Miller".

Jose' Miller #116

Chief of Police

Goshen City Police Department
111 E. Jefferson Street
Goshen, IN. 46528

Telephone: (574) 533-8661

Hearing Impaired: (574) 533-1826

FAX: (574) 533-1826



Jose' D. Miller

Chief of Police

111 E Jefferson St
Goshen, Indiana 46528

TO: Goshen Board of Public Works & Safety

Mayor Jeremy Stutsman
Member Mary Nichols
Member Mike Landis
Member Barb Swartley
Member DeWayne Riouse

Date: January 23rd, 2023

From: Jose' Miller, Chief of Police

Reference: The hiring of Matthew T. Whelchel #224

I am requesting that the Board of Public Works and Safety **approve the hiring of Matthew T. Whelchel for the position of probationary patrol officer.** Matthew has passed all exams and has been approved by both the local and State pension boards. We are thrilled to have Matthew as a new police officer serving our community. I would like this hiring to **be retroactive to Monday January 16th, 2023.**

Matthew will be present for the Board of Works Meeting

A handwritten signature in black ink, appearing to be "J. Miller".

Jose' Miller #116

Chief of Police

Goshen City Police Department
111 E. Jefferson Street
Goshen, IN. 46528

Telephone: (574) 533-8661

Hearing Impaired: (574) 533-1826

FAX: (574) 533-1826



CITY OF GOSHEN LEGAL DEPARTMENT

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

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

January 23, 2023

To: Goshen Board of Public Works and Safety
From: Shannon Marks, Legal Compliance Administrator
Subject: Goshen Fire Department Conditional Offer of Employment to Jared A. Smith

On behalf of the Fire Department, it is recommended that the Board extend a conditional offer of employment to Jared A. Smith, as well as approve the attached Conditional Offer of Employment Agreement and authorize the Mayor to execute the agreement.

The agreement sets forth the conditions that the prospective employee must meet prior to beginning employment with the Fire Department as a probationary firefighter which includes being approved by the board of trustees of the Indiana Public Retirement System for membership to the 1977 Police Officers' and Firefighters' Pension and Disability Fund. Jared currently possesses Firefighter I/II certification. Once employed, Jared will be required to successfully complete a Basic EMT training program and obtain Basic EMT certification, successfully complete a paramedic training program and obtain an Indiana paramedic license, and serve as an active paramedic with the Department a minimum of three years.

The Fire Department will request the Board to confirm the offer of employment when a position opening becomes available in the Department.

Suggested motions:

- (1) Move to extend a conditional offer of employment to Jared A. Smith as a probationary firefighter.
- (2) Move to approve the Conditional Offer of Employment Agreement with Jared A. Smith, and authorize the Mayor to execute the agreement.

**GOSHEN FIRE DEPARTMENT
CONDITIONAL OFFER OF EMPLOYMENT AGREEMENT**

THIS AGREEMENT is entered into on _____, 2023, which is the date of the last signature set forth below, by and between **Jared A. Smith** ("Smith") and **City of Goshen, Indiana**, acting through the Goshen Board of Public Works and Safety ("City").

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

CONDITIONAL OFFER OF AND PREREQUISITES TO BEGINNING EMPLOYMENT

City conditionally offers Smith employment as a probationary firefighter of the Goshen Fire Department. Smith accepts City's conditional offer of employment. City does not have a current position available in the Goshen Fire Department. City and Smith understand and agree that the offer of employment is contingent upon the following:

- (1) A personnel vacancy in the Goshen Fire Department rank and file must exist. Smith understands that currently no vacancy exists in the rank and file of the Fire Department. Although the Goshen Fire Department is initiating the pension physical and psychological testing, Smith understands that no permanent employment will be offered until such time that a personnel vacancy is available and/or additional staffing is hired to increase the number of firefighters.
- (2) Smith agrees to submit a complete application for membership to the Indiana Public Retirement System (InPRS) and the 1977 Police Officers' and Firefighters' Pension and Disability Fund (1977 Fund). Smith understands that the application for membership requires the completion of a comprehensive medical history and the administration and successful passage of the baseline statewide physical examination and baseline statewide mental examination.
- (3) City agrees to pay the initial cost for Smith to complete the baseline statewide physical examination and baseline statewide mental examination as required by Indiana Code §§ 36-8-8-7(a) and 36-8-8-19. In the event that InPRS requires any additional reports and/or testing to establish physical and mental fitness beyond the baseline statewide physical examination and baseline statewide mental examination requirements, such costs for the additional reports and/or testing shall be at Smith's expense. If additional reports and/or testing are required, Smith may elect to terminate this agreement.
- (4) InPRS will determine whether Smith has any Class 3 excludable conditions. Smith understands that if InPRS finds that Smith has any Class 3 excludable conditions, Smith will be prevented from receiving certain Class 3 impairment benefits for a certain period of time and will be disqualified from receiving disability benefits from the 1977 Fund throughout Smith's employment if the disability is related to the Class 3 excludable

condition. In addition, City will review the InPRS findings to determine whether the City's conditional offer of employment will be withdrawn.

- (5) City and Smith understand that the board of trustees of the InPRS must approve the application for membership to the 1977 Fund. City will confirm its offer of employment to Smith if the board of trustees of the InPRS approves the application for membership to the 1977 Fund. City's confirmation will occur when a position opening becomes available in the Goshen Fire Department. In the event that approval is not given by the board of trustees of the InPRS, City withdraws this conditional offer of employment, and Smith accepts City's withdrawal and this agreement shall be terminated.

AGREE TO OBTAIN BASIC EMT CERTIFICATION

- (1) As a condition of employment with City and the Goshen Fire Department, Smith is required to successfully complete a Basic EMT training program, pass the certification test, and obtain Basic EMT certification within eleven (11) months of Smith's first day of employment with the Goshen Fire Department. If Smith is unable to successfully complete the Basic EMT training program, pass the certification test, and obtain Basic EMT certification within eleven (11) months of Smith's first day of employment with the Goshen Fire Department due to program scheduling difficulties, then Smith will be given eleven (11) months from the first day of the Basic EMT training program to successfully complete the Basic EMT training program, pass the certification test and obtain Basic EMT certification.
- (2) Upon commencing employment, Smith agrees to enroll in a Basic EMT training program when instructed to do so by the Fire Chief, attend and successfully complete the training program, pass the certification test, and obtain Basic EMT certification. If Smith is currently enrolled in and attending a Basic EMT training program prior to commencing employment, Smith agrees to continue to attend and successfully complete the Basic EMT training program, pass the certification test, and obtain Basic EMT certification.
- (3) Starting on Smith's first day of employment, City will pay the cost of the Basic EMT training program. If Smith is currently enrolled in and attending a Basic EMT training program prior to commencing employment, City will pay a prorated cost of the training program based on the portion of the training program remaining after Smith's first day of employment with the Goshen Fire Department. While employed with the Goshen Fire Department, City will pay Smith for the time to attend the training program. Smith shall have one (1) opportunity to successfully complete the Basic EMT training program, pass the certification test, and obtain Basic EMT certification. City will pay the cost for the Basic EMT training program, or prorated portion thereof, and for Smith's time to attend the Basic EMT training program one (1) time.
- (4) If Smith refuses to attend the Basic EMT training program, fails to successfully complete the Basic EMT training program, or fails to pass the certification test and obtain Basic EMT

certification as required under paragraphs (1) and (2), Smith's employment with City and the Goshen Fire Department will be terminated for cause.

**AGREE TO OBTAIN A PARAMEDIC LICENSE
AND SERVE AS A PARAMEDIC**

- (1) As a condition of employment with City and the Goshen Fire Department, Smith is required to successfully complete a paramedic training program, pass the license test, obtain an Indiana paramedic license, and serve as an active paramedic with the Goshen Fire Department a minimum of three (3) years.
- (2) Upon commencing employment, Smith agrees to enroll in a paramedic training program when instructed to do so by the Fire Chief, attend and successfully complete the training program, pass the license test, and obtain an Indiana paramedic license. If Smith is currently enrolled in and attending a paramedic training program prior to commencing employment, Smith agrees to continue to attend and successfully complete the training program, pass the license test, and obtain an Indiana paramedic license.
- (3) Starting on Smith's first day of employment, City will pay the cost of the paramedic training program. If Smith is currently enrolled in and attending a paramedic training program prior to commencing employment, City will pay a prorated cost of the training program based on the portion of the training program remaining after Smith's first day of employment with the Goshen Fire Department. While employed with the Goshen Fire Department, City will pay Smith for the time to attend class and required clinical sessions. Smith shall schedule all classes and clinical sessions when Smith is scheduled to work to the extent possible. City will pay the cost for the paramedic training program, or prorated portion thereof, and for Smith's time to attend the paramedic training classes and clinical sessions one (1) time. City will not pay for a refresher course or for Smith's time to attend a refresher course unless City does not pay for any of the paramedic training program cost or Smith's time to attend the paramedic training program.
- (4) Smith shall have twenty-four (24) months from the first day of the paramedic class to successfully complete the paramedic training program. Smith agrees to obtain an Indiana paramedic license within one (1) year after completion of the paramedic training program.
- (5) If Smith refuses to attend the paramedic training program, fails to successfully complete the paramedic training program within twenty-four (24) months from the first day of the paramedic class, or fails to obtain an Indiana paramedic license within one (1) year after completion of the paramedic training program, Smith's employment with City and the Goshen Fire Department will be terminated for cause.
- (6) Except as provided by paragraph (10), if Smith leaves employment with City and the Goshen Fire Department before obtaining an Indiana paramedic license, including termination, Smith agrees to repay City the City's actual cost for Smith to attend the paramedic training program, including the cost of the training program and the time City

paid another employee to cover Smith's shift due to Smith's attendance of the paramedic training classes and clinical sessions. In no event shall the reimbursement amount exceed the sum of Fifteen Thousand Dollars (\$15,000).

- (7) Upon receiving an Indiana paramedic license, Smith agrees to serve City and the Goshen Fire Department as an active paramedic in accordance with the requirements set forth in the contract between the City of Goshen and the Goshen Firefighters Association, Local No. 1443, as amended from time to time. Smith agrees to maintain Smith's paramedic license as long as Smith is required to serve City and the Goshen Fire Department as a paramedic.
- (8) Smith agrees to serve City and the Goshen Fire Department as an active paramedic for a minimum of three (3) full years. Except as provided by paragraph (10), if Smith fails to serve City and the Goshen Fire Department as an active paramedic for three (3) full years, including termination, Smith agrees to repay City a prorated portion of Fifteen Thousand Dollars (\$15,000) or City's actual cost for Smith to attend the paramedic training program, whichever is less. The reimbursement amount will be credited at the rate of Five Thousand Dollars (\$5,000) or one-third (1/3) of City's actual cost, whichever is less, for each full year Smith serves City and the Goshen Fire Department as an active paramedic. (Credit will not be given for partial years of service.) If City's actual cost for the paramedic training is less than Fifteen Thousand Dollars (\$15,000), then City and Smith agree to establish in writing City's actual cost for Smith to complete the paramedic training program, including the cost of the training program and the time City paid another employee to cover Smith's shift due to Smith's attendance of the paramedic training classes and clinical sessions.
- (9) Smith's repayment to City is due (30) days after withdrawing from service as an active paramedic or within thirty (30) days of Smith's last day of employment with City and the Goshen Fire Department. Interest will accrue on the unpaid balance of the repayment at the rate of eight percent (8%) per annum beginning thirty (30) days after withdrawing from service as an active paramedic or within thirty (30) days of Smith's last day of employment with City and the Goshen Fire Department.
- (10) No repayment will be due City if Smith fails to obtain an Indiana paramedic license and/or fails to serve as an active paramedic for three (3) full years because of disability or illness which make it impractical for Smith to obtain an Indiana paramedic license and/or to continue to serve as a paramedic in the foreseeable future, or due to death.

AMENDMENT

This agreement may be amended only by the mutual written consent of the parties and approval by the Goshen Board of Public Works and Safety.

SEVERABILITY

The provisions of this agreement are severable, and if any provision shall be held invalid or unenforceable, in whole or in part, then such invalidity or unenforceability shall affect only such provision, and shall not affect any other provision of this agreement.

INDIANA LAW

This agreement shall be governed by and construed in accordance with the laws of the State of Indiana. Proper venue to enforce the terms and conditions of this agreement shall be in Elkhart County, Indiana.

BINDING EFFECT

This agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.

ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the parties, and supersedes all prior negotiations, agreements and understandings between the parties concerning, the subject matter hereof.

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

City of Goshen, Indiana

Jeremy P. Stutsman, Mayor

Jared A. Smith

Date: _____

Date: _____

1/5/23

From: Dale Klassen
To: City of Goshen Board of Works
Re: Release of sewer usage fees during house rehab

I am writing this letter to you today at the request of the billing office for city utilities. I understand they have neither the power or authority to resolve my issue.

I am requesting the release from all charges, fines, and associated fees for sewer usage at 417 Gra Roy during the time that I am renovating the property. My current charges are \$94.92 and are due 1/16/23. It is my understanding that this will be a monthly charge.

I have recently purchased this property and am in the process of renovating it. A building permit is displayed on the front door of this property.

The property has had water service by means of a well and has never been connected to city water. The previous owner never installed a meter to monitor his water usage even though the city sewer line was connected somewhere around 1978.

Currently the property has no functioning water supply lines as they were in poor condition and I removed them all. The well pump is also currently not working.

During the course of my work all new water lines will be installed as well as provisions to connect a water meter. It is my hope that all fees will be waived until such point that a water meter is installed. Since this property will be inspected upon completion by the Building Dept there should be no problem determining when usage of water begins.

I am available during normal working hours for an on site visit to this property if you wish to verify anything I have written.

I ask that my request be taken up at your earliest convenience.

Respectfully,

Dale Klassen
619 S. 7th St.
Goshen, IN 46526
574-596-5088



Kelly Saenz, Manager
WATER & SEWER UTILITIES BUSINESS OFFICE
CITY OF GOSHEN
203 South Fifth Street • Goshen, IN 46528-3713
Phone (574) 533-9399 • Fax (574) 533-6961
watersewer@goshencity.com • www.goshenindiana.org

To: Board of Public Works & Safety and Stormwater Board

From: Kelly Saenz, Utility Office Manager

Re: 417 Gra Roy Drive

Date: January 19, 2023

The property has been connected to the City's sewer system since 5/28/1976. The property has never been connected to the City's water system.

The account is currently being billed for flat sewer, per City ordinance 5107, as a water meter has never been purchased and installed to monitor the water used within the home.

The City's Building Department does not determine water usage for the City of Goshen. The appropriate way to determine water & sewer usage is by installing a city approved water meter and bill accordingly.

Due to the property's direct impact on the City's sewer system, the Water & Sewer Utilities Department cannot support Mr. Klassen's request to release sewer usage fees during house rehab for 417 Gra Roy Drive.

Allison & Kyle Stiffney
702 s 6th st.
Goshen, IN 46526

January 17th 2023

City of Goshen Board of Works
111 East Jefferson St.
Goshen, IN 46526

Board of Works,

We currently have an existing 320 (20' x 16') sqft brick patio surrounded by a wooden fence that extends into the city right of way. This patio was installed in the early 90's with BOW approval and existed prior to us purchasing the home in 2018. This longstanding approval should be grandfathered.

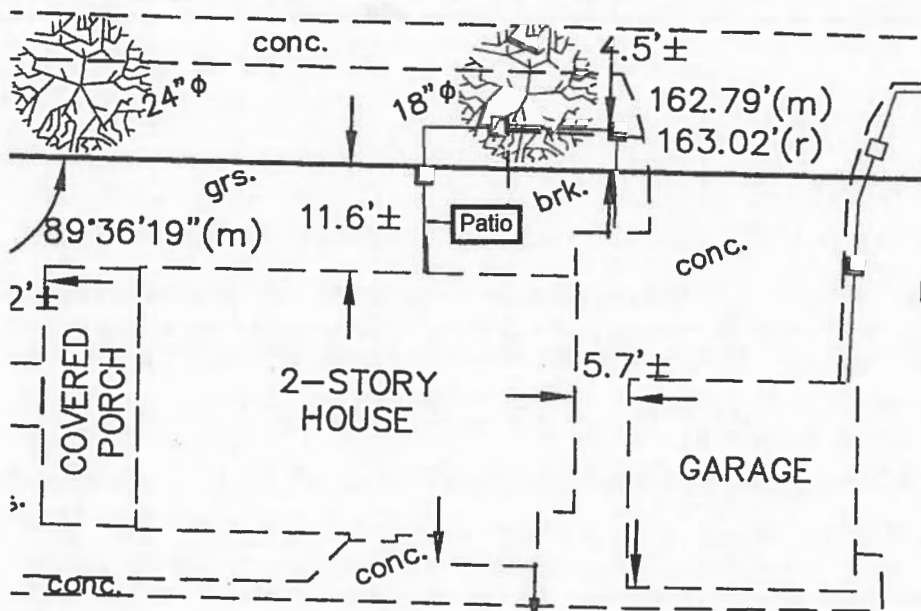
The fence surrounding the patio creates a safety risk as it limits the visibility of pedestrians on the sidewalk from our driveway. We humbly request approval to update and improve the existing patio for aesthetic and safety purposes. We would replace existing brick and fence with concrete pavers and reduce the surrounding fence height (to a maximum of 2' on north and east sides) creating a much safer entry and exit of our driveway. The overall size of the patio and the minimal encroachment into the right of way will remain as it has been since 1992. Additionally, the concrete pavers would be able to be disassembled and reassembled in the event the city needs to access that portion of the right way. The homeowner acknowledges this would be at the homeowner's expense.

Warm regards,

Allison & Kyle Stiffney



Layout: Below is a portion of the survey conducted by Abonmarche. Facing north, the patio sits on the north side of the house and west side of the concrete driveway, outlined below. The portion of the patio north of the thick black line is the small part that extends into the right of way.



Allison & Kyle Stiffney
702 s 6th st.
Goshen, IN 46526

Original Patio:



Street view:



Allison & Kyle Stiffney
702 s 6th st.
Goshen, IN 46526

Recent Safety improvements:





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: City of Goshen Board of Works & Safety
From: Clerk-Treasurer Richard R. Aguirre
Date: Jan. 23, 2023
Subject: **Allison & Kyle Stiffney request:** Approve height reduction of fence and replacement and update of existing patio with some encroachment into the City's right-of-way

The above referenced matter is scheduled to be considered by Board of Public Works and Safety on Jan. 23, 2023.

In response, **Dustin K. Sailor, P.E., City Director of Public Works**, responded to the Clerk-Treasurer's Office and the Planning & Zoning Department that his recommendation would depend on the existence of any City documentation verifying the information about prior City approvals provided by the applicants.

Assistant Planning & Zoning Administrator Rossa Deegan provided the following response:

Details of the approval of a hot tub/patio area and fence approval at 702 S 6th Street are as follows:

- BZA approval for a 6' high fence and hot tub in front yard setback up to the Douglas Street right of way approved on 9-22-92
- BOW tabled request to locate the fence and patio in right of way (33" from sidewalk) on 9-28-92
- BOW approved request to locate the fence and patio in right of way on 10-5-92. It's unclear if it was approved at a distance of 33" from sidewalk or 6' based on minutes. Minutes can be found here: B:\Clerk-Treasurer\Board of Works\1999 and before\1992\1992 Minutes ; Planning does not have diagrams referenced in the minutes
- Zoning clearance for 16' x 21' patio issued 10-7-92 and is attached

The layout included in the zoning clearance is the same one used for the variance request, but it does not show an encroachment into the right of way. Measurement of the patio area in recent aerials indicate the patio area is closer to 10' x 21' than 16' x 21'.

ZONING CLEARANCE

CITY OF GOSHEN, INDIANA

Landowner/Applicant: Doug + Brenda Nisley Date: 10/7/92
 Mailing Address: 702 S. 6th St. Phone: 533-1044
(Street)
 City/Zip Code: Goshen IN. 46526
(City) (State) (Zip Code)

PROPOSED CONSTRUCTION (use space on back for site plan)

LOCATION:

Twp: Elkhart Zone District: R-2

N-S-E-W Side/Cor. of N-S-E-W of
(Name/No.) (Name/No.)

Address: Same Contractor: Michael Gingrich
If same as above write "Same"

Lot No: 65 CORNER INTERIOR Subdivision: Paris 2nd Add. Approx. Cost 2000

Lot Width: 50 ft. Lot Depth: 163 ft. SQ. FT. ACRES Attached Legal Description

Existing Use: single family Existing Structures:
Size

Public Sewer Public Water Well Septic System

Dedicated Road Access Easement Att. Legal Description of Easement Att. Plot Plan

PROPOSED USE: Fenced in Hot tub deck + Patio area.

Building Size: 16' 6" x 21' 346.5 Coverage pct.
Sq. Ft.

Setbacks: Front 38' Rear 100' Side 4' 10" Side 39' Height: FEET STORIES

Sign: Size x Projection Height Other

Principal Building Accessory Structure Addition Remodeling Other

MINIMUM ZONING RESTRICTIONS FOR AN R-2 ZONE.

Lot Width Lot Coverage pct. Setbacks: Front Rear

Lot Depth Parking Spaces Side Side

Comments:

Variances/Special Permits Needed: Board Action: 9-22-92
Date

Granted Denied Conditions: to permit 9' 6" high fence around a hot tub w/in front yd. Set back + BOW approval to encroach in Douglas St. r/10/w
Space on back may be used for improvement site plan.

ZONING CLEARANCE

The information on this application together with attachments thereto are true and complete. I agree that all structures and uses, as indicated, will comply with the standards and restrictions for the Zoning District in which they are located, and that any deviation therefrom will render this certificate null and void.

SIGNED: Michael Gingrich (owner/agent)

I have examined the above application, including site plan, for compliance with all requirements of the Zoning Ordinance. On the basis of the information submitted it is hereby determined that a zoning clearance shall be granted.

DATE: 10-7-92 SIGNED: Nancy Jennett
(By/For Zoning Administrator)

This certificate applies to Zoning Clearances only and does not satisfy the requirements of any applicable building codes and permits required.

GOSHEN CITY BOARD OF ZONING APPEALS
302 S. Fifth Street
GOSHEN, INDIANA 46526
PHONE: 219-534-3600

TO: Doug Nisley
702 S. 6th St.
Goshen, IN 46526

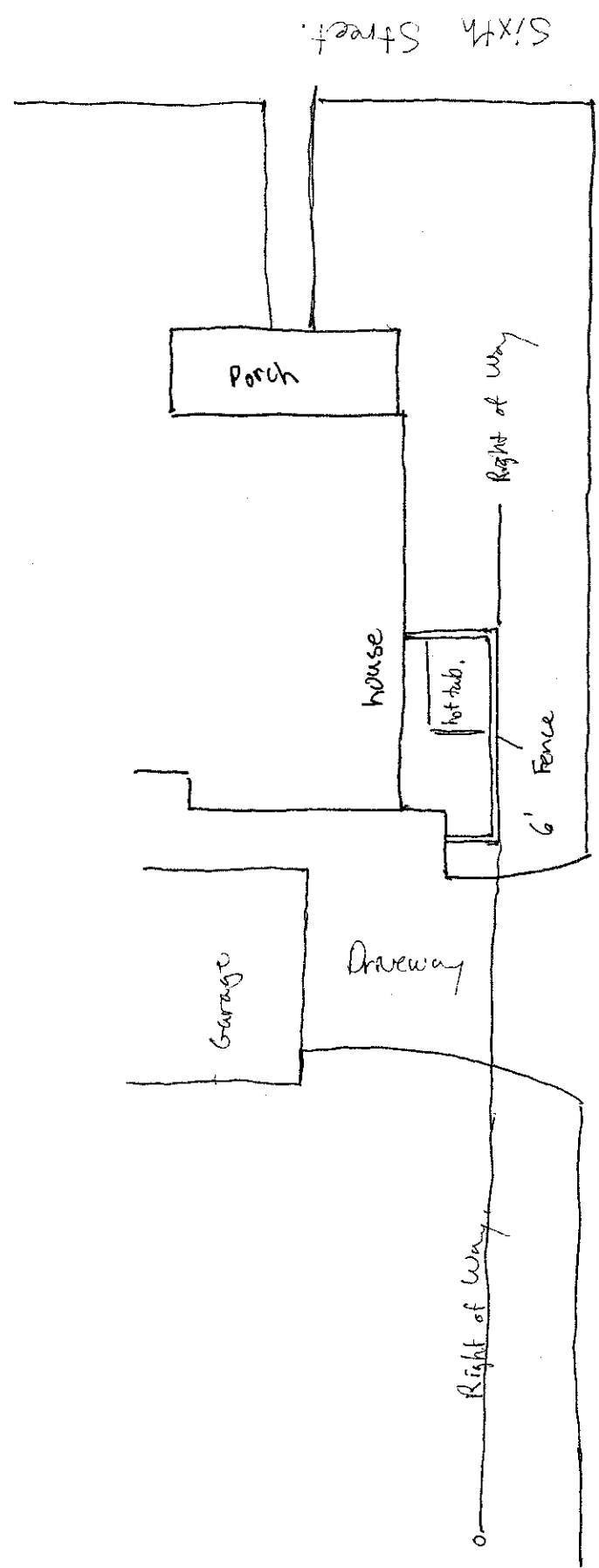
You are hereby notified that the petition for a developmental
variance to permit a 6' high fence and accessory use (hot tub) within
the front yard setback up to the Douglas S. right-of-way

was presented and considered at the meeting of the Goshen Board of
Zoning Appeals on September 22, 1992, and was acted upon as
follows: DENIED _____ APPROVED XXX TABLED _____

When the Board's action is one of APPROVAL, the authorization is granted
contingent upon the following requirements. Deviation from said require-
ments automatically cancels and terminates the approval or permit. If
approved, the variance is granted for six (6) months, and shall become
null and void unless a Building Permit has been issued.

*Received Board approval also to
be encroaching in the
Douglas St. right-of-way*

Handwritten notes on the left margin, including the number '10' and some illegible scribbles.



Douglas Street

Memorandum

Patriot Tree Corp

Crist Helmuth - 574-993-6792

Aaron Schmucker - 574-248-2614

Email: patriottreecorp@gmail.com

Website: patriottreecorporation.com

Subject: Request for Road Closure – a portion of South 8th Street

Patriot Tree is requesting road closure for a section of South 8th Street for tree removal. Closure is requested from Jackson Street to a few blocks south of 1006 S. 8th Street.

We would like to do this project on Tuesday 1/24/23 or Wednesday 1/25/23 starting at 8:00 AM till 2:00 PM.

See attachment for details.



ST

E JACKSON ST

3D



1006 S Eighth St

S EIGHTH ST

S NINTH ST

42°



CITY OF GOSHEN LEGAL DEPARTMENT

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

Phone (574) 537-3820 • Fax (574) 533-8626 • TDD (574) 534-3185
www.goshenindiana.org

January 23, 2023

To: Board of Public Works and Safety

From: Shannon Marks, Legal Compliance Administrator

Subject: Resolution 2023-01, Acquisition of Real Estate at 1402 West Wilden Avenue

The City wishes to acquire the real estate at 1402 West Wilden Avenue for use by the Waste Water Treatment Plant. Resolution 2023-01 approves the terms and conditions of a Purchase Agreement with LDM Investments, LLC for the City's acquisition of real estate at 1402 West Wilden Avenue, and ratifies the Mayor's execution of the Purchase Agreement on December 22, 2022. The resolution further authorizes the Mayor to execute any other documents on behalf of the Board and the City of Goshen necessary to effectuate the City's acquisition of the real estate.

Suggested Motion:

Move to adopt Resolution 2023-01, Acquisition of Real Estate at 1402 West Wilden Avenue.

**GOSHEN BOARD OF PUBLIC WORKS AND SAFETY
RESOLUTION 2023-01**

**Acquisition of Real Estate at
1402 West Wilden Avenue**

WHEREAS the City of Goshen wishes to acquire certain real estate more commonly known as 1402 West Wilden Avenue, Goshen for use by the Waste Water Treatment Plant.

NOW, THEREFORE, BE IT RESOLVED by the Goshen Board of Public Works and Safety that the City of Goshen is interested in purchasing certain real estate more commonly known as 1402 West Wilden Avenue, Goshen as depicted on the map below.



BE IT FURTHER RESOLVED that the terms and conditions of the Purchase Agreement attached to and made a part of this resolution are approved.

BE IT FURTHER RESOLVED that the Board of Public Works and Safety ratifies Mayor Jeremy P. Stutsman's execution of the Purchase Agreement on December 22, 2022. Mayor Stutsman is further authorized to execute any other documents on behalf of the Goshen Board of Public Works and Safety and the City of Goshen that are necessary to effectuate the City's acquisition of the real estate.

PASSED by the Goshen Board of Public Works and Safety on _____, 2023.

Jeremy P. Stutsman, Mayor

Member

Member

Member

Member

Listing Broker (Co.) Model Real Estate, LLC (EL3964) By Dallan Troyer (EL4373)
office code individual code
Selling Broker (Co.) Model Real Estate, LLC (EL3964) By Dallan Troyer (EL4373)
office code individual code



PURCHASE AGREEMENT
COMMERCIAL-INDUSTRIAL REAL ESTATE

For use only by members of the Indiana Association of REALTORS®

DATE: December 21, 2022

1 **A. PARTIES:** LDM Investments LLC,
2 _____ ("Seller")
3 agrees to sell and convey to City of Goshen
4 _____ ("Buyer")
5 and Buyer agrees to buy from Seller the following property for the consideration and subject to the following:

6 **B. PROPERTY:** The property is commonly known as _____
7 1402 W Wilden Ave, Goshen, 46528
8 in Elkhart Township, Elkhart County, Goshen Indiana, 46528
9 including all buildings and permanent improvements and fixtures attached owned by Seller; all privileges, easements and
10 appurtenances pertaining thereto including any right, title and interest of Seller in and to adjacent streets, alleys, rights-of-way,
11 leases, rents, security deposits, licenses and permits with respect to the property, trade name, and warranties or guaranties
12 relating to the property being sold, and any personal property specified herein; all of the above referred to as the "Property,"
13 the legal description of which is (attached as Exhibit "A") (described as follows): PT S1/2 W1/2 SE1/4 EX .258A; EX .31A
14 (ROW) SEC 5; (TIF 97); .862A

15 _____; subject to exact determination by survey pursuant to Paragraph J.
16 **The following items of personal property are INCLUDED in the sale:** Security Cameras and Server Racks

17 _____
18 **All other personal property and the following additional items are EXCLUDED from the sale:** Office items, Televisions,
19 Television mounts, unless otherwise agreed upon before closing

20 **C. PRICE:** The purchase price shall be Three Hundred Forty-Five Thousand Dollars
21 (\$ 345,000.00) U.S. Dollars, payable (in cash at closing) (in accordance with the terms and conditions in this
22 Agreement).

23 **D. EARNEST MONEY:** Buyer submits \$ _____ U.S. Dollars as Earnest Money to be held by _____
24 _____ as Escrow Agent within _____ days of execution and
25 receipt of this Agreement by both parties. **If Buyer fails for any reason to timely submit Earnest Money, Seller may**
26 **terminate this Agreement upon notice to Buyer prior to Escrow Agent's receipt of the Earnest Money.** The Earnest Money
27 shall be applied to the purchase price at closing unless returned to Buyer, released to Seller, or otherwise disbursed in
28 accordance with this Agreement. The Escrow Agent is not a party to this Agreement and does not assume or have any liability for
29 performance or non-performance of any party. Before the Escrow Agent has any obligation to disburse the Earnest Money in the
30 event of dispute, Escrow Agent has the right to require from all parties a written release of liability of the Escrow Agent,
31 termination of the Agreement and authorization or court order to disburse the Earnest Money. If the Escrow Agent is the Listing
32 Broker ("Broker") described above, Broker shall be absolved from any responsibility to make payment to the Seller or Buyer
33 unless the parties enter into a Mutual Release or a Court issues an Order for payment, except as permitted in 876 IAC 8-2-2
34 (release of earnest money). Upon notification that Buyer or Seller intends not to perform, Broker holding the earnest money may
35 release the Earnest Money as provided in this Agreement. If no provision is made in this Agreement, Broker may send to Buyer
36 and Seller notice of the disbursement by certified mail of the intended payee of the Earnest Money. If neither Buyer nor Seller
37 enters into a mutual release or initiates litigation within sixty (60) days of the mailing date of the certified letter, Broker may
38 release the Earnest Money to the party identified in the certified letter. Buyer and Seller agree to hold the Broker harmless from
39 any liability, including attorney's fees and costs, for good faith disbursement of Earnest Money in accordance with this Agreement
40 and licensing regulations.

41 **E. ADDITIONAL PROVISIONS:** Included in this Agreement are the following addenda: (Place an "X" on the appropriate line or
42 lines)
43 _____ Financing Addendum _____ Feasibility Study Addendum
44 _____ Leased Property Addendum _____ Exchange Addendum
45 _____ Zoning/Governmental Approval Addendum _____ Representations & Warranties of Seller Addendum
46 _____ Alternative Dispute Resolution Addendum _____ Lead-Based Paint Disclosure Addendum
47 _____ Addendum to Purchase Agreement

48 **F. CLOSING:** The closing of the sale shall take place at (the Title Company) (Place of city choosing
49 _____) on or before March 31, 2023 or within _____ days after
50 the end of both the Inspection Period and any of the periods described in any of the above referenced Addenda which are part of
51 this Agreement, whichever is later, (the "Closing Date") or this Agreement shall terminate unless the Closing Date is changed in
52 writing by Seller and Buyer, or otherwise extended pursuant to this Agreement.

53 **G. POSSESSION:** The possession of the Property shall be delivered to Buyer, subject to the rights of tenants in possession, if any, in
54 its present condition, ordinary wear and tear excepted, on the Closing Date. Seller shall maintain the Property, including

(office use only)

55 fixtures, equipment and any included personal property in its present condition until possession is delivered to Buyer.

56 H. REAL ESTATE TAXES: (Check paragraph 1, 2, or 3 below)

- 57 1. **Current Year (Lien Basis in Arrears) Indiana Customary Proration:** The taxes assessed for the current year, due and
- 58 payable in the year following closing, shall be prorated between Seller and Buyer on a calendar year basis as of the day
- 59 immediately prior to the Closing Date. All taxes assessed for any prior calendar year and remaining unpaid shall also be paid
- 60 by Seller.
- 61 2. **Prior Year (Cash Basis) Proration When Taxes Are Paid:** The taxes assessed for the year prior to closing, due and
- 62 payable during the year of closing, shall be prorated between Seller and Buyer on a calendar year basis as of the day
- 63 immediately prior to the Closing Date. Buyer shall be responsible for all taxes assessed for the current year due and payable
- 64 in the year following closing.
- 65 3. **Installment Basis:** Buyer will assume and pay all taxes on the Property beginning with the tax installment due and
- 66 payable on _____, _____, and all taxes due thereafter. Seller shall pay all taxes for the Property
- 67 due and payable before such tax installment not assumed by Buyer.

68 For Purposes of 1, 2, and 3 above:

- 69 (A) If the tax rate or assessment for taxes assessed or payable in the year of closing has not been determined as of the
- 70 Closing date, the assessment or rate shall be assumed to be the same as the most recent assessment or rate.
- 71 (B) Taxes which are Seller's responsibility and not yet due as of the Closing Date, shall be credited against the purchase
- 72 price or cash portion thereof payable by Buyer at closing, and Seller shall have no further liability for such taxes.
- 73 (C) All taxes due and payable on or prior to the Closing Date and shall be paid at or before closing and charged at closing to
- 74 the responsible party.
- 75 (D) Buyer shall have the right to assume control and responsibility of all real estate tax appeals, and any rebates, refunds or
- 76 credits shall be prorated between Seller and Buyer as of the Closing Date.

77 (NOTE: The succeeding year's tax bill for recently constructed buildings or following reassessment periods may

78 greatly exceed the last tax bill available to the closing agent.)

79 I. **INSURANCE AND RISK OF LOSS:** Seller shall maintain replacement cost (if available) or actual cash value "all risk"

80 insurance on the Property through the Closing Date. Seller's insurance shall be canceled as of the Closing Date and Buyer

81 shall provide its own insurance thereafter. Risk of loss by damage or destruction to the Property prior to the closing shall be

82 borne by Seller. In the event any damage or destruction is not fully repaired prior to closing, Buyer, at its option, may either

83 terminate this Agreement or elect to close the transaction, in which event Seller's right to all insurance proceeds not yet

84 applied to repair of the damage or destruction shall be assigned in writing by Seller to Buyer at closing. Seller shall reimburse

85 Buyer at closing for any insurance deductible.

86 J. **CONDITIONS TO CLOSING:** Buyer's obligations under this Agreement are conditioned upon satisfaction of each of the

87 following items which are for the Buyer's benefit and may be waived by Buyer at Buyer's sole discretion within _____ days from

88 the last date between Seller and Buyer of this Agreement or any counter-offers (the "Inspection Period").

89 1. **Title Commitment:** A commitment for title insurance (the "Commitment") issued by a reputable title insurance company

90 selected or approved by Buyer (the "Title Company") showing marketable title in Seller's name shall be ordered by

91 (Seller) (Buyer) promptly upon acceptance of this Agreement and shall be delivered to Buyer within 7 days

92 after December 22, 2022. At Buyer's request, legible copies of all recorded instruments

93 affecting the Property or recited as exceptions in the Commitment shall also be delivered.

94 2. **Survey:** A survey shall be ordered promptly upon acceptance of this Agreement and shall be furnished at (Seller's)

95 (Buyer's) expense within 60 days after December 22, 2022. It shall be prepared by a

96 licensed Indiana surveyor selected or approved by Buyer, shall comply with requirements for ALTA Surveys, including

97 optional requirements from Table A, shall reflect whether the Property is located in a designated flood zone area and shall be

98 certified to Buyer, the Title Company and Buyer's lender.

99 3. **Title and Survey Approval:** If Buyer has an objection to items disclosed in the Commitment or the survey, Buyer shall

100 make written objections to Seller within 60 days after receipt of both the Commitment and survey. Upon the

101 expiration of such period, any item not objected to by Buyer or subsequently approved by Buyer in writing shall be

102 deemed a permitted exception ("Permitted Exception"). If Buyer makes objections, Seller shall have thirty (30) days from

103 the date the objections are made to cure the same, and the Closing Date shall be extended, if necessary. Seller agrees

104 to utilize its best efforts and reasonable diligence to cure any objections, but only to the extent necessary to convey

105 marketable title. If the objections are not satisfied within the time period, Buyer may either terminate this Agreement and

106 receive a refund of the Earnest Money or waive the unsatisfied objections and close the transaction.

107 4. **Inspections: (Check paragraph (A) and/or (B) or paragraph (C) below)** Unless Buyer waives inspections under

108 paragraph (C), Buyer shall have determined that the Property has no unacceptable, adverse environmental or physical

109 condition as provided below.

110 (A) **Environmental Assessment:** A Phase I environmental site assessment ("Phase I") on the Property shall be ordered

111 by (Seller) (Buyer) promptly upon acceptance of this Agreement at (Seller's) (Buyer's) expense from a

112 reputable, qualified engineer, acceptable to Buyer. The Phase I shall be conducted in accordance with current ASTM

113 standards unless otherwise agreed and may also include at Buyer's option the following matters:

114 (1) an investigation for the presence of asbestos, radon, lead or polychlorinated biphenyls (PCBs) on the Property;

115 and/or

116 (2) an investigation to determine if the Property is located in any regulated or protected area under the jurisdiction of

117 the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the Indiana Department of

118 Environmental Management, the Indiana Department of Natural Resources, the U.S. Fish and Wildlife Service or

119 any other federal, state or local agency.

120 If Buyer does not make a written objection to any problem(s) revealed in the report within _____ days of

_____ (office use only)

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_____ the Property shall be deemed to be acceptable. If Buyer determines that the environmental condition is unsatisfactory, Seller shall have a reasonable period of time, not to exceed _____ days, to remediate the condition to Buyer's satisfaction and the Closing Date shall be extended, if necessary. If Seller fails or refuses to remediate, Buyer may either terminate this Agreement and receive a refund of the Earnest Money or waive its objection and close the transaction.

(B) **Physical Inspections:** Promptly upon acceptance of this Agreement, all physical inspections shall be ordered at (Seller's) (Buyer's) expense. Inspections shall be made by qualified inspectors or contractors, selected or approved by Buyer, with written reports delivered to Seller and Buyer. Inspections may include but are not limited to the following: heating, cooling, electrical, plumbing, roof, walls, ceilings, floors, foundation, basement, crawl space, mold, water, storm and waste sewer, well/septic, geotechnical, other: _____. If Buyer, in its reasonable discretion, believes that an inspection report reveals a major defect in or with the Property, Buyer shall report such defect in writing to Seller within _____ days of _____. If Buyer does not make a written objection to any problem(s) revealed in the report(s) within such time period, the Property shall be deemed acceptable to Buyer. Seller shall have a reasonable period of time, not to exceed _____ days, to repair any such major defect to Buyer's reasonable satisfaction and the Closing Date shall be extended, if necessary. If Seller fails or refuses to repair, Buyer may either terminate this Agreement and receive a refund of the Earnest Money or waive its objection and close the transaction.

(C) **Waiver of Inspections:** BUYER HAS BEEN MADE AWARE THAT INDEPENDENT INSPECTION DISCLOSING THE CONDITION OF THE PROPERTY ARE AVAILABLE, AND BUYER HAS BEEN AFFORDED THE OPPORTUNITY TO REQUIRE SUCH INSPECTIONS AS A CONDITION OF THIS AGREEMENT. HOWEVER, BUYER WAIVES THE RIGHT TO OBTAIN INSPECTIONS AND RELIES UPON THE CONDION OF THE PROPERTY BASED UPON BUYER'S OWN EXAMINATION AND RELEASES SELLER AND LISTING AND SELLING BROKER(S) FROM ANY AND ALL LIABILITY RELATING TO ANY PROBLEM, DEFECT OR DEFICIENCY AFFECTING THE PROPERTY, WHICH RELEASE SHALL SURVIVE THE CLOSING.

Buyer and its agents shall have the right to enter upon the Property upon reasonable advance notice and make all inspections provided for herein. Buyer shall restore any damage to the Property resulting from the entry of Buyer or its agents and shall indemnify, defend and hold harmless Seller as to any injury to persons or damage to their property resulting from the negligence of Buyer or its agents in conducting their activities on the Property.

K. PRORATIONS AND SPECIAL ASSESSMENTS: Interest on any debt assumed or taken subject to, any rents, all other income and ordinary operating expenses of the Property, including but not limited to, public utility charges, shall be prorated as of the day prior to the Closing Date. Any special assessments applicable to the Property for municipal improvements made to benefit the Property prior to the date of acceptance of this Agreement shall be paid by Seller at or before closing. At closing, Buyer will assume and agree to pay all special assessments for municipal improvements which are completed after acceptance of this Agreement.

L. SALES EXPENSES: All sales expenses are to be paid in cash prior to or at the closing as follows in addition to the other items described in this Agreement.

ITEM	(Check the applicable party who pays)	
	Seller	Buyer
1. Release of existing loans and recording releases	X	
2. Closing Fee	X	X
3. Preparation of Deed and Vendor's Affidavit	X	
4. New or assumed loan fees		
5. Title search fee	X	
6. Title Policy Premium-Owner	X	
7. Title Policy Premium-Lender		X
8. Other Title Company Costs	X	X

M. DEFAULT: If Buyer breaches this Agreement, Seller may seek any remedy provided by law or equity, or terminate this Agreement and receive the Earnest Money as liquidated damages. If Seller breaches this Agreement, Buyer may terminate this Agreement and receive a refund of the Earnest Money, or Buyer may seek specific performance or any other remedy provided by law or equity. In the event of Seller default, Seller shall immediately be obligated to pay all brokerage commissions that would have been paid had this transaction closed. In the event of Buyer default, commissions may also be due and payable pursuant to the terms of the applicable brokerage agreements.

N. DUTIES OF BUYER AND SELLER AT CLOSING:

1. At the closing, Seller shall deliver to Buyer, at Seller's sole cost and expense, except as otherwise provided in this Agreement, the following:

(A) A duly executed and acknowledged Warranty Deed conveying marketable title in fee simple to all of the Property, free and clear of any and all liens, encumbrances, conditions, easements, assessments, reservations and restrictions, except Permitted Exception(s);

(B) A pro-forma Owner's Policy of Title Insurance or marked up title commitment (the "Title Policy") issued by the Title Company in the amount of the purchase price, dated as of closing, insuring Buyer's fee simple title to the Property to be marketable subject only to the Permitted Exception(s), and deleting the standard printed exceptions contained in the usual form of the Title Policy;

(C) An executed Vendor's Affidavit in form acceptable to the Title Company;

(D) A Bill of Sale, duly executed by Seller, containing warranties of title, conveying title, free and clear of all liens, to any personal property specified in Paragraph B;

(E) An assignment, duly executed by Seller, of leases, prepaid rents, security deposits, and trade name, and to the extent

(office use only)

- 187 assignable, licenses and permits, warranties or guarantees, and to the extent agreed to be assumed by Buyer, all service,
- 188 maintenance, management or other contracts relating to the ownership or operation of the Property. Such assignment
- 189 shall include an indemnity from Seller in favor of Buyer with respect to all claims and obligations arising under such leases
- 190 and contracts prior to the Closing Date. If Buyer does not agree to assume any such contract, then Seller shall deliver
- 191 evidence of termination of such contract at closing and shall indemnify Buyer as to all claims and obligations thereunder;
- 192 (F) A current rent roll duly certified by Seller and any security or tenant deposits, if applicable;
- 193 (G) Evidence of its capacity and authority for the closing of this transaction;
- 194 (H) Certification establishing that no federal income tax is required to be withheld under the Foreign Investment and Real
- 195 Property Tax Act, or consent to withhold tax from the proceeds of sale as required, unless it is established that the
- 196 transaction is exempt;
- 197 (I) All other executed documents necessary to close this transaction.
- 198 **2. At the closing, Buyer shall perform, at Buyer's sole cost and expense, except as otherwise provided in this**
- 199 **Agreement, the following:**
- 200 (A) Pay the cash portion of the purchase price in the form of a cashier's check (if the Purchase Price is under \$10,000) or other immediately
- 201 available funds. If purchase price is \$10,000 or more, the funds shall be wired unconditionally to closing agent's escrow account;
- 202 (B) Execute any note(s) and mortgage(s) and cause the funds to be made available to the closing agent for disbursement;
- 203 (C) Provide evidence of its capacity and authority for the closing of this transaction;
- 204 (D) Provide to Buyer's lender any title policy as required by the holder(s) of the mortgage(s);
- 205 (E) An assumption agreement by Buyer (which may be included in Seller's assignment pursuant to Paragraph N.1(E) above) with respect to
- 206 leases assigned to Buyer and contracts, if any, which Buyer has agreed to assume. Such assumption agreement shall include an indemnity from
- 207 Buyer in favor of Seller as to claims and obligations arising under such leases and contracts assumed by Buyer from and after the Closing
- 208 Date;
- 209 (F) Execute all other documents necessary to close this transaction.
- 210 **O. CONDEMNATION:** Seller shall promptly notify Buyer in writing of the commencement of any condemnation proceedings against any portion of
- 211 the Property. If such condemnation proceedings are commenced, Buyer, at its option, may (1) terminate this Agreement by written notice to Seller within
- 212 seven (7) days after Buyer is advised of the commencement of condemnation proceedings, or (2) appear and defend in any condemnation
- 213 proceedings, and any award shall, at Buyer's election, (a) become the property of Seller and reduce the purchase price by the same amount or (b) shall
- 214 become the property of Buyer and the purchase price shall not be reduced.
- 215 **P. MISCELLANEOUS:**
- 216 1. Any notice required or permitted to be delivered shall be deemed received when personally delivered or when confirmed as received by
- 217 facsimile (with a copy sent by United States mail), express courier or United States mail (postage prepaid, certified and return receipt requested)
- 218 addressed to Seller or Buyer or their designee at the address set forth below the signature of each party.
- 219 2. This Agreement shall be construed in accordance with the laws of the State of Indiana.
- 220 3. Time is of the essence. Time periods specified in this Agreement and any addenda are calendar days and shall expire at 11:59 p.m. of the
- 221 date stated unless the parties agree otherwise in writing.
- 222 4. This Agreement is binding upon and for the benefit of the parties' respective heirs, administrators, executors, legal representatives,
- 223 successors, and assigns. No assignment of this Agreement shall release a party from liability for its obligations hereunder.
- 224 5. If any provision contained in this Agreement is held invalid, illegal, or unenforceable in any respect, the invalidity, illegality,
- 225 or unenforceability shall not affect any other provision.
- 226 6. This Agreement constitutes the entire agreement of the parties and cannot be changed except by their written consent.
- 227 7. By signing below, the parties to this transaction acknowledge receipt of a copy of this Agreement and give their permission
- 228 to a Multiple Listing Service or other advertising media, if any, to publish information regarding this transaction.
- 229 8. Broker(s) may refer Buyer or Seller to other professionals, service providers or product vendors, including lenders, loan
- 230 brokers, title insurers, escrow companies, inspectors, surveyors, engineers, consultants, environmental inspectors and
- 231 contractors. Broker(s) has no responsibility for the performance of any service provider and/or inspector. Buyer and
- 232 Seller are free to select providers/inspectors other than those referred or recommended to them by Broker(s).
- 233 9. Buyer discloses to Seller that Buyer is licensed and holds License # _____ . Seller discloses to
- 234 Buyer that Seller is licensed and holds License # _____ .
- 235 10. Where the word "Broker" appears, it shall mean "Licensee" as provided in I.C. 25-34.1-10-6.8.
- 236 11. Any party who is the prevailing party against any other party in any legal or equitable proceeding relating to
- 237 this Agreement shall be entitled to recover court costs and reasonable attorney fees from the non-prevailing party.
- 238 12. The parties agree that this Agreement may be transmitted between them electronically or digitally. The parties intend that
- 239 electronically or digitally transmitted signatures constitute original signatures and are binding on the parties. The original
- 240 document shall be promptly executed and/or delivered. This Agreement may be executed simultaneously or in two or
- 241 more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same
- 242 instrument.
- 243 13. Each person executing this Agreement on behalf of a party represents and warrants that he or she has been authorized by all
- 244 necessary action to execute and deliver this Agreement on behalf of such party.

(office use only)

245 **Q. FURTHER CONDITIONS (List any additional provisions):** Sale contingent on all necessary City of Goshen board
 246 approvals and compliance with all provisions of the Indiana Code applicable to the City relative to the purchase of real
 247 property.
 248 _____
 249 _____
 250 _____
 251 _____
 252 _____
 253 _____
 254 _____
 255 _____
 256 _____
 257 _____
 258 _____
 259 _____
 260 _____
 261 _____
 262 _____
 263 _____
 264 _____

265 **R. CONSULT YOUR ADVISORS:** Buyer and Seller acknowledge they have been advised that, prior to signing this document,
 266 they should seek the advice of an attorney for the legal or tax consequences of this document and the transaction to which it
 267 relates. In any real estate transaction, it is recommended that you consult with a professional, such as a civil engineer,
 268 environmental engineer, or other person, with experience in evaluating the condition of the property, including the possible
 269 presence of asbestos, hazardous and/or toxic materials and underground storage tanks.

270 **S. CONFIRMATION OF AGENCY RELATIONSHIPS:** Buyer and Seller acknowledge that each has received agency office policy
 271 disclosures, had agency explained and now confirm their agency relationships. Buyer and Seller further acknowledge that
 272 they understand and accept agency relationships involved in this transaction.

273 **T. TERMINATION OF OFFER:** Unless accepted by Seller and delivered to Buyer by _____ (A.M.) (P.M.)
 274 (Noon), the _____ day of _____, this Purchase Agreement
 275 shall be null and void and all parties shall be released of any and all liability or obligations.
 276

277
 278 BUYER'S SIGNATURE _____ DATE _____ BUYER'S SIGNATURE _____ DATE _____
 279 City of Goshen _____
 280 PRINTED _____ PRINTED _____
 281
 282 (AREA CODE) TELEPHONE NUMBER/FAX NUMBER _____ (AREA CODE) TELEPHONE NUMBER/FAX NUMBER _____
 283
 284 BUYER'S ADDRESS FOR NOTICE PURPOSES _____

ACCEPTANCE OF PURCHASE AGREEMENT

285
 286
 287 **SELLER'S RESPONSE: (Check appropriate paragraph number):**
 288 12/22/2022

289 On _____, at _____ A.M. P.M. Noon
 290 *by Bobie J. Stegmann w/ authority 12/22/2022*

- 291 1. The above offer is Accepted.
 292
 293 2. The above offer is Rejected.
 294

295 3. The above offer is Countered. See Counter Offer. Seller should sign both the Purchase Agreement and the Counter Offer.

296 Micah Miller Wesley Miller 12/22/2022
 297 SELLER'S SIGNATURE _____ DATE _____ SELLER'S SIGNATURE _____ DATE _____
 298 LDM Investments LLC _____ Jessie F. Statsum, Mayor _____
 299 PRINTED _____ PRINTED _____

300
 301 (AREA CODE) TELEPHONE NUMBER/FAX NUMBER _____ (AREA CODE) TELEPHONE NUMBER/FAX NUMBER _____
 302
 303 SELLER'S ADDRESS FOR NOTICE PURPOSES _____



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CITY OF GOSHEN LEGAL DEPARTMENT

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

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

January 23, 2023

To: Board of Public Works and Safety

From: Brandy L. Toms

Subject: Agreement with Eurofins Eaton Analytical, LLC for 2023 Drinking Water Compliance Standards Testing.

Attached for the Board's approval to authorize Mayor Stutsman to execute is an agreement with Eurofins Eaton Analytical, LLC for 2023 Drinking Water Compliance Standards Testing. Eurofins Eaton Analytical, LLC will be compensated Two Thousand Eight Hundred Forty-Five Dollars, (\$2,845) for the services.

Suggested Motion:

Approve and authorize Mayor to execute the Eurofins Eaton Analytical, LLC for 2023 Drinking Water Compliance Standards Testing, at a cost of Two Thousand Eight Hundred Forty-Five Dollars, (\$2,845).

**AGREEMENT WITH EUROFINS EATON ANALYTICAL, LLC
FOR 2023 DRINKING WATER COMPLIANCE STANDARDS TESTING.**

THIS AGREEMENT is entered into on _____, 2023, which is the last signature date set forth below, by and between **Eurofins Eaton Analytical, LLC** (“Vendor”), whose mailing address is 110 S. Hill Street, South Bend, Indiana 46617, and **City of Goshen, Indiana**, a municipal corporation and political subdivision of the State of Indiana acting through the Goshen Board of Public Works and Safety (“City”).

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

Section 1. Contractor Duties

Vendor shall provide City the services for the drinking water compliance testing for 2023, which services are more particularly described in Vendor’s December 21, 2022 proposal attached as Exhibit A (hereinafter referred to as “Duties”).

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

Section 2. Effective Date; Term

- (A) The agreement shall become effective on the day of execution and approval by both parties.
- (B) Vendor acknowledges that time is of the essence and that the timely performance of its Duties is an important element of this agreement. Vendor shall perform all Duties as expeditiously as is consistent with professional skill and care in the orderly progress of the Duties.

Section 3. Compensation

- (A) City agrees to compensate Vendor the sum of Two Thousand Eight Hundred, Forty-Five Dollars (\$2,845) for performing all Duties.

Section 4. Payment

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

City of Goshen
c/o Goshen Water & Sewer Department
Attention: Kent Holdren
308 North 5th Street
Goshen, IN 46528

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

Section 5. Ownership of Documents

All documents, records, applications, plans, drawings, specifications, reports, and other materials, regardless of the medium in which they are fixed, (collectively "Documents") prepared by Contractor or Contractor's employees, agents or subcontractors under this agreement, shall become and remain the property of and may be used by City. Contractor may retain a copy of the Documents for its records.

Section 6. Licensing/Certification Standards

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

Section 7. Independent Contractor

- (A) Contractor shall operate as a separate entity and independent contractor of the City of Goshen. Any employees, agents or subcontractors of Contractor shall be under the sole and exclusive direction and control of Contractor and shall not be considered employees, agents or subcontractors of City. City shall not be responsible for injury, including death, to any persons or damages to any property arising out of the acts or omissions of Contractor and/or Contractor's employees, agents or subcontractors.
- (B) Contractor understands that City will not carry worker's compensation or any other insurance on Contractor and/or Contractor's employees or subcontractors. Prior to commencing work under this agreement, and if Contractor utilizes employees or subcontractors to perform work under this agreement, Contractor agrees to provide City a certificate(s) of insurance showing Contractor's and any subcontractor's compliance with workers' compensation statutory requirements.
- (C) Contractor is solely responsible for compliance with all federal, state and local laws regarding reporting of compensation earned and payment of taxes. City will not withhold federal, state or local income taxes or any other payroll taxes.

Section 8. Non-Discrimination

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

Section 9. Employment Eligibility Verification

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

Section 10. Contracting with Relatives

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

Section 11. No Investment Activities in Iran

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

Section 12. Indemnification

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

Section 13. Force Majeure

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

Section 14. Default

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

Section 15. Termination

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

Section 16. Notice

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

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

Contractor: Eurofins Eaton Analytical, LLC
Attention: Daniel Huber
110 S. Hill Street
South Bend, IN 46617

Section 17. Subcontracting or Assignment

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

Section 18. Amendments

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

Section 19. Waiver of Rights

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

Section 20. Applicable Laws

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

Section 21. Miscellaneous

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

Section 22. Severability

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

Section 23. Binding Effect

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

Section 24. Entire Agreement

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

Section 25. Authority to Execute

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

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

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

Eurofins Eaton Analytical, LLC

Jeremy P. Stutsman, Mayor

Printed: _____

Title: _____

Date Signed: _____

Date Signed: _____

December 21, 2022

Marv Shepherd
Goshen Water Department
308 North 5th Street
Goshen, IN 46528
marvshepherd@goshencity.com
Tel: (574) 534-3847

Subject: Analytical Services Proposal - Goshen Wt Dept SOC
Eurofins Eaton Analytical, LLC. Quotation Number 81004235

DRINKING WATER COMPLIANCE STANDARDS 2023

Dear Marv Shepherd

We appreciate the opportunity to provide your company with a quotation for your Goshen Wt Dept SOC project. Eurofins Eator Analytical has a unique combination of full service capabilities, technical expertise, local service options, and online resources necessary to ensure successful project outcomes. Highlights of our service offering includes:

- **MyEOL:** a web portal offering you customizable, real time access to data trending, compare data to industry or project limits, track COCs, invoices, reports and much more.
- **Network of Laboratories:** our services provide access to an unparalleled spectrum of capabilities, capacity and turnaround time options, guaranteed accreditation coverage, all through a single point of contact.
- **State Reporting Deliverables/Customizable EDDs:** high resolution, text searchable reports are available in virtually any format.
- **Extensive Experience:** Project Managers with in-depth knowledge of regulatory requirements and analytical protocols and procedures.
- **Nationwide Logistical Support:** bringing you courier network service centers and shipping options throughout the U.S. and abroad so that we can meet any project needs [where applicable].
- **Seamless Reporting:** a guarantee that you receive a concise single PDF report incorporating all analyses into one document.

The following quotation includes an itemized of analytical methods, reporting limits, fees and other detailed notes and clarifications specific to your project. Resulting work is subject to Eurofins Eaton Analytical's Standard Terms and Conditions, unless otherwise agreed upon in writing.

We thank you for considering Eurofins Eaton Analytical. We look forward to working with you.

Sincerely,

Daniel Huber
Account Executive
Daniel.Huber@et.eurofinsus.com



Environment Testing

South Bend, IN
 110 S Hill Street
 South Bend, IN 46617

Prepared by Huber, Daniel
 Date 12/21/2022
 Expiration Date 12/31/2023
 Est. Start Date

Prepared for:
 Marv Shepherd
 Goshen Water Department
 308 North 5th Street
 Goshen, IN 46528
 marvshepherd@goshencity.com
 Tel: (574) 534-3847

Project: Goshen Wt Dept SOC

Quote Number: 81004235 - 3

Quote Deliverables

Deliverable: CMDP_IDEM (UDS) ComplianceMonitoringDataPortal XML IDEM
Type: Edd **TurnAround:** 15_Days

Company	Locations	Name	Mechanism	Media	Time	Copies
Goshen Water Department	Goshen Water Department	Marv Shepherd	None	None	After Complete	1

Deliverable: STD Invoice Format Standard Invoice Format
Type: Invoice **TurnAround:** 15_Days

Company	Locations	Name	Mechanism	Media	Time	Copies
Goshen Water Department	Goshen, IN	Marv Shepherd	Email	InvCOC	After Invoice	1
Goshen Water Department	Goshen, IN	Marv Shepherd	TA	Web	After Invoice	1

Deliverable: Std_Tal_Login_Ack Standard TAL, Login, Checklist, Acknowledgement
Type: SampConf **TurnAround:** 15_Days

Company	Locations	Name	Mechanism	Media	Time	Copies
Goshen Water Department	Goshen Water Department	Marv Shepherd	Email	AckCOC	After Review	1

Deliverable: UDS Level 1 Report UDS Level 1 Report
Type: Report **TurnAround:** 15_Days

Company	Locations	Name	Mechanism	Media	Time	Copies
Goshen Water Department	Goshen Water Department	Marv Shepherd	Email	Pdf	After Complete	1
Goshen Water Department	Goshen Water Department	Marv Shepherd	TA	Web	After Complete	1
Eurofins System Processes	Eurofins System Processes	MyEOL Posting	TA	Web	After Complete	1

THM/HAA - QUARTERLY

TAT: 15_Days (Business Days)

Matrix	Method	Test Description	Quantity	Unit Price	Extended Price
Drinking Water	552.2	Haloacetic Acids 5	4	\$ 125.00	\$ 500.00
Drinking Water	552.2 THAA	Total Haloacetic Acids - Summary	4	\$ 0.00	\$ 0.00



Environment Testing

South Bend, IN
110 S Hill Street
South Bend, IN 46617

Prepared for:
Marv Shepherd
Goshen Water Department
308 North 5th Street
Goshen, IN 46528
marvshepherd@goshencity.com
Tel: (574) 534-3847

Prepared by Huber, Daniel
Date 12/21/2022
Expiration Date 12/31/2023
Est. Start Date

Project: Goshen Wt Dept SOC

Quote Number: 81004235 - 3

THM/HAA - QUARTERLY

TAT: 15_Days (Business Days)

Matrix	Method	Test Description	Quantity	Unit Price	Extended Price
Drinking Water	524.2	Trihalomethanes	4	\$ 70.00	\$ 280.00
Drinking Water	524.2	Total Trihalomethanes - Summary	4	\$ 0.00	\$ 0.00
Total THM/HAA - QUARTERLY					\$ 780.00

Nitrate

TAT: 15_Days (Business Days)

Matrix	Method	Test Description	Quantity	Unit Price	Extended Price
Drinking Water	Nitrate by calc	Nitrate	1	\$ 35.00	\$ 35.00
Drinking Water	353.2	Nitrate (Nitrite+NO3NO2)	1	\$ 0.00	\$ 0.00
Total Nitrate					\$ 35.00

SOC

TAT: 15_Days (Business Days)

Matrix	Method	Test Description	Quantity	Unit Price	Extended Price
Drinking Water	525.2	525.2-Pesticides	1	\$ 295.00	\$ 295.00
Drinking Water	505	505-Toxaphene/Chlordane	1	\$ 115.00	\$ 115.00
Drinking Water	504.1	504.1-EDB/DBCP	1	\$ 90.00	\$ 90.00
Drinking Water	515.3	515.3-Chlorinated Acids	1	\$ 140.00	\$ 140.00
Drinking Water	549.2	549.2-Diquat	1	\$ 120.00	\$ 120.00
Drinking Water	531.2	531.2-Carbamates	1	\$ 120.00	\$ 120.00
Drinking Water	547	547-Glyphosate	1	\$ 130.00	\$ 130.00
Drinking Water	548.1	548.1-Endothall	1	\$ 120.00	\$ 120.00
Total SOC					\$ 1,130.00

Lead and Copper 200.8

TAT: 15_Days (Business Days)

Matrix	Method	Test Description	Quantity	Unit Price	Extended Price
--------	--------	------------------	----------	------------	----------------



Environment Testing

South Bend, IN
110 S Hill Street
South Bend, IN 46617

Prepared by Huber, Daniel
Date 12/21/2022
Expiration Date 12/31/2023
Est. Start Date

Prepared for:
Marv Shepherd
Goshen Water Department
308 North 5th Street
Goshen, IN 46528
marvshepherd@goshencity.com
Tel: (574) 534-3847

Project: Goshen Wt Dept SOC

Quote Number: 81004235 - 3

Lead and Copper 200.8

TAT: 15_Days (Business Days)

Matrix	Method	Test Description	Quantity	Unit Price	Extended Price
Drinking Water	200.8	Lead & Copper qty (30) June - September 2023	30	\$ 30.00	\$ 900.00
Total Lead and Copper 200.8					\$ 900.00

Quote Other Charges

Description	Quantity	Unit Price	Extended Price
Sample Kit Delivery	4	\$ 0.00	\$ 0.00
Total Other Charge			\$ 0.00

Total Other Charges	\$ 0.00
Total Analysis Charges	\$ 2,845.00
Grand Total for Quote 81004235	\$ 2,845.00

***Quoted charges do not include sales tax. Applicable sales tax will be added to invoices where required by law.*

South Bend, IN
110 S Hill Street
South Bend, IN 46617

Prepared by Huber, Daniel
Date 12/21/2022
Expiration Date 12/31/2023
Est. Start Date

Prepared for:
Marv Shepherd
Goshen Water Department
308 North 5th Street
Goshen, IN 46528
marvshepherd@goshencity.com
Tel: (574) 534-3847

Project: Goshen Wt Dept SOC

Quote Number: 81004235 - 3

PROJECT DETAILS

Acceptance Signature

Submitted by: daniel.huber@et.eurofinsus.com

Accepted By: _____

RECEIPT OF SAMPLES BY EUROFINS EATON ANALYTICAL CONSTITUTES ACCEPTANCE OF THE TERMS & CONDITIONS BELOW, NOT WITHSTANDING ANY PROVISIONS TO THE CONTRARY IN CLIENT'S PURCHASE ORDER, UNLESS AN ALTERNATIVE AGREEMENT HAS BEEN SIGNED BY US.

Project Description and Details

SAMPLE KITS INCLUDED

Terms of Services

Confidentiality -

This quote has been prepared by Eurofins Eaton Analytical, LLC solely for the use of the customer to whom it is addressed in evaluating Eurofins Eaton Analytical's qualifications and capabilities in connection with a particular project. The user of this document agrees by its acceptance to return it to Eurofins Eaton Analytical upon request and not to reproduce, copy, lend, or otherwise disclose its contents, directly or indirectly, and not to use it for any purpose other than that for which it was specifically provided. The user also agrees that where consultants or other outside parties are involved in the evaluation process, access to this document shall not be given to said parties unless those parties also specifically agree to these conditions. In the absence of signed acceptance, submittal of samples will indicate acceptance of this quotation.

Terms and Conditions -

This quotation is based solely upon Eurofins Eaton Analytical's standard product (routine QA/QC, detection limits, deliverables, and standard turnaround times) and noted exceptions herein. The discounts incorporated into the pricing are based upon the sample quantity, test method, and schedule quoted. Any deviations may impact pricing and/or the acceptance of work. Final acceptance of this work is contingent upon a mutually agreed Sample Delivery Schedule. All sales are subject to Eurofins Eaton Analytical's Terms and Conditions **unless alternative terms have been agreed to in writing**. Submittal of samples will indicate acceptance of this quotation.

Relinquishment of samples constitutes a valid purchase order from client company to Eurofins Eaton Analytical, its affiliates and subcontractors. It assigns standard terms and conditions of service. Eurofins Eaton Analytical standard payment terms are net 30 days upon credit approval. If not approved, advanced payment will be required. Eurofins Eaton Analytical will be liable only for the cost of samples and shall not assume any responsibility for any losses or expenses incurred by the client if such losses are due to circumstances beyond the control of Eurofins Eaton Analytical.

Quote Expiration -

Pricing listed in the proposal will expire **90 days** from the quote date unless the project is awarded/confirmed within that time period. Unless otherwise set forth in this quotation, Eurofins Eaton Analytical reserves the right to re-evaluate pricing for extended length projects on an

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annual basis.

SERWM -

A fee, notated as Safe and Environmentally Responsible Waste Management (SERWM), will be applied to all invoices for each sample processed by the laboratory.

PROJECT SETUP

Coolers and Sampling Supplies -

- Sampling Supplies: Eurofins Eaton Analytical will provide sample containers and coolers to support the sampling of water samples. Additional sampling containers may be provided (up to 10%) in case of breakage. Eurofins Eaton Analytical expects that samples and supplies will be returned to the lab, including empty coolers and a reasonable percentage of the projected sample load - 70% or higher of the expected/quoted sample number. Coolers not received back by the projected deadline or as agreed with the PM may be charged at \$30 per cooler. Similarly, if the sample containers received as samples are less than 90% of the containers provided, the sample containers not received as samples will be charged at a flat rate of \$1 per container.
- Sample Container Shipping: The containers and preservatives required by the project shall be delivered via ground transportation. A minimum of **5 business days** advance notice is required in order to achieve shipment by ground transportation. Supply shipments requiring priority delivery due to insufficient lead time for ground transportation shall be charged to the client at Eurofins Eaton Analytical's cost. Alternatively, Eurofins Eaton Analytical can ship the supplies via carrier of choice by the client using the client's shipping account.

Eurofins Eaton Analytical does not supply wet ice or blue ice for shipments. If shipping containers are not returned within 60 days, a charge for the containers will be billed at the current market rate. Please contact your PM for the current charges.

Courier Services and Sample Pick-Up -

Courier Services are offered by some Eurofins Eaton Analytical facilities. Where offered, the cost of the services will vary based on the distance traveled, the scope of the project being supported, and whether sufficient notice (typically 48 hours) is provided to facilitate efficient scheduling. If no details are described in this quotation and you are interested in learning more about courier options, please contact your Client Relations Manager or Project Manager to inquire about availability and cost.

Minimum Log-In Charges -

Eurofins Eaton Analytical's minimum charge is **\$250** for a group of samples received together for analysis. Our minimum invoice value is \$250.

These terms will be enforced unless previously negotiated in a contract.

QC Limit Disclaimer -

The laboratory's reporting limits, detection limits, and control limits are subject to change as these values are updated periodically to reflect analytical sensitivity and capability.

Turnaround Time -

- Quoted Turnaround Time - Data will be delivered at the proposed turnaround time in Business Days from Sample Receipt unless otherwise agreed upon. TAT begins the day the laboratory performing analyses receives the samples (day of lab receipt = day zero).

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Samples received after 4:00PM will be considered received the next business day.

- **Expedited Turnaround Time:** Expedited turnaround times may be available and must be pre-approved by the laboratory. Expedited turnaround delivery is contingent upon meeting the agreed upon delivery date/time and number of samples. Samples received after 4:00PM will be considered received the next business day. Results will be provided via e-mail or TotalAccess by close of business in the lab's time zone unless another time has been agreed to in advance.

Expedited turnaround time surcharges for standard analyses are:

- 5 Business Days TAT = 1.5 x listed unit price
- 2-3 Business Days TAT = 2.0 x listed unit price

Different surcharges may apply for specialty analyses. These will be provided in your quotation. Weekend TAT can be arranged on a project-specific basis at an additional cost. Please contact your PM to inquire about availability and cost.

PROJECT DELIVERABLES

Eurofins Eaton Analytical will provide two analytical report formats, a final report in PDF format and a standard Eurofins Eaton Analytical EDD. Both electronic report formats will be delivered via email or web portal. If additional formats or retroactive deliverables are requested, costs of report generation will be billable. Charges will be based on labor and materials cost of report generation and data retrieval. Please contact your PM to inquire about availability and the price of additional deliverables.

- **Report Format:** Unless a level III or IV deliverable is specifically listed on the pricing page, this quotation includes delivery of a Level I or II report. Level III or IV reports are available at an additional charge.
- **Electronic Data Deliverable (EDD) Format:** Eurofins Eaton Analytical has many EDD formats available to our clients including the most widely used commercial formats. Eurofins Eaton Analytical offers data using a standard EDD. Other EDD formats are available for a minimal cost of \$25 per format (if not included as part of the report options listed in the quotation). The development of EDD formats that are not already available, including modification to existing formats to fit client specific needs, can be provided for a fee starting at \$100. Additional fees will be estimated by the lab and approved by the client. Additional programming fees are billed at \$50/hour.

PROJECT SPECIFICATIONS

Cancellation Fee -

A fee will be charged for cancellation of samples/analyses after a project is received in the laboratory. The fee will be based on the status of analysis at the time of cancellation in accordance with the following categories:

- Received - 35%
- Prepped - 50%
- Analyzed - 95%

Changes in Scope and Work Revisions -

Project requirements must be agreed upon prior to sample receipt. Samples will be logged according to the chain of custody received with the samples. Changes after initiation of the project will be subject to additional charges, including labor time required to reset project,

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communicate changes to laboratory staff, and rework data. Turnaround time will be reset or rush surcharges will be assessed where applicable. Analyses added with less than 1/2 of the analytical hold time remaining will incur rush turnaround charges. Your project manager will evaluate project specific charges at the time a change order is received.

Held Samples -

- Held samples not analyzed: Samples submitted on hold will be billed at 35% of the analysis fee (minimum \$5/sample). If samples are later analyzed, the handling fee will be waived and only the analysis price will be charged. Samples taken off hold with less than 1/2 of the analytical hold time remaining may incur rush turnaround charges. Samples will be disposed of 30 days after the report for analyzed samples in the same job is issued, unless alternate archival arrangements are made in advance.
- Extracted/Prepped and Held samples: Samples submitted for prep and hold will be billed at 60% of the analysis fee for each prepped sample (minimum \$30/sample). Samples taken off hold with less than 1/2 of the analytical hold time remaining may incur rush turnaround charges. Samples will be disposed of 30 days after the report for analyzed samples in the same job is issued, unless alternate archival arrangements are made in advance.
- Extended archival of samples: Extended archival of samples (including held samples) may be available for a fee starting at \$2 per container per month (minimum \$10/sample). This fee will be billed in advance on a quarterly basis for every quarter after the standard sample retention time of 30 days after the report is issued. Fees for larger volumes, non-standard matrices or cold storage will be negotiated on a case-by-case basis. Please contact your PM to inquire about availability and pricing for samples that are sent to the lab and archived.

These terms will be enforced unless previously negotiated in a contract.

Matrix Spike/Spike Duplication (MS/MSD) Samples -

When MS/MSDs are not specifically requested, Eurofins Eaton Analytical will strive to perform the required QC using whatever sample is available but will not report the QC results unless the client requests it. The reporting of client requested MS/MSD results will be charged at applicable unit rates. If MS/MSDs are specifically required or requested, the client must provide additional sample volume.

Multiple Dilutions Analyzed -

Eurofins Eaton Analytical strives to analyze samples without dilution or with the minimum dilution required. Samples are diluted to bring the primary analyte within the calibration range of the instrument, to compensate for matrix co-extractives, or to prevent instrument contamination. Eurofins Eaton Analytical will report the analytical run containing the highest concentration component/analyte in the sample within the calibrated (quantifiable) range of the method. Analytical screening runs are not reported. If project specific data quality objectives require additional runs, analyses will be billable unless otherwise noted in this quote. Please contact your PM to inquire about the availability of this service for your project.

Sample Disposal -

Eurofins Eaton Analytical will dispose of non-hazardous samples, sample extracts and digestates 30 days after the final report is issued. Charges for disposal of non-routine or uniquely hazardous samples will be billed to the client. Alternatively, samples can be returned to the client for disposal. Cost of return shipping will be billable to the client.

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Special Sample Handling Fees -

Unit prices assume that samples are a single-phase matrix and that analyses can be performed in accordance with the laboratory's standard analytical procedures. If additional handling is required, additional fees may apply. Examples of special handling include (but are not limited to):

- Matrices requiring additional dilutions or special clean up steps
- Multiphasic samples requiring separate preparations and/or analyses
- Particle size reduction or special sub-sampling procedures
- Extra disposal costs for unique waste streams

Trip Blanks -

Eurofins Eaton Analytical typically provides trip blanks with our sample kits where required. When samples are received at the laboratory with trip blanks, the lab will analyze, report and charge the unit rate for the analysis. Please add this sample to your chain of custody. If you do not want the trip blank analyzed, please note this on the COC.

ADDITIONAL BUSINESS TERMS AND CONDITIONS

Field Parameters -

pH, Temperature, and Dissolved Oxygen analyses, along with Residual Chlorine screening, are properly performed and treated in the field at the time of sample collection. Laboratory analysis may result in a holding time exceedance qualifier.

Network or Subcontract Labs -

- Networking: Eurofins Eaton Analytical reserves the right to perform the services at any laboratory in the Eurofins network unless the Client has required a particular location for the work.
- Subcontracting: Eurofins Eaton Analytical reserves the right to subcontract services ordered by the Client to another laboratory or laboratories, if, in Eurofins Eaton Analytical's sole judgment, it is reasonably necessary, appropriate, or advisable to do so. Eurofins Eaton Analytical will make every effort to notify the client prior to delivering samples to an out-of-network laboratory. Eurofins Eaton Analytical will in no way be liable for any subcontracted services (outside the Eurofins network) except for work performed at laboratories which have been audited and approved by Eurofins Eaton Analytical.

Price Surcharge Due to Sample Volume -

Unless dictated by contract, this quotation is based on the scope of work defined in the quote request. If the volume of samples submitted is less than 70% of the projected volume, a surcharge of 10% of the total project cost may be assessed.

Professional and Administrative Services -

A variety of professional and administrative services are available. Prices for services not specifically detailed in this quotation will be billed in accordance with Eurofins Eaton Analytical's Professional Rate Schedule.

Taxes -

Where reports are issued in or delivered to a state which assesses sales tax on Eurofins Eaton Analytical's services, applicable sales taxes will be added to the invoice as required by law, unless an appropriate sales tax exemption form is on file with Eurofins Eaton Analytical.

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THM/HAA - QUARTERLY

Matrix	Method	Test Description	Analyte	RL	MDL	Units			
Drinking Water	552.2	Haloacetic Acids 5	Dibromoacetic acid	1.00	0.600	ug/L			
			Dichloroacetic acid	1.00	0.600	ug/L			
			Monobromoacetic acid	1.00	0.600	ug/L			
			Monochloroacetic acid	2.00	1.20	ug/L			
			Trichloroacetic acid	1.00	0.500	ug/L			
			Surrogate Cpnd			2-Bromopropionic acid (Surr)			
Drinking Water	552.2 THAA	Total Haloacetic Acids - Summary	Total Haloacetic Acids 5	2.00	1.50	ug/L			
Drinking Water	524.2	Trihalomethanes	Bromodichloromethane	0.500	0.100	ug/L			
			Bromoform	0.500	0.200	ug/L			
			Chloroform	0.500	0.200	ug/L			
			Dibromochloromethane	0.500	0.100	ug/L			
			Surrogate Cpnd			1,2-Dichloroethane-d4 (Surr)			
			Surrogate Cpnd			Toluene-d8 (Surr)			
Surrogate Cpnd			4-Bromofluorobenzene (Surr)						
Surrogate Cpnd			1,2-Dichlorobenzene-d4 (Surr)						
Drinking Water	524.2	Total Trihalomethanes - Summary	Trihalomethanes, Total	0.500	0.200	ug/L			

Nitrate

Matrix	Method	Test Description	Analyte	RL	MDL	Units
Drinking Water	353.2	Nitrate (Nitrite+NO3NO2)	Nitrite as N	0.0100	0.00260	mg/L
			Nitrate Nitrite as N	0.100	0.0260	mg/L

SOC

Matrix	Method	Test Description	Analyte
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SOC

Matrix	Method	Test Description	Analyte	RL	MDL	Units
Drinking Water	525.2	525.2-Pesticides	Alachlor	0.100	0.0100	ug/L
			Atrazine	0.100	0.0100	ug/L
			Benzo[a]pyrene	0.0200	0.0120	ug/L
			Di(2-ethylhexyl)adipate	0.600	0.0200	ug/L
			Di (2-ethylhexyl)phthalate	0.600	0.100	ug/L
			Endrin	0.0100	0.00990	ug/L
			gamma-BHC (Lindane)	0.0200	0.00840	ug/L
			Heptachlor	0.0400	0.00440	ug/L
			Heptachlor epoxide	0.0200	0.00400	ug/L
			Hexachlorobenzene	0.100	0.0100	ug/L
			Hexachlorocyclopentadiene	0.100	0.0100	ug/L
			Methoxychlor	0.100	0.0100	ug/L
			Simazine	0.0700	0.0300	ug/L
Surrogate Cpnd						
			2-Nitro-m-xylene (Surr)			
			Perylene-d12 (Surr)			
			Triphenylphosphate (Surr)			
Drinking Water	505	505-Toxaphene/Chlordane	Chlordane (technical)	0.100	0.0200	ug/L
			Toxaphene	0.500	0.110	ug/L
Drinking Water	504.1	504.1-EDB/DBCP	1,2-Dibromoethane (EDB)	0.0100	0.00700	ug/L
			1,2-Dibromo-3-Chloropropane	0.0100	0.00500	ug/L
Drinking Water	515.3	515.3-Chlorinated Acids	2,4,5-TP (Silvex)	0.100	0.0800	ug/L
			Dalapon	1.00	0.500	ug/L
			Dinoseb	0.100	0.100	ug/L
			Pentachlorophenol	0.0400	0.0200	ug/L
			Picloram	0.100	0.100	ug/L
			2,4-D	0.100	0.100	ug/L
Surrogate Cpnd						
			2,4-Dichlorophenylacetic acid			

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Matrix	Method	Test Description	Analyte	RL	MDL	Units
Drinking Water	549.2	549.2-Diquat	Diquat	0.400	0.300	ug/L
Drinking Water	531.2	531.2-Carbamates	Carbofuran	0.900	0.300	ug/L
			Oxamyl	1.00	0.300	ug/L
Surrogate Cpnd						
Drinking Water	547	547-Glyphosate	Glyphosate	6.00	4.00	ug/L
Drinking Water	548.1	548.1-Endothall	Endothall	5.00	3.70	ug/L
Surrogate Cpnd						
			2,4-Dichlorophenoxyacetic acid (Surr)			

Lead and Copper 200.8

Matrix	Method	Test Description	Analyte	RL	MDL	Units
Drinking Water	200.8	Lead & Copper qty (30) June - September 2023	Lead	0.500	0.0880	ug/L
			Copper	1.00	0.550	ug/L



CITY OF GOSHEN LEGAL DEPARTMENT

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

Phone (574) 537-3820 • Fax (574) 533-8626 • TDD (574) 534-3185
www.goshenindiana.org

To: Board of Public Works and Safety
From: Bodie J. Stegelmann
Subject: Settlement Agreement and Mutual Release – Anita Shannon
Date: January 23, 2023

The City purchased certain real property from Anita Shannon generally located at 708 E. Lincoln Avenue as part of a public works project. An IRS Form 1099 was issued to Ms. Shannon that attributed income to Ms. Shannon, and caused the IRS to assess income taxes to Ms. Shannon. Ms. Shannon hired an attorney to help her resolve the IRS claim of unpaid taxes, and served the City with a Notice of Tort Claim. City staff has been able to resolve the claim for the sum of Three Thousand Five Hundred Sixty-Five Dollars ((\$3,565.00)). It is recommended that the Board approve the settlement pursuant to the terms of the Settlement Agreement and Mutual Release document provided herewith and authorize Mayor Stutsman to execute the agreement on behalf of the Board.

Suggested Motion:

Move to approve the Settlement Agreement and Mutual Release to settle the Claim made by Anita Shannon, and authorize Mayor Stutsman to execute the agreement on behalf of the Board of Public Works and Safety.

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release ("Release") dated this _____ day of January, 2023, is entered into by and between Anita A. Shannon ("Shannon") and the City of Goshen, Indiana, a municipal corporation and a political subdivision of the State of Indiana ("City").

WITNESSETH:

WHEREAS, the City purchased certain real property from Shannon pursuant to a public works project;

WHEREAS, on or about September 7, 2022, Shannon, through legal counsel, served on the City a Notice of Tort Claim, a copy of which is attached hereto, relative to a Form 1099 issued to Shannon reflecting the amount the City paid to Shannon for the purchase of her real property;

WHEREAS, the Shannon and the City have resolved settled the matter reflected on the Notice of Tort Claim and wish to enter into this Settlement Agreement and Mutual Release.

NOW THEREFORE, for good and valuable consideration the parties agree as follows:

1. The City agrees to pay to the order to Shannon the sum of Three Thousand Five Hundred Sixty-Five Dollars (\$3,565.00), within forty-five (45) days of the execution of this Release, in full satisfaction of any claim arising out of the circumstances described in the Notice of Tort Claim attached hereto.

2. Upon receipt of the amount stated in Paragraph 1 above, Shannon releases, remises, and forever discharges the City from all claims, suits, actions, charges, demands, judgments, costs, and executions present and future, known or unknown, both legal and equitable in any manner arising out of the circumstances described in the Notice of Tort Claim attached hereto.

3. Upon payment of the amount stated in Paragraph 1 above, the City hereby releases, remises, and forever discharges Shannon from all claims, suits, actions, charges, demands, judgments, costs, and executions present and future, known or unknown, both legal and equitable in any manner arising out of the circumstances described in the Notice of Tort Claim attached hereto.

4. By executing this Release, the parties acknowledge that they have carefully reviewed it and had the opportunity to review the terms of this Release with counsel of their choice and are fully aware of the extent of their rights and obligations under this Release. The

parties further agree that the language of this Release shall not be construed presumptively against either of the parties to this Release.

5. This Release shall not constitute an admission of any of the allegations against the other and shall not be considered as an admission of liability, wrongdoing, or anything improper.

6. This Release contains the entire understanding of the parties with respect to the settlement described herein, and there are no representations, warranties, covenants, or undertakings other than those expressly set forth herein. This Release cannot be altered, amended, or modified in any respect, except by a writing duly executed by both Shannon and the City.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the Shannon and the City have executed the foregoing Settlement Agreement and Mutual Release.

City of Goshen, Indiana

Anita A. Shannon

Jeremy P. Stutsman, Mayor

Date Signed: January _____, 2023

Date signed: January _____, 2023

NOTICE OF TORT CLAIM

To: City of Goshen, Indiana
c/o Mayor Jeremy Stutsman
202 S. 5th Street
Goshen, IN 46528

To: City of Goshen, Indiana
c/o Bodie J. Stegelmann, City Attorney
204 E. Jefferson St., Suite 2
Goshen, IN 46526

Certified mail 7019 0700 0002 1170 0805

Certified mail 7019 0700 0002 1170 0812

Anita A. Shannon, by counsel, hereby notifies the City of Goshen, Indiana, that she has incurred loss as the result of the filing by the City of Goshen, Indiana, with the United States Internal Revenue Service (IRS) of a Form 1099-NEC erroneously attributing to her \$22,500.00 of nonemployment compensation purportedly paid to her by the City of Goshen in the 2020 calendar year. Anita Shannon did not receive a copy of the erroneous Form 1099-NEC. She first learned about the erroneous Form 1099-NEC when she received an IRS Notice CP2000 dated March 14, 2022, a copy of which is attached hereto. The City of Goshen, Indiana, has subsequently, at the request of Ms. Shannon's counsel, issued a corrected Form 1099-NEC, a copy of which is also attached hereto.

As a consequence of the City's erroneous report to the IRS, Ms. Shannon has incurred and will continue to incur attorney's fees for obtaining from the City a corrected Form 1099-NEC, for communication with the IRS about the matter, and for litigation in the United States Tax Court. The IRS has issued a Notice of Deficiency, a copy of which is attached hereto. She has filed a petition seeking relief from the Notice of Deficiency in the Tax Court, a copy of which is attached hereto. If she is not successful in obtaining relief in the Tax Court, she will become liable, whether just or not, for the amount assessed in the Notice of Deficiency plus additional penalties and interest. Ms. Shannon has also suffered emotional distress in the circumstances described above.


Ms. Shannon's losses occurred wherever the City's employees or independent contractors issue IRS Forms 1099, and, if the City met the IRS schedule for issuing 2020 Form 1099-NEC, in the period from January 1, 2021, to January 31, 2021. At the time when the erroneous Form 1099-NEC was issued, Adam Scharf was the City's Clerk-Treasurer, but Ms. Shannon does not

know who else may have either a supervisory role or a direct role in the issuance of the erroneous Form 1099-NEC.

Because her losses are ongoing, Ms. Shannon does not know the amount of damages she is seeking.

At the time when the erroneous Form 1099-NEC was issued, at the time when Ms. Shannon first learned that an erroneous Form 1099-NEC had been issued and currently, Ms. Shannon's address is 54507 David Dr., Elkhart, IN 46514-9529. Her attorney is John William Davis, Jr., DAVIS & ROOSE, 116 E. Clinton Street, Goshen, IN 46528. Her attorney's telephone number is 574-534-1508, and his email address is jwdavis@davisroose.com.

Dated this 7th day of September, 2022.

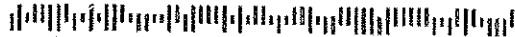


John William Davis, Jr., #4413-20
Davis & Roose, Attorneys for Anita Shannon
116 E. Clinton St., Goshen, IN 46528-3204
Telephone: (574) 534-1508
jwdavis@davisroose.com



Department of the Treasury
Internal Revenue Service
310 LOWELL ST
ANDOVER MA 01810-4544

015957.418130.26958.31515 2 AR 0.461 1440



ANITA A SHANNON
54507 DAVID DR
ELKHART IN 46514-9529



LS957



Notice CP2000
Tax year 2020
Notice date March 14, 2022
Social Security number [REDACTED]
AUR control number 50005-4945
To contact us Phone 1-800-829-8310
Fax 1-877-477-9485

Page 1 of 9



We are proposing changes to your 2020 Form 1040 tax return. This is not a bill.

Proposed amount due: \$7,626

We received information from third parties such as employers or financial institutions that doesn't match the information you reported on your tax return. This notice:

- Proposes a change to tax and/or payments and credits (such as federal income tax withheld, earned income credit, etc.) that you originally reported.
- Provides you with an opportunity to agree or disagree with the proposed changes.

If our information is correct, you will owe \$7,626 (including interest), which you need to pay by April 13, 2022.

Summary of proposed changes

Tax you owe	\$6,182
Payments	\$0
Substantial tax understatement penalty	\$1,236
Interest	\$208
Proposed amount due by April 13, 2022	\$7,626

Reminder: This is not a bill. We haven't charged the proposed amount due.

What you need to do immediately

If you need more time to respond to this notice, contact us at 1-800-829-8310. Interest will continue to accrue during this period if the information in this notice is correct.

Review this notice, and compare our changes to the information on your 2020 tax return.

If you agree with the proposed changes

- Complete, sign, and date the Response form on Page 7 (we require both spouses' signatures if you filed married filing jointly), and mail it to us along with your payment of \$7,626 so we receive it by April 13, 2022.
- Do not file an amended return (Form 1040X) if you fully agree with our changes. We'll make the correction when we receive your signed response.

If you don't agree with the proposed changes

- Complete the Response form on Page 7, and send it to us along with a signed statement explaining your disagreement and include any documentation that supports your claim so we receive it by April 13, 2022.
- If you have allowable costs or expenses related to the unreported income that will change our proposal, it may benefit you to include the applicable form or schedule with your response.

Continued on back...



Department of the Treasury
Internal Revenue Service
310 LOWELL ST
ANDOVER MA 01810-4544



Notice CP2000
Tax year 2020
Notice date March 14, 2022
Social security number [REDACTED]
AUR control number 50005-4945
To contact us Phone 1-800-829-8310
Fax 1-877-477-9485

Page 7 of 9

INTERNAL REVENUE SERVICE
310 LOWELL ST
ANDOVER MA 01810-4544



15957

Form 7013

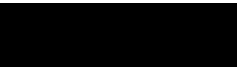
Response form

Complete both sides of this form, and send it to us in the enclosed envelope so we can receive it by April 13, 2022. If making a payment, use the provided voucher to ensure proper application of your payment. Be sure our address shows through the window.

Provide your contact information

If your address has changed, please make the changes below.

ANITA A SHANNON



Primary phone _____ Best time to call a.m. p.m. Secondary phone _____ Best time to call a.m. p.m.

1. Indicate your agreement or disagreement

- I agree with all changes
- I consent to the assessment of my 2020 income tax, and understand that:
- I owe \$7,626 in additional tax, payment adjustments, and interest.
 - The IRS is required by law to charge interest on taxes that weren't paid in full by May 17, 2021.
 - The IRS will continue to charge interest until I've paid the tax in full. Certain penalties may also apply.
 - I can file a claim for a refund at a later date.
 - By signing this form, I cannot challenge these changes in the U.S. Tax Court unless the IRS determines after the date I sign this form that I owe additional taxes for 2020.

Please sign and return this form with your payment.

Signature _____ Date _____
Spouse's Signature (required if you filed a joint tax return) _____ Date _____

Continued on back...



Notice CP2000
 Tax year 2020
 Notice date March 14, 2022
 Social Security number [REDACTED]
 Page 3 of 9

Changes to your 2020 tax return

Your income and deductions	Shown on return	As corrected by IRS	Difference
Nonemployee compensation	\$0	\$22,500	\$22,500
Income net difference			\$22,500
Self-employment tax deduction	\$0	\$1,590	\$1,590
Deduction net difference *1			\$1,590
Change to taxable income			\$20,910

Your tax computations	Shown on return	As corrected by IRS	Difference
Taxable income, Form 1040, line 15	\$24,179	\$45,089	\$20,910
Tax, Form 1040, line 16	\$2,704	\$5,707	\$3,003
Self-Employment tax, Schedule 2, line 4	\$0	\$3,179	\$3,179
Total tax, Form 1040, line 24	\$2,704	\$8,886	\$6,182
Recovery rebate credit, Form 1040, line 30	\$600	\$600	\$0
Tax you owe			\$6,182

Payments	Shown on return	As corrected by IRS	Difference
Income tax withheld, Form 1040, line 25	\$2,644	\$2,644	\$0
Total payments			\$0

(*1) Increases to deductions result in a decrease to taxable income.

Explanation of changes to your 2020 Form 1040

This section tells you specifically what income information the IRS received about you from others (including your employers, banks, mortgage holders, etc.). This information doesn't match the information you reported on your tax return.

Use the table to compare the data the IRS received from others to the information you reported on your tax return to understand where the difference(s) occurred. To assist you in reviewing your income amounts, the table may include both reported and unreported amounts.

Nonemployee Compensation

Received from	Address	Account Information	Shown on return	Reported by others	Difference
CITY OF GOSHEN	202 S. 5TH ST SUITE 2 GOSHEN IN 46528	02-10803 [REDACTED] Form 1099-NEC	\$0	\$22,500	\$22,500

Misidentified income

If any of the income shown on this notice isn't yours, send us the name, address, and taxpayer identification number of the person who received the income. To prevent future incorrect reporting to the IRS, notify the payer to adjust their records to show the correct name and taxpayer identification number.



Notice CP2000
 Tax year 2020
 Notice date March 14, 2022
 Social Security number [REDACTED]

Page 5 of 9

- An explanation of whether you clearly disclosed the item, such as by attaching Form 8275, Disclosure Statement, or Form 8275-R, Regulation Disclosure Statement, and there is a reasonable basis for your position.



Interest charges

15957

We are required by law to charge interest when you do not pay your liability on time. Generally, we calculate interest from the due date of your return (regardless of extensions) until you pay the amount you owe in full, including accrued interest and any penalty charges. Interest on some penalties accrues from the date we notify you of the penalty until it is paid in full. Interest on other penalties, such as failure to file a tax return, starts from the due date or extended due date of the return. Interest rates are variable and may change quarterly. (Internal Revenue Code Section 6601)

Interest is calculated to 30 days from the date of the notice for domestic addresses and 60 days from the date of the notice for foreign and APO/FPO/DPO addresses. Interest will continue to accrue until you pay the amount you owe in full.

Description	Amount
Total interest	\$208

The table below shows the rates used to calculate the interest on your unpaid amount from the date the tax return was due until the tax is paid in full. For a detailed calculation of your interest, call 1-800-829-8310.

Period	Interest rate
April 1, 2021 through March 31, 2022	3%
Beginning April 1, 2022	4%

Additional information

- For information about your rights, see the enclosed Publication 1, Your Rights as a Taxpayer.
- Visit www.irs.gov/cp2000 for more information about this notice, frequently asked questions, and to review the following:
 - Publication 5181, Tax Return Reviews by Mail CP2000, Letter 2030, CP2501, Letter 2531, for more information about filing an Appeal.
- For tax forms, instructions, and publications, visit www.irs.gov/forms-pubs or call 800-TAX-FORM (800-829-3676).
- This isn't an audit; your return may be subject to an examination.
- Keep a copy of this notice for your records.

The Taxpayer Bill of Rights describes ten basic rights that all taxpayers have when dealing with the IRS. To help you understand what these rights mean to you and how they apply, visit www.irs.gov.



Notice CP2000
 Tax Year 2020
 Notice date March 14, 2022
 Social Security number [REDACTED]
 Page 9 of 9



15957



ANITA A SHANNON
 [REDACTED]

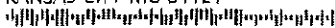
Notice CP2000
 Notice date March 14, 2022
 Social security number [REDACTED]



- Make your check or money order payable to the United States Treasury.
- Write your Taxpayer Identification number (311-66-6240), the tax year (2020), and the notice number (CP2000) on your payment and any correspondence.

Payment

Internal Revenue Service
 PO BOX 219983 ATTN AUR
 KANSAS CITY MO 64121



Amount due by
 April 13, 2022

\$7,626

	FATCA filing requirement <input type="checkbox"/>		
Account number (see instructions)	5 State tax withheld \$ 0.00	6 State/Payer's state no. IN 356001045	7 State income \$ 0.00
	\$		\$

Form 1099-NEC

(keep for your records)

www.irs.gov/Form1099NEC

Department of the Treasury - Internal Revenue Service

 CORRECTED

PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no. CITY OF GOSHEN 202 S 5TH ST GOSHEN, IN 46528 US Phone: 574-534-3303		OMB No. 1545-0116 2020 Form 1099-NEC	Nonemployee Compensation Copy 2 To be filed with recipient's state income tax return, when required.
1 Nonemployee compensation \$0.00		2	
PAYER'S TIN 35-6001045	RECIPIENT'S TIN [REDACTED]	3	
RECIPIENT'S name, street address (including apt. no.), city or town, state or province, country, and ZIP or foreign postal code ANITA SHANNON [REDACTED]		4 Federal income tax withheld \$ 0.00	
	FATCA filing requirement <input type="checkbox"/>		
Account number (see instructions)	5 State tax withheld \$ 0.00	6 State/Payer's state no. IN 356001045	7 State income \$ 0.00
	\$		\$

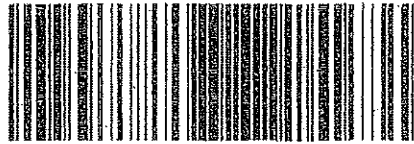
Form 1099-NEC

www.irs.gov/Form1099NEC

Department of the Treasury - Internal Revenue Service



Department of the Treasury
Internal Revenue Service
310 LOWELL ST
ANDOVER MA 01810-4544



9307 1107 5660 8923 1580 54

010638.439694.113361.1161 2 AB 0.461.1016



ANITA A SHANNON



Notice CP3219A
Tax year 2020
Notice date June 6, 2022
Social Security number [REDACTED]
AUR control number 70012-2427
To contact us Phone 1-800-829-8
Fax 1-877-477-948
Last date to petition September 6, 2022
Tax Court
Page 1 of 8



010638

Notice of Deficiency

Proposed increase in tax and notice of your right to challenge

We determined there is a deficiency (increase) in your 2020 income tax based on information we received from third parties (such as employers or financial institutions) that doesn't match the information you reported on your tax return. See below for an explanation of how we calculated this increase. This letter is your NOTICE OF DEFICIENCY, as required by law.

If you disagree:

You have the right to challenge this determination in U.S. Tax Court. If you choose to do so, you must file your petition with the Tax Court by September 6, 2022. This date can't be extended. See below for details about how and where to file a petition.

If you agree:

You can pay now or receive a bill. See the section below titled "If you agree with the proposed changes, you can pay now or receive a bill."

You have the right to petition the Tax Court

Summary of proposed changes

Increase in tax (deficiency)	\$
Substantial tax understatement penalty	\$

If you want to resolve this matter with the IRS

You may be able to resolve this matter without going to the U.S. Tax Court if you contact us directly. See the "You may be able to resolve your dispute with IRS" section below.

If you want assistance

You may be able to receive assistance from a Low-Income Taxpayer Clinic or from Taxpayer Advocate Service. See the "Additional information" section below.

You have the right to challenge our deficiency determination, including penalties, making any payment by filing a petition with the U.S. Tax Court. You must file your petition within 90 days (or 150 days if the notice is addressed to a person outside the United States) from the date of this letter, which is September 6, 2022. The Court can't consider your case if you file the petition late. If you decide to file a petition, send it to:

United States Tax Court
400 Second Street, NW
Washington, DC 20217
Phone: (202) 521-0700



Notice	CP3219A
Tax year	2020
Notice date	June 6, 2022
Social security number	[REDACTED]

Page 2 of 8

You can get a petition form and rules by downloading them from the U.S. Tax Court's website (www.ustaxcourt.gov) or by contacting the Office of the Clerk of the U.S. Tax Court at the address directly above.

Attach a complete copy of this letter including attachments to your petition and the filing fee of \$60.00 payable by check or money order to the Tax Court. You can include all tax years you are contesting on one petition form. Do not send your petition form to the Internal Revenue Service. The petition must be filed with the Tax Court in Washington, DC.

Time Limits on Filing a Petition

The Court can't consider your case if you file the petition late.

A petition is considered timely filed if the Tax Court receives it within:

- 90 days from the date this letter was mailed to you, or
- 150 days from the date this letter was mailed to you if this letter is addressed to you outside of the United States.

A petition is also generally considered timely if the United States Postal Service postmark is within the 90 or 150-day period and the envelope containing the petition is properly addressed with the correct postage. The postmark rule doesn't apply if mailed using the mail service of a foreign country.

A petition is also generally considered timely if the date recorded by a designated private delivery service is within the 90 or 150-day period. Note not all services offered by private delivery companies are designated private delivery services. For a list of designated delivery services available for domestic and international mailings, see Notice 2016-30 on the IRS website at www.irs.gov/irb201618. Please note the list of approved delivery companies is subject to change.

The Tax Court has a simplified procedure for small tax cases when the amount in dispute is \$50,000 or less (including penalties) for any one tax year. You can get a copy of these simplified procedures on the Tax Court's website or by contacting the Tax Court.

Review this notice and compare our suggested changes to the information on your tax return for the tax year in question. NOTE: The amounts shown above may differ from your previous notice because not all items can be challenged in the Tax Court.

You may be able to resolve your dispute with the IRS

If you don't agree with the proposed changes and want us to consider additional information, you can mail or fax additional information to us:

- Mail additional information with the enclosed Form 5564 (or signed statement explaining which items you disagree with and why) to:

310 LOWELL ST
ANDOVER MA 01810-4544

- Fax additional information with the enclosed Form 5564 (or signed statement explaining which items you disagree with and why) to 1-877-477-9485.



Notice CP3219A
Tax year 2020
Notice date June 6, 2022
Social security number [REDACTED]
Page 3 of 8

To resolve your dispute with the IRS, it is important you contact us IMMEDIATELY. Our consideration of any additional information will not extend the September 6, 2022 deadline to file a petition with the U.S. Tax Court.

If you agree with the proposed changes, you can pay now or receive a bill

If you agree with the proposed changes, you can pay your tax liability now or choose to receive a bill:

- If you choose to pay some or all your tax liability now, you can enclose a check or money order payable to United States Treasury Department with the enclosed Form 5564, Notice of Deficiency Waiver, to the address below. We'll send you a bill for any unpaid tax, interest, and applicable penalties.

Internal Revenue Service
PO BOX 219983 ATTN AUR
KANSAS CITY MO 64121

- If you're not paying your tax liability now, sign the enclosed Form 5564, Notice of Deficiency Waiver, and mail it to the IRS at:

Internal Revenue Service
310 LOWELL ST
ANDOVER MA 01810-4544

We'll send you a bill for the amount due (including any interest and applicable penalties).

- NOTE: If you filed your tax return married filing jointly, **both** spouses must sign Form 5564.
- Do **NOT** mail the Form 5564 or any payment of your liability to the Tax Court.

If we don't hear from you

If we do not hear from you and you don't petition the U.S. Tax Court, we'll assess the additional tax you owe plus any applicable penalties and interest and send you a bill.

Additional information

Visit www.irs.gov/cp3219a for more information about this notice, frequently asked questions, and to review the following:

- Publication 1, Your Rights as a Taxpayer
- Publication 5181, Tax Returns Reviewed by Mail: CP2000, Letter 2030, CP2501, Letter 2531

For tax forms, instructions, and publications, visit www.irs.gov/forms-pubs or call 800-TAX-FORM (800-829-3676).

Keep this notice for your records.

If you'd like to authorize someone to represent you before the IRS, please complete and send us the Power of Attorney and Declaration of Representative (Form 2848), before your representative contacts us on your behalf.

Continued on back...



Notice	CP3219A
Tax year	2020
Notice date	June 6, 2022
Social security number	[REDACTED]

Page 4 of 8

The IRS office whose phone number appears at the top of the notice can best address and access your tax information and help get you answers. If you filed a joint return, we're required to send a copy of this notice to both you and your spouse. Each copy contains the same information about your joint account.

Low Income Taxpayer Clinics

Tax professionals who are independent from the IRS may be able to help you. Low Income Taxpayer Clinics (LITCs) can represent low-income persons before the IRS or in court. LITCs can also help persons who speak English as a second language. Any services provided by an LTC must be for free or a small fee. To find an LTC near you:

- Go to www.taxpayeradvocate.irs.gov/litcmap;
- Download IRS Publication 4134, Low Income Taxpayer Clinic List, available at www.irs.gov/forms-pubs; or
- Call the IRS toll-free at 800-829-3676 and ask for a copy of Publication 4134.

State bar associations, state or local societies of accountants or enrolled agents, or other nonprofit tax professional organizations may also be able to provide referrals.

Taxpayer Advocate Service

The IRS office whose phone number appears at the top of the notice can best address and access your tax information and help you get answers. However, you may be eligible for free help from the Taxpayer Advocate Service (TAS) if you can't resolve your tax problem with the IRS, or you believe an IRS procedure just isn't working as it should. TAS is an independent organization within the IRS that helps taxpayers and protects taxpayer rights. Contact your local Taxpayer Advocate office at:

575 North Pennsylvania Street, Stop TA771
Indianapolis IN 46204
317-685-7840
855-827-2637

Or call TAS at 877-777-4778. For more information about TAS and your rights under the Taxpayer Bill of Rights, go to taxpayeradvocate.irs.gov. Do not send your Tax Court petition to the TAS address listed above. Use the Tax Court address provided earlier in the letter. Contacting TAS does not extend the time to file a petition.



Notice CP3219A
 Tax year 2020
 Notice date June 6, 2022
 Social security number [REDACTED]
 Page 5 of 8

Changes to your 2020 tax return

Your tax computations	Shown on return	As corrected by IRS	Difference
Taxable income, Form 1040, line 15	\$24,179	\$45,089	\$20,910
Tax, Form 1040, line 16	\$2,704	\$5,707	\$3,003
Self-Employment tax, Schedule 2, line 4	\$0	\$3,179	\$3,179
Total tax, Form 1040, line 24	\$2,704	\$8,886	\$6,182
Recovery rebate credit, Form 1040, line 30	\$600	\$600	\$0
Tax you owe			\$6,182

Payments	Shown on return	As corrected by IRS	Difference
Income tax withheld, Form 1040, line 25	\$2,644	\$2,644	\$0
Total payments			\$0

Explanation of changes to your 2020 Form 1040

This section tells you specifically what income information the IRS received about you from others (including your employers, banks, mortgage holders, etc.). This information doesn't match the information you reported on your tax return.

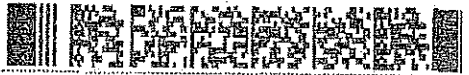
Use the table to compare the data the IRS received from others to the information you reported on your tax return to understand where the difference(s) occurred. To assist you in reviewing your income amounts, the table may include both reported and unreported amounts.

Nonemployee Compensation

Received from	Address	Account Information	Shown on return	Reported by others	Difference
CITY OF GOSHEN	202 S. 5TH ST SUITE 2 GOSHEN IN 46528	02-10803 [REDACTED] Form 1099-NEC	\$0	\$22,500	\$22,500

Misidentified income

If any of the income shown on this notice isn't yours, send us the name, address, and taxpayer identification number of the person who received the income. To prevent future incorrect reporting to the IRS, notify the payer to adjust their records to show the correct name and taxpayer identification number.



Notice CP3219A
 Tax year 2020
 Notice date June 6, 2022
 Social security number [REDACTED]

Page 6 of 8

Self-Employment Tax on Self-Employment (SE) income

We computed the self-employment (SE) tax on the net SE income from your reported and underreported SE income. SE income generally includes nonemployee compensation, merchant card payments, third-party network payments, and other income from part-time or full-time work. Net earnings from SE income are subject to SE tax.

SE tax consists of Social Security tax of 12.4% and Medicare tax of 2.9% and, for SE income more than the thresholds for your filing status, an additional Medicare tax of 0.9%. Even if you paid the maximum amount of Social Security tax, you're still liable for Medicare tax and additional Medicare tax if you're over the applicable threshold. The deductible part of the SE tax is based on the change we made to your SE tax. If you were an employee, you're liable for income tax and the employee's share of Social Security (6.2%), Medicare taxes(1.45%), and additional Medicare tax, if applicable. We'll credit your Social Security account with the amount of SE income shown on this notice. See Form 1040, Schedule SE, Self-Employment Tax, for more information.

Penalties

We are required by law to charge any applicable penalties.

Substantial tax understatement

Description	Amount
Accuracy-related penalty substantial understatement of tax - IRC 6662(b)(2); 6662(d)	\$1,236

If you understate your tax liability and the understatement is more than the greater of 10% of your correct tax liability or \$5,000, an accuracy-related penalty generally applies for the substantial understatement of tax. The penalty is 20% of the portion of the underpayment of tax attributable to a substantial understatement of income tax. We may reduce or eliminate the penalty if you send a signed statement with one of the following:

- Facts to support your treatment of the understated income and the authority for your position, such as the Internal Revenue Code, Treasury Regulations, Revenue Rulings, Revenue Procedures, etc. or
- An explanation of whether you clearly disclosed the item, such as by attaching Form 8275, Disclosure Statement, or Form 8275-R, Regulation Disclosure Statement, and there is a reasonable basis for your position.

Interest charges

We are required by law to charge interest when you do not pay your liability on time. Generally, we calculate interest from the due date of your return (regardless of extensions) until you pay the amount you owe in full, including accrued interest and any penalty charges. Interest on some penalties accrues from the date we notify you of the penalty until it is paid in full. Interest on other penalties, such as failure to file a tax return, starts from the due date or extended due date of the return. Interest rates are variable and may change quarterly. (Internal Revenue Code Section 6601)

Interest is calculated to 30 days from the date of the notice for domestic addresses and 60 days from the date of the notice for foreign and APO/FPO/DPO addresses. Interest will continue to accrue until you pay the amount you owe in full.

UNITED STATES TAX COURT

www.ustaxcourt.gov

(FIRST) (MIDDLE) (LAST)
Anita A. Shannon
(PLEASE TYPE OR PRINT) Petitioner(s)

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent

} Docket No.

PETITION

1. Please check the appropriate box(es) to show which IRS ACTION(S) you dispute:

- Notice of Deficiency
Notice of Determination Concerning Collection Action
Notice of Final Determination for [Full/Partial] Disallowance of Interest Abatement Claim (or Failure of IRS to Make Final Determination Within 180 Days After Claim for Abatement)*
Notice of Determination of Worker Classification*
Notice of Determination Concerning Relief From Joint and Several Liability Under Section 6015 (or Failure of IRS to Make Determination Within 6 Months After Election or Request for Relief)*
Notice of Certification of Your Seriously Delinquent Federal Tax Debt to the Department of State
Notice of Determination Under Section 7623 Concerning Whistleblower Action*

*For additional information, please see "Taxpayer Information: Starting a Case" at www.ustaxcourt.gov (accessible by hyperlink from asterisks above, or in the Court's information booklet).

2. If applicable, provide the date(s) the IRS issued the NOTICE(S) checked above and the city and State of the IRS office(s) issuing the NOTICE(S): June 6, 2022; Andover, Massachusetts

3. Provide the year(s) or period(s) for which the NOTICE(S) was/were issued: 2020

4. SELECT ONE OF THE FOLLOWING (unless your case is a whistleblower or a certification action):

If you want your case conducted under small tax case procedures, check here: [X] (CHECK
If you want your case conducted under regular tax case procedures, check here: [] ONE BOX)

NOTE: A decision in a "small tax case" cannot be appealed to a Court of Appeals by the taxpayer or the IRS. If you do not check either box, the Court will file your case as a regular tax case.

5. Explain why you disagree with the IRS determination in this case (please list each point separately):

The Commissioner determined that the Petitioner owes \$6,182 in additional income and self-employment tax for tax year 2020 and has assessed an accuracy-related penalty in the amount of \$1,236. As his reason therefor, the Commissioner contends that the Petitioner received \$22,500 in nonemployee compensation in 2020 which she did not report on her 2020 federal income tax return. A. The Commissioner erred because the Petitioner did not receive nonemployee compensation in 2020. Petitioner prays the Tax Court to reverse and set aside the deficiency and the penalty.

6. State the facts upon which you rely (please list each point separately):

A. The City of Goshen, Indiana, erroneously issued to Petitioner a Form 1099-NEC reporting \$22,500 of nonemployment compensation. The City has since issued a corrected Form 1099-NEC showing zero nonemployment compensation.

Petitioner did not receive the original 1099-NEC for some reason. B. Petitioner owned three parcels constituting her home lot and its curtilage. According to an agreed judgment in a condemnation action, all of the money she received

for the home lot went to pay secured creditors. In accord with a separate agreement, Goshen paid Petitioner \$10,000 for the other two small parcels; this payment is excluded from income under 26 U.S.C. § 121. C. Goshen also paid

Petitioner \$12,500 designated as relocation assistance and price differential payment; this payment is not income (see General Counsel Memorandum 36740 [1975]) or excluded from income under 26 U.S.C. § 121.

You may use additional pages to explain why you disagree with the IRS determination or to state additional facts. Please do not submit tax forms, receipts, or other types of evidence with this petition.

ENCLOSURES:

Please check the appropriate boxes to show that you have enclosed the following items with this petition:

- A copy of any NOTICE(S) the IRS issued to you
- Statement of Taxpayer Identification Number (Form 4) (See PRIVACY NOTICE below)
- The Request for Place of Trial (Form 5) The filing fee

PRIVACY NOTICE: Form 4 (Statement of Taxpayer Identification Number) will not be part of the Court's public files. All other documents filed with the Court, including this Petition and any IRS Notice that you enclose with this Petition, will become part of the Court's public files. To protect your privacy, you are strongly encouraged to omit or remove from this Petition, from any enclosed IRS Notice, and from any other document (other than Form 4) your taxpayer identification number (e.g., your Social Security number) and certain other confidential information as specified in the Tax Court's "Notice Regarding Privacy and Public Access to Case Files", available at www.ustaxcourt.gov.

SIGNATURE OF PETITIONER _____ TELEPHONE NO. _____

MAILING ADDRESS _____ CITY, STATE, ZIP CODE _____
State of legal residence (if different from the mailing address): _____ E-mail address (if any): anitashannon57@gmail.com

SIGNATURE OF ADDITIONAL PETITIONER (e.g., SPOUSE) DATE _____ (AREA CODE) TELEPHONE NO. _____

MAILING ADDRESS _____ CITY, STATE, ZIP CODE _____

State of legal residence (if different from the mailing address): _____ E-mail address (if any): _____

John William Davis, Jr.
SIGNATURE OF COUNSEL, IF RETAINED BY PETITIONER(S) _____ NAME OF COUNSEL _____ DATE August 31, 2022

DJ22449 _____ DAVIS & ROOSE, 116 E. Clinton St., Goshen, IN 46528 _____
TAX COURT BAR NO. _____ MAILING ADDRESS, CITY, STATE, ZIP CODE _____

jdavis@davisroose.com _____ 574-534-1508 _____
E-MAIL ADDRESS _____ (AREA CODE) TELEPHONE NO. _____



CITY OF GOSHEN LEGAL DEPARTMENT

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

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

January 20, 2023

To: Board of Public Works and Safety

From: Matt Lawson

Subject: **AGREEMENT WITH ARION CONSULTANTS, INC.
re: WATER QUALITY MANAGEMENT PLANNING**

Attached for the Board's approval and authorization for the Mayor to execute is an agreement with Arion Consultants to complete the work associated with the Lower Elkhart River Water Quality Management Planning Grant, which was awarded to the City of Goshen near the end of 2022.

Arion Consultants shall be paid a **not to exceed amount of \$154,725** for work performed in accordance with this Agreement which is equivalent to the total grant amount awarded to the City of Goshen.

Suggested Motion:

Approve and authorize the Mayor to execute the agreement with the Arion Consultants, Inc. to complete the work associated with the Lower Elkhart River Water Quality Management Planning Grant in the not to exceed amount of the City of Goshen's Grant award of **\$154,725.**

CONTRACT FOR ENVIRONMENTAL CONSULTING SERVICES

PROPOSAL

ARION CONSULTANTS INC., hereinafter referred to as Consultant, proposes to perform the services for the City of Goshen, hereinafter referred to as Client, at the fees and costs set forth in the following Scope of Work and Fee Schedule.

Scope of Work: Arion Consultants will complete work for the City of Goshen through the Indiana Department of Environmental Management Section 319-funded Lower Elkhart River Watershed Management Planning project.

Tasks are detailed in Appendix A. Work will commence upon signature of this contract. All tasks will be completed within 2 years of signature of the City of Goshen-Indiana Department of Environmental Management contract.

Fee Schedule: The Consultant shall be paid a not to exceed amount of \$154,725 in Section 319 funds for work performed in accordance with this Agreement. The Consultant recognizes that this is a reimbursement-based grant program and that fund receipt will occur only after reimbursement to the Client from the Indiana Department of Environmental Management.

GENERAL TERMS AND CONDITIONS

These General Terms and Conditions, including any Supplemental Terms and Conditions, are incorporated by reference into the Proposal from the Consultant, for the performance of the work and services described in Proposal (herein-after Scope of Work) for the benefit of, hereinafter Client, and together shall constitute the Agreement between the Consultant and Client under which the work and services are to be performed by Consultant for Client. In the event of any conflict between the provisions and terms of these documents, those conflicting terms shall be interpreted in accordance with the following priority: (1) General Terms and Conditions, and (2) Proposal.

SECTION 1: SCOPE OF WORK

a. The scope of work shall include all services provided by Consultant which are reasonably necessary and appropriate for the effective and prompt fulfillment of Consultant's obligations under the Agreement.

b. It is understood that the Scope of Work defined in the Proposal is based on the information provided by Client. If this information is incomplete or inaccurate, or if unexpected conditions are discovered, the Scope of Work may change, even as the work is in progress. In addition, Client may request additional services which will constitute a change in Scope of Work. When a change in the Scope of Work is necessary, a written amendment to the Agreement shall be executed by Client and Consultant prior to Consultant commencing the change in the work or services. If Consultant believes an immediate change is necessary to protect human health or the environment, a written amendment incorporating the change shall be made as soon as is practicable, and Client's consent to such amendments shall not be unreasonably withheld.

c. Consultant shall obtain and maintain all permits, licenses or other approvals necessary to perform the Scope of Work, and upon request shall furnish copies of the same to Client.

d. In all matters relating to the performance of this Agreement, Consultant is and shall remain an independent Consultant.

SECTION 2: STANDARD OF CARE

a. Consultant represents and warrants that it possesses the training, education, experience, skill, competence, and resources needed to properly perform the Scope of Work set forth in this Agreement. Consultant further represents and warrants that the work and services performed by Consultant under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the Consultant's profession currently practicing in the State of Indiana. No other representation, warranty, or guarantee, express or implied, is intended.

b. Client acknowledges that subsurface or other concealed conditions on, below, or about the work site may vary from those conditions encountered in specific borings, surveys or explorations performed by Consultant and that the information and recommendations developed by Consultant are based solely on the information available from such borings, surveys, and explorations.

SECTION 3: RIGHT OF ENTRY

a. If the services to be performed under the Scope of Work are to be performed on property controlled by Client, Client hereby grants Consultant and its subcontractors the right to enter from time to time in order for Consultant to fulfill the Scope of Work. Client understands that even though Consultant will take reasonable measures to return the property to the condition it was in before Consultant commenced its activities, the use of sampling and exploration equipment may cause some damage which cannot be fully corrected. Client also understands that the discovery of certain hazardous substances and conditions and/or the taking preventive measures relative to these substances and conditions may result in a reduction of the value of the property upon which the substance or condition is found to exist or the preventive measures are taken. Accordingly, Client waives any claim against Consultant and its subcontractors and agrees to defend, indemnify and hold Consultant and its subcontractors harmless from any claim based upon the diminished value of real property allegedly arising from the discovery of a hazardous substance or condition or the taking of a preventive measure, unless such claim is based upon the negligent performance of services under the Scope of Work.

b. If the services to be performed under the Scope of Work are to be performed on property controlled by Client, Client shall notify Consultant of the existence of any subterranean structures (pipes, tanks, cables, or other utilities, etc.) and Consultant shall not be liable for damage or injury arising from damage to subterranean structures which are not called to Consultant's

attention. If Consultant is required to locate subterranean structures on property controlled by Client, this service will be specifically stated in the Scope of Work.

c. If the Scope of Work is to be performed on property which is not controlled by Client, Client agrees to obtain permission from the party controlling the property to Consultant's entry and the performance of the Scope of Work. Unless otherwise specified in the Scope of Work, it shall be assumed that Client does not know the location of any subterranean structures (pipes, tanks, cables, or other utilities, etc.) and it shall be Consultant's obligation to ascertain such knowledge.

d. Consultant agrees to schedule its activities to minimize interference with the on-going operations and activities of Client or any third party whose property may be the subject of the Scope of Work. Consultant shall, and shall cause its subcontractors, to abide by all of Client's facility rules and regulations regarding the protection of health and safety of employees and third parties, but it shall be Client's obligation to make such rules and regulations known to the Consultant prior to Consultant commencing work at Client's facility. Consultant shall have the obligation to determine if such rules and regulations exist with regard to facilities not controlled by Client.

SECTION 4: CLIENT DISCLOSURES

a. Client shall notify Consultant of any known or suspected hazardous substances or conditions on the property upon which the Consultant's work or services are to be performed which in any way relate to or affect the Scope of Work and Consultant shall have the right to rely on the accuracy of such Client-furnished information in its agreement to perform the work and services. Such hazardous substances shall include but not be limited to any substance or condition which poses or may pose a present or potential hazard to human health or safety or an adverse impact upon the environment. Thereafter, Consultant shall take all reasonably necessary and appropriate measures to protect its employees, agents and subcontractors against possible hazards to health and safety and to prevent adverse impacts to the environment.

b. If the presence of an unanticipated hazardous substance or condition is discovered during the performance of the Scope of Work which could pose a hazard to Consultant's employees, agents and subcontractors, Consultant shall cease work and determine the necessary health and safety precautions to continue the Scope of Work. The cost of these necessary health and safety precautions shall be a change and shall be managed in accordance with Section 1.b.

SECTION 5: BILLING AND PAYMENTS

a. Unless otherwise specifically provided, billings will be based on actual hours worked, billed in minimum .10 hour increments, at the standard rates shown in the Proposal plus the reimbursement for direct expenses, including but not limited to travel costs (air fares, taxi, car rentals and fuel, mileage fees for personal or company vehicles, parking, tips, room charges, meal charges, etc.), long distance telephone charges, postage and shipping fees exceeding \$1.00 per parcel/envelope, expedited delivery services, printing and reproduction charges, special instrument or equipment rental, disposable field supplies (bailers, sample containers, clean gloves and suits,

etc.) and other customary expenses. Section 319(h) funds cannot be used to reimburse for tips or food for travel or meetings and preapproval of funds for airfare is required prior to submission for reimbursement. Reimbursable direct expenses shall be billed at Consultant's cost plus any multiplier set forth in the Proposal. Client shall pay Consultant for services performed in U.S. funds drawn upon U.S. banks and in accordance with the rates and charges set forth herein. Invoices will be submitted by Consultant from time to time, but no more frequently than every two weeks, and shall be due and payable upon receipt. If Client objects to all or any portion of an invoice, Client shall nevertheless timely pay the undisputed amount of such invoice and promptly advise Consultant in writing of the reasons for disputing any amount.

b. Client shall pay an additional charge of one-and-one-half (1.5) percent (or the maximum percentage allowed by law, whichever is lower) of the invoiced amount per month for any payment received by Consultant more than sixty (60) calendar days from the date of the invoice, excepting any portion of the invoiced amount in dispute and resolved in favor of Client. Note that Section 319(h) funds cannot be used for payment of these fees. Payments shall first be applied to accrued interest and then to the unpaid principal amount.

c. Application of the percentage rate indicated above as a consequence of Client's late payments does not constitute any willingness on Consultant's part to finance Client's operation, and no such willingness should be inferred. If Client fails to pay invoiced amounts within thirty (30) calendar days of the date of the invoice, Consultant may at any time, without waiving any other claim against Client and without thereby incurring any liability to Client, suspend or terminate performance under this Agreement; provided any hazardous conditions created by Consultant's previously performed services are rendered non-hazardous to Client's employees, agents and subcontractors, the general public, and the environment. Termination shall not relieve Client of its obligation to pay amounts incurred up to termination.

d. Client's obligation to pay for the services performed under this Agreement is in no way contingent upon Client's ability to obtain financing, zoning, approval of governmental or regulatory agencies, final adjudication of a lawsuit in which Consultant is not involved, or upon Client's successful completion of the project.

e. The fees quoted on the Proposal shall remain valid for a period of thirty (30) days from the date of the Proposal.

f. If Consultant determines during the performance of the Scope of Work that the cost of completing the Scope of Work or the time of completing the Scope of Work will be substantially more than any estimate made by Consultant in the Proposal, then Consultant shall promptly notify Client in writing of the reason for the increase and allow Client an opportunity to evaluate proceeding with the Scope of Work.

SECTION 6: SAMPLES AND EXPLORATION DEBRIS

a. Soil, rock, water and/or other samples obtained pursuant to the Scope of Work are the property of Client. Consultant shall preserve such samples for no longer than sixty (60) calendar days after the issuance of any document that includes the data obtained from them, unless

other arrangements are mutually agreed upon in writing. Although Client shall be the owner of such samples, Consultant, acting as a bailee and agent of Client, shall arrange for the lawful disposal of all samples. Disposal of contaminated samples shall be at the price set forth in the Proposal/Schedule of Fees. If the Proposal/Schedule of Fees is silent, then the disposal of contaminated samples shall be at the direct cost to Consultant without any multiplier.

b. Although Client shall be the owner of all exploration debris, cuttings, pumpings, and borings generated by Consultant during the performance of the Scope of Work, Consultant, as agent of Client, shall arrange for the proper disposal of all exploration debris, cuttings, pumpings and borings generated during Consultant's activities. Disposal of contaminated exploration debris shall be at the price set forth in the Proposal/ Schedule of Fees. If the Proposal/Schedule of Fees is silent, then the disposal of all exploration debris, cuttings, pumpings and borings shall be at the direct cost to Consultant without any multiplier.

SECTION 7: REPORTS AND OWNERSHIP OF DOCUMENTS

a. Consultant shall furnish an original and one (1) copy of each report required by the Proposal/Scope of Work to Client. If paid for, Consultant's Report to Client and the documents normally included in such Reports (laboratory results, boring logs, plume maps, etc.) are the property of Client, Indiana Department of Environmental Management, and U.S. Environmental Protection Agency. Consultant may retain a copy for Consultant's records. All backup documents (field notes, internal calculations and drafts, etc.) shall remain the property of Consultant. However, Consultant shall treat its performance of the Scope of Work and all information generated in the performance of the Scope of Work, whether the property of Client or Consultant, as confidential, and shall not release such information to any governmental agency or third party without the written consent of Client, unless the release of such information is necessary to prevent injury to individuals or the environment.

b. Consultant shall not publicize the performance of the Scope of Work for Client in any sales brochure, resume of work, or reference list without Client's written consent.

c. Unless set forth as part of the Scope of Work or otherwise required by law, Consultant does not assume any obligation to and shall not report the results of its sampling, investigation, or analysis to any governmental authority or third party. Determining the need to report and the report of any hazardous substance or condition discovered as a result of Consultant's performance of the Scope of Work shall be the obligation of Client.

SECTION 8: INSURANCE

a. Consultant represents that it and its subcontractors are protected by and have in place the following forms and amounts of insurance:

(1) Workers Compensation insurance required by the law of the State of Indiana.

(2) Professional Liability Insurance of at least \$1,000,000.00 per claim/occurrence and \$1,000,000.00 aggregate covering the professional activities Consultant is performing under the Scope of Work.

(3) Commercial general liability insurance policies of at least \$1,000,000.00 per occurrence and \$1,000,000.00 aggregate covering the activities Consultant is performing under the Scope of Work.

(4) Automobile liability insurance with coverage of at least \$300,000 per occurrence. Consultant shall furnish Client with Certificate(s) of Insurance and will have the Client named as an additional insured on the Certificate(s), where permitted by law, upon Client's request. Client may request such other specific coverage inclusions that are not present in Consultant's insurance, if available. However, the increased cost of such inclusions shall be a change and handled in accordance with Section 1.b.

SECTION 9: ARBITRATION OF DISPUTES

a. All claims, disputes or controversies arising out of, or in relation to the interpretation, application or enforcement of this Agreement shall be decided through arbitration, pursuant to the then most current rules of the American Arbitration Association for Commercial or Construction matters, as appropriate.

b. The parties further agree that the substantially prevailing party in any dispute shall be entitled to recover its expenses incurred in resolving the dispute, including without limitation, reasonable attorney's fees, consulting fees, court costs, expert witness fees, and similar expenses.

c. The parties further agree that Consultant will require, as a condition for participation in the performance of the Scope of Work, that all Subcontractors and Materialmen, whose portion of the work amounts to twenty-five thousand dollars (\$25,000) or more, and their insurers and sureties, shall agree to the arbitration provisions contained in this subparagraphs 9a. and 9.b.

SECTION 10: TERMINATION

a. Client or Consultant may immediately terminate this Agreement for breach of this Agreement or when it is determined that the work or services being performed is contrary to existing law.

b. Client may terminate this Agreement for any reason. In the event of such termination for convenience, Client shall give Consultant fourteen (14) calendar days' notice of the effective date of termination. Consultant shall use this period to wind down its activities, to complete such analyses and records which may be in the process, place its files in order, and secure the site(s) upon which any work or services under the Scope of Work are being performed.

c. Consultant shall promptly render to Client a final invoice and Client shall pay Consultant for services rendered and costs incurred up to the effective date of termination, unless the termination was by Client for breach of Consultant's obligations under the Agreement (cause) and a dispute exists as to amounts due Consultant. If the termination is by Client in the absence of a breach (without cause), Consultant may include the reasonable costs of demobilizing, modifying schedules and reassigning personnel. Upon such termination, Consultant shall deliver to Client all reports and documents pertaining to services performed up to termination.

SECTION 11: FORCE MAJEURE

Consultant shall be liable for delays in or failure to perform the work under the Scope of Work in a timely manner and services, except when such delays or failures are caused by circumstances beyond Consultant's reasonable control, including without limitation, acts of God, acts and/or omissions of federal, state, and local governmental authorities and regulatory agencies, strikes, riots, civil unrest, and war. For delays caused by Client or circumstances beyond the reasonable control of Consultant, Consultant shall be given a reasonable time extension.

SECTION 12: SURVIVAL

The parties agree that the provisions of paragraphs 7, 8 and 9 survive the completion and/or the termination of this Agreement. In addition, all provisions of this Agreement allocating responsibility or liability between the Client and Consultant shall survive the completion of services and/or the termination of this Agreement.

SECTION 13: NOTICES

Any notice required or permitted by the Agreement shall be deemed duly given if sent in writing, certified or registered mail with return receipt requested to the following addressees and the following addresses:

TO CLIENT: CITY OF GOSHEN
 JASON KAUFFMAN
 205 S 5TH STREET
 GOSHEN, INDIANA 46528

TO CONSULTANT: ARION CONSULTANTS INC.
 1610 N. AUBURN STREET
 SPEEDWAY, INDIANA 46224

SECTION 14: INDEMNIFICATION

a. In addition to the specific provision set forth above, Consultant will defend, indemnify and hold harmless Client and its representatives, agents, employees, and successors and assigns from and against any and all claims, suits, actions, losses, penalties, fines, and damages of any nature whatsoever, including reasonable attorney's fees, expert witnesses fees, and consultant fees, and court costs arising or resulting from (1) Consultant's breach of this Agreement; and/or (2) Consultant's gross negligence or intentional misconduct. However, Client agrees to limit any and all liability or claims for damages, cost of defense, or expense against Consultant to a sum not to exceed \$10,000.00, or the amount of fees paid to Consultant, whichever is less, on account of any error, omission, breach, gross negligence or intentional misconduct.

b. In addition to the specific provisions set forth above, Client will defend, indemnify and hold harmless Consultant and its representatives, agents, employees, and successors and assigns from and against any and all claims, suits, actions, losses, penalties, fines, and damages of any nature whatsoever, including reasonable attorney's fees, expert witnesses fees, and consultant

fees, and court costs arising or resulting from (1) Client's breach of this Agreement; (2) Client's negligence or intentional misconduct; and (3) the existence of any hazardous substance or condition at the site(s) where Consultant is performing the work and services under the Scope of Work, unless the negligent conduct of the Consultant exacerbates and causes the spread of the hazardous substance(s) or the development of a hazardous condition.

SECTION 15: SEVERABILITY

Any provision of this Agreement later held to be unenforceable shall be deemed void, but all remaining provisions shall continue in force and shall be construed as a whole.

SECTION 16: TITLES

The titles used in this Agreement are for general reference only and are not part of the Agreement. Parties to this Agreement are advised to read each provision and rely on the guidance of legal counsel as necessary to help assure a complete understanding of all provisions and the obligations imposed through acceptance.

SECTION 17: ASSIGNS

Except for the submission of samples to laboratories for analysis, Consultant may not delegate, assign, subcontract or transfer its duties, responsibilities or interests in this Agreement without the written consent of the Client. Client may assign its rights under this Agreement to a third party, but Client shall remain liable, jointly and severally, with the third party for the performance of Client's obligations hereunder, unless specifically released by the Consultant.

SECTION 18: CHOICE OF LAW

This Agreement shall be interpreted according to the laws of the State of Indiana.

SECTION 19: NON-DISCRIMINATION

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

SECTION 20: EMPLOYMENT ELIGIBILITY VERIFICATION

a. Consultant shall enroll in and verify the work eligibility status of all Consultant's newly hired employees through the E-Verify program as defined in Indiana Code § 22-5-1.7-3. Consultant is not required to participate in the E-Verify program should the program cease to exist. Consultant is not required to participate in the E-Verify program if Consultant is self-employed and does not employ any employees.

b. Consultant shall not knowingly employ or contract with an unauthorized alien, and Consultant shall not retain an employee or continue to contract with a person that the Consultant subsequently learns is an unauthorized alien.

c. Consultant shall require their subcontractors, who perform work under this contract, to certify to the Consultant that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. Consultant agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

d. City may terminate the contract if Consultant fails to cure a breach of this provision no later than thirty (30) days after being notified by City of a breach.

SECTION 21: CONTRACTING WITH RELATIVES

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

SECTION 22: NO INVESTMENT ACTIVITIES IN IRAN

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

SECTION 23: MISCELLANEOUS

a. Any provision of this agreement or incorporated documents shall be interpreted in such a way that they are consistent with all provisions required by law to be inserted into the agreement. In the event of a conflict between these documents and applicable laws, rules, regulations or ordinances, the most stringent or legally binding requirement shall govern.

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

c. In the event legal action is brought to enforce or interpret the terms and conditions of this agreement, the prevailing party of such action shall be entitled to recover all costs of that action, including reasonable attorneys' fees.

SECTION 24: BINDING EFFECT

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

SECTION 25: ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the parties and supersedes all other agreements or understandings between City and Arion Consultants, Inc.

SECTION 26: AUTHORITY TO EXECUTE

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

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

CITY OF GOSHEN
("Client")

ARION CONSULTANTS, INC.
("Consultant")

By: _____
Jeremy P. Stutsman, Mayor

By: _____

Title: _____

Title: _____

Dated: _____

Dated: _____

Appendix A: Scope of Services

Task A: Arion Consultants will produce a watershed management plan (WMP) for the Lower Elkhart River watershed, Hydrologic Unit Codes (HUC) 0405000117 and 0405000119.

Arion Consultants will produce a watershed management plan (WMP) for the Lower Elkhart River, Hydrologic Unit Codes (HUC) 0405000117 and 0405000119. The watershed plan shall include all elements listed in the State's Watershed Management Plan Checklist (updated 2009).

Arion Consultants will submit drafts of the WMP to the State for review and comment in accordance with the schedule set out in Exhibit C of the IDEM-ERRA contract. Arion Consultants will submit the Watershed Management Plan Checklist with each draft WMP indicating where in the plan each checklist element may be found. Arion Consultants will provide no less than one (1) editable electronic copy of each draft WMP to the State. Arion Consultants will provide one (1) hard copy and (1) compact disc (CD) of the final WMP to the State and also make copies available to local libraries, local officials, land use planners in the watershed, and others upon request.

Arion Consultants will develop a steering committee of local stakeholders to guide the development of the watershed management plan. This committee shall meet no less than quarterly. Steering committee meetings shall be advertised in the local media and open to the public.

Arion Consultants will complete ACPF modeling for each of the sub-watersheds. Specifically, baseline hydrology will be developed for all 13 sub-watersheds (ACPF outputs 1-3) and potential BMP locations (full ACPF modeling) will be developed for up to seven critical sub-watersheds. Arion Consultants will use the potential watershed project list, ACPF outputs, and collected water quality data to model pollutant loading rates and identify the potential for water quality improvement. All Geographic Information System data created or modified by the Grantee for delivery to the State shall meet the Indiana State Agencies Arc/Info Data Collection Standards except for metadata. Metadata shall meet the Federal Geographic Data Committee (FGDC) standard called the Content Standard for Digital Geospatial Metadata. Any deviation from either standard must have prior written approval from IDEM. All Global Positioning System data collected by Arion Consultants for delivery to the State shall include IDEM's Method Accuracy Description Codes. Any deviation from this requirement must have prior written approval from IDEM. The Grantee shall submit a copy of GIS layers to the State.

Task B: Arion Consultants will coordinate water quality monitoring.

Arion Consultants will develop a Quality Assurance Project Plan (QAPP) for the monitoring activities and submit it to the State for approval at least one (1) month prior to initiating monitoring activities. Arion Consultants will conduct all monitoring activities and submit all data in accordance with the approved QAPP.

Arion Consultants will conduct a monitoring program to establish data for baseline loading rates on tributaries throughout the watershed. Sample collection will occur no less than monthly for one year (12 sample sets) at no less than 18 sample locations. Collected samples will be analyzed for TP, TSS, and E. coli. Field analysis will include nitrate, DO, temperature, pH, conductivity, and turbidity. In situ measurement of stream flow will occur during each assessment as conditions allow or will be estimated from the most appropriate USGS gage when field collections do not allow for in situ measurement. Sample

sites will be documented with photos and GPS coordinates. Arion Consultants will assess biological communities and habitat quality once during the first year at the same 18 sample sites. IDEM's mIBI will be completed for community assessment and QHEI for habitat. Data will be supplemented with the City of Elkhart's biological sampling program which samples fish and macroinvertebrate at no less than 8 locations in the Elkhart River annually. Arion Consultants will analyze trends in the collected and historical data for correlations, model nonpoint source pollution in each sub-watershed, and calculate current loading rates and load reductions needed to achieve water quality targets. The exact locations of the monitoring sites shall be specified in the QAPP to be approved by the State.

Arion Consultants will coordinate a volunteer monitoring program to work with volunteers to identify and sample appropriate sample sites. All volunteer samples will be collected and analyzed in accordance with an approved QAPP that will be submitted to IDEM for approval no less than one month in advance of the initial volunteer sample collection date. Arion Consultants will conduct annual Hoosier Riverwatch trainings (2 total).

Task C: Arion Consultants will develop and implement an education and outreach program designed to bring about behavioral changes that will lead to reduced nonpoint source pollution in the watershed.

Arion Consultants will conduct an education and outreach program designed to bring about behavioral changes that will lead to reduced nonpoint source pollution in the watershed. Arion Consultants will at a minimum:

1. Complete monthly updates to the watershed page on the project website (24 total updates).
2. Conduct annual county-based watershed stakeholder meetings (2 total).
3. Conduct annual public meetings (2 total).
4. Conduct biannual education committee meetings (4 total).
5. Complete monthly updates to social media (24 updates total).
6. Submit quarterly project updates via press releases, newsletters, or digital updates (8 updates total).
7. Develop and distribute one (1) brochure or video to promote the project (1 total).
8. Participate in ten (10) community events per year (20 events total).
9. Conduct two (2) field days or workshop annually and track attendance at each event. Pre and post survey events shall be conducted at each event (4 total).
10. Track stakeholder attendance at meetings and events.
11. Work with partners to translate no less than one (1) piece of outreach material into Spanish language on an annual basis (2 total).

Task D: Arion Consultants will prepare and submit an electronic copy of a progress report to IDEM with each invoice, on at least a quarterly basis.

A total of no less than seven (7) quarterly progress reports shall be prepared and submitted to IDEM. Arion Consultants will prepare and submit one (1) electronic copy and one (1) hard copy of a final written summary project report to IDEM by the close of this project, including an electronic copy of all products produced as a result of this project.



Theresa Cummings, Community Development Specialist
PLANNING & ZONING DEPT., CITY OF GOSHEN
204 East Jefferson Street, Suite 4 • Goshen, IN 46528-3405

Phone (574) 533-9370 • Fax (574) 533-8626 • TDD (574) 534-3185
theresacummings@goshencity.com • www.goshenindiana.org

MEMORANDUM

TO: Board of Public Works and Safety

FROM: Theresa Cummings, Community Development Specialist

DATE: January 23, 2023

RE: Approval of CBDO Agreement for Multi-Unit Housing Rehabilitation for Program Year 2022

Please approve the following CBDO (Community Based Development Organization) agreement for multi-unit housing rehabilitation for the CDBG Program Year 2022, and authorize the Mayor to sign the agreement:

Housing Grant

Lacasa, Inc. – multi-family housing rehab (2022)

\$130,000

CDBG funding for this project was made available and implementation is scheduled to begin within this program year (2022).

The agreement is attached.

Suggested Motion: Approve the CBDO agreement for the multi-unit housing rehabilitation project for CDBG Program Year 2022, and authorize Mayor Stutsman to sign the agreement.

Attachment

CITY OF GOSHEN
COMMUNITY DEVELOPMENT BLOCK GRANT
COMMUNITY BASED DEVELOPMENT ORGANIZATION (CBDO) AGREEMENT
MULTI UNIT HOUSING REHABILITATION
Program Year 2022: July 1, 2022-June 30, 2023

This Housing Rehabilitation Agreement (the “Agreement”) is entered into by and between the City of Goshen, Indiana (the “City”) and Lacasa, Inc. (the “CBDO”), an Indiana not-for-profit corporation, as of this 23rd day of January, 2023.

WITNESSETH:

WHEREAS, such Housing Rehabilitation grant will be funded through the entitlement city’s Community Development Block Grant program (“CDBG Program”) established under Title I of the Housing and Community Development Act of 1974, as amended, and the rules, regulations, policy memoranda and other authority thereunder (collectively, the “Act”) and administered by the City.

WHEREAS, the City has requested the assistance of the CBDO to administer the Multi-unit Housing Rehabilitation portion (the “Project”) of the CDBG Program;

WHEREAS, the Act contains certain requirements regarding the use of funds to fulfill a “national objective,” as defined in the Act;

WHEREAS, the national objective to be fulfilled by the City’s use of its CDBG Program is the rehabilitation of multi-unit, renter-occupied housing by the CBDO for low and moderate (“Low and Moderate”) income families. Low- and Moderate-income families are defined in the Act, and the income ranges and rent limits will be as established for the HOME Program, as published annually by Indiana Housing & Community Development Authority, with a separate Lien and Restrictive Covenant Agreement required to be executed and recorded for each individual multi-unit property receiving CDBG assistance;

WHEREAS, the Act requires that the CBDO demonstrate its intent to rehabilitate such housing for Low- and Moderate-income families;

WHEREAS, the Act prohibits discrimination under any program or activity funded with CDBG moneys on the basis of race, color, national origin, sex, age, or handicap; additionally, the Act prohibits discrimination in housing programs and activities funded with CDBG on the basis of sexual orientation, gender identity or marital status;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the City and CBDO agree as follows:

1. CBDO Designation and Administration of Grant. City hereby designates and CBDO hereby agrees to serve as a CBDO for the Multi-unit Housing Rehabilitation portion (the “Project”) of the CDBG Program and to administer the Project in accordance with this Agreement and the Act.
2. Scope of Services. CBDO agrees to perform the services under this Agreement as follows:
 - (a) To submit a final scope of work for the identified project, including estimated budget and project timeline, to be approved by the CDBG program before work proceeds.
 - (b) To implement the project per the approved scope of work referenced above.
 - (c) To obtain all federal, state, and local government approvals, permits, licenses, and review required by law to be obtained for the performance of the rehabilitation work under this Agreement.
 - (d) To comply with all applicable, federal, state, and local laws and regulations pertaining to the performance of the rehabilitation work under this Agreement.

- (e) To conduct Tier II Environmental Review for each multi-unit property selected for rehabilitation, including preparing any necessary maps, preparing photo documentation for each property, contacting the local and county historians for review and comment, and preparing all narrative and documentation for DHPA Section 106 review.
 - (f) To submit to the City any and all documents demonstrating compliance with all federal and state rules and regulations. Such demonstrations will be provided at the request of the City. City's failure to request any supporting documentation, however, shall not excuse any failure on the part of CBDO to have complied with the applicable federal and state rules and regulations.
 - (g) To file claims on a timely basis with the City for the release of funds from the CDBG Program for reimbursement of the direct costs and program delivery costs incurred under the Project. All claims will be accompanied by verification of all costs incurred. Copies of the following documents must be on file with the City in order to process a claim: cost estimate with construction details and costs; claim for payment; invoices supporting claim amount.
 - (h) Claims will be limited to the sum of One Hundred Thirty Thousand Dollars (\$130,000.00) for the Project. Program delivery costs are limited to a maximum of twenty five percent (25%) of direct costs, and shall not exceed Fifty Thousand Dollars (\$50,000.00).
 - (i) That all contracts and services and other procurement of materials, services, or construction shall be carried out in compliance with applicable laws and regulations, including but not limited to, those listed in Exhibit A.
 - (j) Provide proof of complying with all rules and regulations involving the rehabilitation work and Lead Based Paint requirements.
 - (k) That all federal fair housing and other requirements stated in the CDBG Program shall be met when performing the rehabilitation work under this Agreement.
 - (l) To maintain records adequate to identify and account for all costs pertaining to this agreement; to establish the eligibility of the household assisted under the program and such other records as may be required by statute, rule or regulations. These records shall be maintained for a period of four (4) years after project completion and shall be available to the City and authorized federal agencies.
 - (m) That City and Federal officials and representatives will have access to all books, accounts, records, reports, files, and other papers, things or property pertaining to the project in order to make audits, examinations, excerpts, and transcripts.
 - (n) To assist any or all of the City's personnel or agencies, designated by the City by contract or resolution or other written document, regarding the implementation of this Agreement, and such designated personnel and agencies shall provide information and cooperation to the CBDO to the extent provided in this Agreement and other contracts, resolutions, or written agreements.
 - (o) To provide any and all information as requested by the City to fulfill the requirements of the Federal Subaward Reporting System (FSRS). This includes having a UEI (Unique Entity Identifier) and maintaining a current and accurate SAM.gov (System for Award Management) account.
3. Release of Funds. The City agrees to release funds from the CDBG Program for direct costs and program delivery costs incurred by the CBDO as funds are requested by CBDO in accordance with City claim procedures as outlined in Exhibit B.
4. City Responsibilities. City agrees:
- (a) To retain all Tier I environmental responsibilities and the responsibility for initiating any applicable inter-

governmental review process. However, nothing in this Agreement shall be construed to create environmental responsibilities that do not otherwise exist.

- (b) To file required paperwork and documents with the U.S. Department of Housing and Urban Development and any other necessary agencies on a timely basis with respect to the CDBG Program and to pay properly submitted and documented claims of the CBDO on a timely basis.
 - 5. Designation of Project Coordinators. For purposes of this Agreement, the Project Coordinator for the City shall be Rhonda Yoder, CDBG Administrator, City of Goshen. The Project Coordinator for the CBDO shall be Heidi Stoltzfus McHugh, Interim President, Lacasa, Inc. Communications pertaining to this Agreement shall be through the respective Project Coordinators for the City and CBDO.
 - 6. Term of Agreement.
 - (a) The term of this Agreement shall run from and including the 1st day of July 2022 through and including the 30th day of June 2023. All of CBDO's claims to release funds from the CDBG Program shall be submitted to the City no later than the day specified by the CDBG Administrator near the end of the contract period, approximately June 8, 2023, so that all claims can be paid within the contract year, except as needed to complete projects, including the associated reporting and paperwork, extending the term of the contract no longer than the end of calendar year 2023.
 - (b) When the CDBG Administrator is notified that CDBG funds are no longer available due to funding changes or lack of funding by the U.S. Department of Housing and Urban Development to support continuation of performance of the Agreement, the Agreement shall be canceled with not less than 30 days' notice to the CBDO from the City.
 - 7. Audit Compliance. The CBDO shall provide the amount of federal funds expended in the CBDO's fiscal year, as requested by the City. If the CBDO expends \$750,000 or more of federal funds in a fiscal year, an audit following 2 CFR 200.514 must be conducted and a copy of the audit submitted to the City for review, within 30 days after receipt of the auditor's report(s) or nine months after the end of the audit period, whichever is earlier. Any findings related to CDBG must be cleared by the City.
 - 8. Uniform Administrative Requirements. CBDO agrees to comply with applicable uniform administrative requirements, as described in 2 CFR Part 200.
 - 9. Notice. All notices required or permitted under this Agreement shall be submitted in writing to the other party to this Agreement, and delivered personally or sent by regular first-class mail:

City of Goshen, Indiana Attn: Rhonda Yoder, CDBG 204 E. Jefferson Street, Suite 4 Goshen, Indiana 46528	Lacasa, Inc. Attn: Heidi Stoltzfus McHugh 202 N. Cottage Avenue Goshen, Indiana 46528
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- Or at such other place as the parties may designate in writing from time to time.
- 10. Conflict of Interest. The CBDO represents that none of its employees, officers, or directors presently have any interest, either direct or indirect, which would conflict in any manner with CBDO's performance or procurement under this Agreement, and that no person having such interest shall be appointed or employed by CBDO; except that which is disclosed in writing by the CBDO to the City.
 - 11. CBDO Status: Attached hereto as Exhibit C by this reference made a part hereof is a copy of correspondence from the City dated the 28th day of May 2022 designating Lacasa, Inc., as a CBDO.
 - 12. Tax Exempt Status. Attached hereto as Exhibit D by this reference made a part hereof is a copy of correspondence from the Internal Revenue Service dated the 28th day of January 2003 confirming the 501(c)(3) tax exempt status of

the CBDO.

13. Default.

(a) Upon CBDO’s failure to comply with any of the terms and conditions contained within this Agreement or its failure to comply with the appropriate federal rules, laws, and regulations governing the administration of the CDBG funds, all rights inuring to the benefit of CBDO pursuant to this Agreement shall be suspended and this Agreement, shall be terminated upon delivery of written notice by the City. Furthermore, CBDO shall not be entitled to reimbursement from the City for any project in which CBDO is in default of its obligations imposed upon it pursuant to this Agreement, or is in violation of any federal rules, laws, or regulations governing the administration of CDBG funds. Upon City’s default under this Agreement, all rights inuring to the benefit of City pursuant to this Agreement shall be suspended and this Agreement shall be terminated upon delivery of written notice by CBDO.

(b) Upon default by a party to this Agreement, the non-defaulting party shall be entitled to recover its damages, penalties incurred, costs and expenses sustained, and reasonable attorney fees from the defaulting party in addition to the remedies provided in subparagraph (a) above. A party shall be in default under this Agreement in the event it violates or fails to comply with any of the terms and conditions contained within this Agreement or the applicable state and federal laws, rules, and regulations.

14. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns; provided, however that no assignment shall be effective to relieve a party of any liability under this Agreement unless the other party has consented in writing to the assignment and agreed to the release of such liability. The City and CBDO hereby acknowledge receipt of a duly executed copy of this Agreement complete with all exhibits attached hereto.

IN WITNESS WHEREOF, the CBDO and the City have caused this Agreement to be executed by a duly authorized individual as of the date first above written.

CBDO: LACASA, INC.

By: _____
Heidi Stoltzfus McHugh
Interim President

ATTESTED:

By: _____

Printed: _____

Title: _____

CITY:

CITY OF GOSHEN, INDIANA BY
AND THROUGH THE MAYOR
OF THE CITY OF GOSHEN, INDIANA

By: _____
Jeremy P. Stutsman, Mayor

2022 CDBG PROPOSAL – Multi family rehab project

Lacasa is requesting **\$130,000** in CDBG Multi-Unit Rehab funds for rehabilitation work at 409 E Madison Street. This run-down building has long been 4 apartment units. And while this CDBG application deals solely with the rehab at 409 E Madison Street, it is part of Lacasa's larger project in the East Lincoln Crossroads neighborhood that has already seen the complete rehabilitation of 16 quality, affordable rental units, with another 7 in process. The rehab of 409 E Madison Street will also fit in with the character of the neighborhood and will provide four beautiful, 1-bedroom, affordable rental units. This CDBG funding allows Lacasa to submit a HOME application to IHCD for four apartment units with maximum leveraged funding. Lacasa is confident IHCD will fund this year's HOME application.

The rehab work at 409 E Madison Street will involve a complete exterior facelift. We wish to maintain the structure of the building while utilizing modern materials and techniques to correct past issues and ensure the building's long-term viability. We will work with Indiana Landmarks and the State Historical Preservation Officer to ensure the exterior meets historical standards. The building will receive all new mechanical systems, bringing the HVAC, electric and plumbing up to current code. The interior finishes will be restored to Lacasa's high standards. The kitchens and bathrooms will be completely new with modern fixtures and finishes.

The four units at 409 E Madison Street will be occupied by tenants who income qualify as low-to-moderate income – all four units will be 60% AMI and below. These are part of the HOME affordable housing program and require income qualification prior to tenancy and then annually thereafter. Assuring that the CDBG funds are benefiting the designated targeted recipients is built into the program and monitored closely by IHCD.

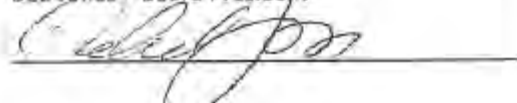
TIMELINE

February 24 th	Apply for Goshen City CDBG funds
March	Goshen City CDBG budget for 2022 includes funding for 409 E Madison Street
June	Apply for IHCD HOME funds (with CDBG funding secured)
September	HOME Awards Announced
January 2023	Federal Release of Funds anticipated
January	Rehab begins
December	Rehab complete
January 2024	Grant Closeout

BUDGET

Sources:	\$130,000 in CDBG funds from the City of Goshen
	\$396,000 in HOME funds from IHCD
	\$40,000 in NeighborWorks America capital funds
	<u>\$80,000 in IHCD Development Fund loan</u>
Total:	\$646,000
Estimated Uses:	\$70,000 acquisition costs
	\$498,300 rehab hard costs
	\$16,800 in rehab soft costs
	<u>\$60,900 in other costs – lead testing, operating reserves & developer's fee</u>
Total:	\$646,000

Deb Jones – Board President



Chris Kingsley – Chief Executive Officer



Exhibit A

I. Administrative Requirements

A. Financial Management

1. Accounting Standards

The CBDO agrees to comply with 2 CFR Part 200 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The CBDO shall administer its program in conformance with 2 CFR Part 200 as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record Keeping

1. Records to be Maintained

The CBDO shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities funded under this Agreement. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets the National Objective of the CDBG program of benefiting low/moderate income persons;
- c. Records required to determine the eligibility of activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
- f. Financial records as required by 24 CFR 570.502, and 2 CFR Part 200; and
- g. Other records necessary to document compliance with Subpart K of 24 CFR 570.

2. Retention

The CBDO shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of four (4) years. The retention period begins on the date of submission of the City's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

3. Client Data

The CBDO shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to the City or their designees for review upon request.

4. Disclosure

The CBDO understands that client information collected under this contract is private, and the use or disclosure of such information, when not directly connected with the administration of the City's or CBDO's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service, and, in the case of a minor, that of a responsible parent/guardian, unless otherwise required by law.

5. Close-Outs

The CBDO's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, final close-out reports and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the CBDO has control over CDBG funds.

6. Audits and Inspections

All CBDO records with respect to any matters covered by this Agreement shall be made available to the City, grantor agency, their designees or the Federal Government, at any time during normal business hours, as often as the City or grantor agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the CBDO within 30 days after receipt by the CBDO. Failure of the CBDO to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The CBDO hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning CBDO audits and, as applicable, 2 CFR Part 200.

C. Reporting and Payment Procedures

1. Indirect Costs

If indirect costs are charged, the CBDO will develop an indirect cost allocation plan for determining the appropriate CBDO's share of administrative costs and shall submit such plan to the City for approval, in a form specified by the City.

2. Payment Procedures

The City will pay to the CBDO funds available under this contract, based upon information submitted by the CBDO and consistent with any approved budget and City policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the CBDO, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance fund balances available in CBDO accounts. In addition, the City reserves the right to liquidate funds available under this contract for costs incurred by the City on behalf of the CBDO.

D. Procurement

1. OMB Standards

Unless specified otherwise within this Agreement, the CBDO shall procure all materials, property, or services in accordance with the requirements of 2 CFR Part 200.

2. Travel

The CBDO shall obtain written approval from the City for any travel outside the metropolitan area with funds provided under this Agreement.

II. Personnel and Participant Conditions

A. Civil Rights

1. Compliance

The CBDO agrees to comply with all local and State of Indiana civil rights ordinances and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act (HCDA) of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

2. Nondiscrimination

The CBDO agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.

3. Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (PL 88-352) and 24 CFR 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the CBDO shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The

CBDO, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

The CBDO agrees to comply with all Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 USC 794), which prohibits discrimination against the individuals with disabilities or handicaps in any Federally assisted program. The City shall provide the CBDO with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

B. Equal Opportunity

1. Women- and Minority-Owned Businesses (W/MBE)

The CBDO will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the term “minority and female business enterprise” means a business at least fifty-one percent (51%) owned and controlled by minority group members or women. For the purpose of this definition, “minority group members” are Afro-Americans, Spanish-speaking, Spanish-surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The CBDO may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

2. Access to Records

The CBDO shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

3. Notifications

The CBDO will send to each labor union or representative of workers with which it has a collective bargaining Agreement or other contract or understanding, a notice, to be provided by the agency contracting office, advising the labor union or worker’s representative of the CBDO’s commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

The CBDO will, in all solicitations or advertisements for employees placed by or on behalf of the CBDO, state that it is an Equal Opportunity or Affirmative Action employer.

5. Subcontract Provisions

The CBDO will include the provisions of Paragraphs II.A., Civil Rights, and B., Equal Opportunity, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or contractors.

C. Employment Restrictions

1. Prohibited Activity

The CBDO is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.

2. Labor Standards

The CBDO agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 USC 327 *et seq.*), and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The CBDO agrees to comply with the Copeland Anti-Kickback Act (18 USC 874 *et seq.*) and its implementing regulations of the US Department of Labor at 29 CFR Part 5. The CBDO shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

The CBDO agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000.00 for

construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the CBDO of its obligation, if any, to require payment of the higher wage. The CBDO shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

3. "Section 3" Clause

a) Compliance

Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 75, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the City, the CBDO and any of the CBDO's subrecipients and subcontractors. Failure to fulfill these requirements shall subject the City, the CBDO and any of the CBDO's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The CBDO certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

The CBDO further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

"The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 USC 1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The CBDO further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The CBDO certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

b) Notifications

The CBDO agrees to send to each labor organization or representative of workers with which it has a collective bargaining Agreement, or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

- c) Subcontracts
The CBDO will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The CBDO will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 75 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. Conduct

1. Assignability

The CBDO shall not assign or transfer any interest in this contract without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the CBDO from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

2. Subcontracts

a) Approvals

The CBDO shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the City prior to the execution of such Agreement.

b) Monitoring

The CBDO will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c) Content

The CBDO shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d) Selection Process

The CBDO shall undertake to ensure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

3. Hatch Act

The CBDO agrees that no funds provided, nor personnel employed under this contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the USC.

4. Conflict of Interest

The CBDO agrees to abide by the provisions of 2 CFR Part 200 and 570.611, which include (but are not limited to) the following:

a) The CBDO shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.

b) No employee, officer or agent of the CBDO shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

c) No covered person who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or Agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the CBDO, the City, or any designated public agency.

5. Lobbying

The CBDO hereby certifies that:

a) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any 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 contract, 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 contract, 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 agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative Agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
- c) It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative Agreements) and that all subrecipients shall certify and disclose accordingly:
- d) Lobbying Certification:

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, USC. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

6. Copyright

If this contract results in any copyrightable material or inventions, the City and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

7. Religious Activities

The CBDO agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

III. Environmental Conditions

A. Air and Water

The CBDO agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- Clean Air Act, 42 USC, 7401 *et seq.*
- Federal Water Pollution Control Act, as amended, 33 USC, 1251, *et seq.*, as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the CBDO shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The CBDO agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. Historic Preservation

The CBDO agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 USC 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

IV. General Conditions

A. Responsibilities

The Grantee will carry out its activities in compliance with the requirements of Subpart K of 24 CFR 570, except, however, that the Grantee does not assume the City's environmental responsibilities or the responsibility for initiating the environmental review process under 24 CFR part 52.

Exhibit B

City of Goshen Weekly Payment Procedures for CDBG Claims Effective December 8, 2014

Thursday NOON	Deadline to submit claims to CDBG Administrator for processing the following week
Friday	CDBG Administrator Review of Claim: Incomplete claims will be held until all required information is received
Monday (Week 1)	CDBG Administrator Reporting in HUD's online system for each claim (required before a claim may be processed)
Tuesday AM Tuesday PM	First drawdown authorization by CDBG Administrator Voucher submitted by CDBG Administrator to Clerk Treasurer's Office
Wednesday Wednesday, 3pm	Second drawdown authorization by Clerk Treasurer's Office Deadline for claim to be processed by Clerk Treasurer's Office for Board of Works
Monday (Week 2)	Claim approved and signed by Board of Works – all CDBG vouchers must be hand-signed by BOW members
Tuesday	Check written by Clerk Treasurer's Office

Exhibit C
CBDO Designation

VIA ELECTRONIC MAIL

May 28, 2022

Lacasa
Chris Kingsley, President/CEO
202 N Cottage Avenue
Goshen, IN 46528

RE: Community Based Development Organization (CBDO) Designation

Dear Chris:

The City of Goshen CDBG Program is pleased to inform you that the City of Goshen CDBG Program has designated Lacasa as a Community Based Development Organization (CBDO) for CDBG Program Year 2022 (July 1, 2022 – June 30, 2023).

As a result of this designation, Lacasa is eligible to receive CDBG funding to carry out special CBDO activities which may include the following types of projects: Neighborhood Revitalization, Community Economic Development, and Energy Conservation.

For Program Year 2022, the following activity has received approval for CDBG funding:

- Multi-unit Housing Rehabilitation, 409 E Madison Street, up to \$130,000

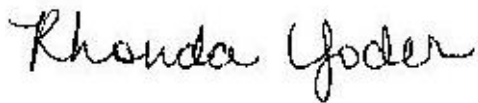
In Program Year 2022, implementation is also underway for two previously funded activities, as follows:

- Program Year 2021 Multi-unit Housing Rehabilitation, 214 S 8th Street, up to \$141,597
- Program Year 2020 Multi-unit Housing Rehabilitation, 410 E Jefferson Street, up to \$122,000

CDBG funding for CBDO activities will be a secondary funding source, used with HOME and/or LIHTC. Rents will follow the rents required by the primary funding source, typically HOME and/or LIHTC, as set by IHEDA. CDBG will require a concurrent five-year affordability period for all CBDO housing projects.

Please let me know if there are questions.

Sincerely,



Rhonda Yoder
CDBG Administrator

cc: Amy Call, Chief Financial Officer
Brad Hunsberger, VP Real Estate Development

Exhibit D
Tax Exempt Status

Internal Revenue Service
Director, Exempt Organizations
Rulings and Agreements

Department of the Treasury
P.O. Box 2508
Cincinnati, Ohio 45201

Date: **JAN 28 2003**

LaCasa of Goshen, Inc.
202 North Cottage Avenue
Goshen, IN 46256-3346

Person to Contact:
Thomas Kallman, ID# 31-07250
Contact Telephone Numbers:
877-829-5500 Phone Toll-Free
513-263-3756 FAX
Federal Identification Number:
35-1554538

Dear Sir or Madam:

This modifies our letter dated November 18, 1970. In that letter we determined that your organization is exempt under section 501(a) of the Internal Revenue Code, as an organization described in section 501(c)(3). We determined that you were not a private foundation within the meaning of section 509(a) of the Code because you were an organization described in sections 509(a)(1) and 170(b)(1)(A)(i) of the Code.

In your letter dated November 11, 2002, you requested classification as an organization described in sections 509(a)(1) and 170(b)(1)(A)(vi) of the Code. Based on the information you provided, we have determined that you meet the requirements for the requested foundation classification. Accordingly, we have granted your request and modified your foundation status to reflect an organization described in sections 509(a)(1) and 170(b)(1)(A)(vi).

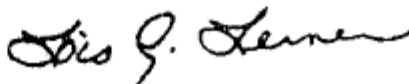
Your exempt status under section 501(a) of the Internal Revenue Code, as an organization described in section 501(c)(3) remains in effect.

Grantors and contributors may rely on this determination until the Internal Revenue Service publishes notice to the contrary. However, if you lose your section 509(a)(1) status, a grantor or contributor may not rely on this determination if he or she was in part responsible for, or was aware of, the act or failure to act that resulted in your loss of such status, or acquired knowledge that the Internal Revenue Service had given notice that you would be removed from classification as a section 509(a)(1) organization.

Because this letter could help resolve any questions about your exempt status and/or foundation status, you should keep it with your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,



Lois G. Lerner
Director, Exempt Organizations
Rulings and Agreements

cc: Randall M. Jacobs



Kent Holdren, Superintendent
WATER UTILITY, CITY OF GOSHEN

308 North Fifth Street • Goshen, IN 46528-2802

Phone (574) 534-5306 • Fax (574) 534-4281 • TDD (574) 534-3185
kentholdren@goshencity.com • www.goshenindiana.org

1/23/2023

**Request for Road Closure on Chicago Ave. between North Harrison St.
and North Riverside Blvd.**

To the Board of Public Works and Safety and Storm Water;

The City of Goshen Water and Sewer Department will be repairing a Main Line Water Valve on Chicago Ave. between North Harrison St. and North Riverside Blvd.

The work will require excavation of the road, with a trench that will be approximately 9' feet in depth.

For the safety of the work crews and the public, the City is requesting permission to close Chicago Ave. between North Harrison St. and North Riverside Blvd. to thru traffic, starting 8:00 am Tuesday, January 24th and reopening for traffic on Friday evening January 27th.

We will notify Goshen Schools, EMS and insure that the garbage is moved to the appropriate location for pick up.

Regards;

A handwritten signature in black ink, appearing to read "Kent Holdren", written over a horizontal line.

Kent Holdren





**Engineering Department
CITY OF GOSHEN**

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

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

MEMORANDUM

TO: Board of Public Works, Safety and Stormwater

FROM: Engineering Department

RE: **APPROVAL & ACCEPTANCE OF INFRASTRUCTURE
2022 CONCRETE PAVING PROJECT (PN: 2022-0002)**

DATE: 1/23/2023

The installation of infrastructure (concrete pavement, rolled curb, ADA ramps and sidewalk) has been satisfactorily completed for the above listed project. The Engineering Department recommends that the infrastructure be accepted for maintenance. The one-year maintenance bond in the amount of \$101,448.59 (10% of the construction costs) for the infrastructure has been submitted to the City of Goshen Engineering Department and is attached.

Requested Motion: Approve the acceptance of the infrastructure and maintenance bond for the 2022 Concrete Paving project.

BOARD OF PUBLIC WORKS & SAFETY CITY OF GOSHEN, INDIANA

Jeremy Stutsman, Mayor

Barb Swartley, Member

Mary Nichols, Member

Michael Landis, Member

Cc: Contractor
Street Dept.
Clerk Treasurer

**MAINTENANCE
BOND**

Travelers Casualty and Surety Company of America
Hartford, CT 06183

Bond No.: 107483910

KNOWN ALL BY THESE PRESENTS: That we Rieth-Riley Construction Co., Inc.,
as Principal, and Travelers Casualty and Surety Company of America, a corporation
organized and existing under the Laws of the State of Connecticut, as Surety, are held and
firmly bound unto City of Goshen, as Obligee, in
the total sum of One Hundred One Thousand Four Hundred Forty Eight and 59/100
Dollars (\$101,448.59) for the payment whereof said Principal and Surety
bind themselves, jointly and severally, as provided herein.

WHEREAS, the Principal entered into a contract with the Obligee dated December 14, 2021
for 2022 Goshen Concrete Roadway Repair ("Work").

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal
shall maintain and remedy said Work free from defects in materials and workmanship for a
period of 1 (one) year(s) commencing on November 1, 2022 (the
"Maintenance Period"), then this obligation shall be void; otherwise it shall remain in full force
and effect.

PROVIDED, HOWEVER, that any suit under this bond shall be commenced no later than one
(1) year from the expiration date of the Maintenance Period; provided, however, that if this
limitation is prohibited by any law controlling the construction hereof, such limitation shall be
deemed to be amended so as to be equal to the minimum period of limitation permitted by
such law, and said period of limitation shall be deemed to have accrued and shall commence
to run on the expiration date of the Maintenance Period.

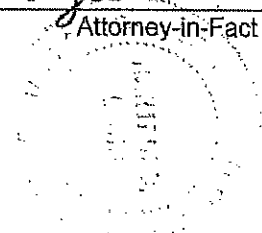
SIGNED this 20th day of December, 2022.

Rieth-Riley Construction Co., Inc.
(Principal)

By: [Signature]

Travelers Casualty and Surety Company of America

By: [Signature]
Linda Discenza
Attorney-in-Fact





**Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company**

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Linda Discaza** of **CLEVELAND Ohio** their true and lawful Attorney(s)-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this 21st day of April, 2021.



State of Connecticut
City of Hartford ss.

By: *Robert L. Raney*
Robert L. Raney, Senior Vice President

On this the 21st day of April, 2021, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.
My Commission expires the 30th day of June, 2028



Anna P. Nowik
Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this 20th day of December, 2022



Kevin E. Hughes
Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney(s)-in-Fact and the details of the bond to which this Power of Attorney is attached.



**Engineering Department
CITY OF GOSHEN**

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

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

MEMORANDUM

TO: Goshen Board of Public Works & Safety

FROM: Goshen Engineering

RE: **REVOCABLE LICENSE AGREEMENT TO ENCROACH INTO EASEMENT
JN: 2022-2045**

DATE: January 23, 2023

Attached please find an Agreement to Encroach into Easement with Keystone RV Company at 2694 Hackberry Drive, Goshen. Keystone RV seeks to expand its building over the original easement and to relocate the utilities presently in the original easement to a location east of the current and expanded building and improvements.

REQUESTED MOTION: Approve the Revocable License Agreement to Encroach Into Easement with Keystone RV Co. at 2694 Hackberry Drive for a building expansion and improvements.

**APPROVED:
BOARD OF PUBLIC WORKS & SAFETY
CITY OF GOSHEN, INDIANA**

Jeremy Stutsman, Mayor

Barb Swartley, Member

Mary Nichols, Member

Michael Landis, Member

**REVOCABLE LICENSE AGREEMENT
TO ENCROACH INTO EASEMENT**

This Revocable License Agreement to Encroach into Easement is entered into on January _____, 2023, between the **City of Goshen, Indiana** by and through the Goshen Board of Public Works and Safety, hereinafter referred to as "City", and **Keystone RV Company**, hereinafter referred to as "Owner".

Recitals

WHEREAS Owner is the owner of the real property commonly known as 2694 Hackberry Dr., Goshen, Indiana, as it obtained title to the real property by Warranty Deed dated April 6, 2004, executed and recorded in the Office of Recorder of Elkhart County, Indiana on April 7, 2004, and recorded as Instrument Number 2004-11253 ("Subject Real Property").

WHEREAS Owner granted to the City an Easement, recorded as Instrument Number 2013-12290, over, across, and through the Subject Real Property for the purposes of installation, maintenance, and operation of City utility facilities ("Original Easement").

WHEREAS Owner seeks to expand its building and the improvements, and all appurtenant structures, equipment and fixtures, located on the Subject Real Property to extend over the Original Easement and relocate the utilities presently located in the Original Easement to a location east of the current and expanded building and improvements as more particularly described on Exhibits A and B; however, the shortage of suitable pipe and other building materials has delayed the relocation of the utility facilities to an unknown time.

WHEREAS Owner seeks authority from City to construct its expanded improvements over the Original Easement under certain conditions, including that it construct new utility facilities east of the expanded improvements once suitable pipe and other building materials are available.

WHEREAS City agrees to allow Owner to construct improvements over the Original Easement area under the terms and conditions of this Agreement.

WHEREAS the Goshen Board of Public Works and Safety has the authority to enter into agreements with respect to the easements granted to the City of Goshen.

NOW, THEREFORE, in consideration of the sum of Ten and 00/100 Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which hereby acknowledged, the parties agree as follows:

1. Encroachment Permitted - City grants to Owner a revocable license to encroach into City's Original Easement located at 2694 Hackberry Dr., Goshen, Indiana to construct improvements over the Original Easement under the following terms and conditions:

A. The installation and maintenance of improvements that encroach into the Original Easement shall be at Owner's expense. Owner agrees to construct its improvements consistent with plans approved by the City, and maintain its improvements that encroach into Original Easement in good repair and condition, and in a way that does not affect the operation of the City's utility facilities located in the Original Easement until such time as the that portion of the Original Easement depicted in Sketch attached as Exhibit B is later vacated/abandoned by the City as described below.

B. Owner shall act with all due diligence to construct, at its expense, new utility facilities along Corrie Drive, in a path generally described in Exhibit A attached hereto and depicted in the Sketch attached hereto as Exhibit B (the "New Easement"), to specifications approved by the City to replace and bypass the utility facilities currently located in the Original Easement area. Such new utility facilities shall be located within the dedicated right-of-way of Corrie Drive or, if sufficient space in the right-of-way of Corrie Drive is not available for the new utility facilities, then Owner shall grant to the City all necessary easements, or dedicate additional land for right-of-way purposes. Notwithstanding the foregoing, the plans for the new utility facilities include a 12" water main, and the City shall pay all reasonable costs and expenses required to upsize the current 8" main to 12" in the New Easement, after such reasonable costs and expenses are approved by the Goshen Engineering Department which approval shall not be unreasonably withheld. Once new utility facilities are constructed in the New Easement on the Subject Real Property, the City will immediately vacate and abandon the Original Easement and the Owner shall abandon the existing utility facilities in the Original Easement to City's specifications. The relocation of the new utility facilities and the abandonment of the existing utility facilities must occur by November 21, 2023.

C. The Owner's encroachment into Original Easement may continue so long as the encroachment does not adversely affect the function of the City's utility facilities, or until Owner completes construction of, and the City accepts, the new utility facilities to bypass the existing utility facilities currently located in the Original Easement, whichever occurs first. Further, City shall immediately vacate, abandon, and release its rights under the Original Easement once the new utility facilities are constructed and accepted by the City.

D. The Owner's encroachment into the Original Easement shall not in any way prejudice or preclude City's right to revoke the license to encroach into the Original Easement should City reasonably determine that Owner's encroachment is in any way impairing or interfering with the function of the City's existing utility facilities located in the Original Easement prior to the Owner completing the construction of, or the City accepting, the new utility facilities to bypass the existing utility facilities currently located in the Original Easement; provided, however, the City agrees to first provide written notice to the Owner of its intent to revoke the license and provide Owner an opportunity to cure any such impairment or interference with the function of the City's existing utility facilities located in the Original Easement. If such impairment or interference is not cured within forth-five (45) days after notice, the City may revoke the license and terminate this agreement.

E. Prior to the construction of, or the City accepting, the new utility facilities to bypass the existing utility facilities currently located in the Original Easement, City may revoke the license agreement in the event Owner fails to construct and maintain its improvements in good repair and condition by providing Owner a written notice of default and an opportunity to cure. If the default is not cured on or before forty-five (45) days after notice, the City may revoke the license and terminate this agreement.

2. Right of Entry

Owner hereby grants to City a right to enter the Original Easement, any improvements located thereon, and over the adjoining lands of Owner for purposes of maintaining and repairing its utility facilities located in the Original Easement area. Due to the unique circumstances of Owner's encroachment into the Original Easement, Owner shall arrange with City to allow for immediate access to the Original Easement, and improvements located thereon, for purpose of maintaining and repairing its utility facilities. Any entry into the Original Easement area, as well as any maintaining or repairing of utility facilities undertaken by the City, shall be undertaken so as to reasonably minimize any damage to the lands and structures of Owner and only after consultation with Owner to determine the most efficient, reasonable manner undertake such activities.

3. Indemnification

Owner shall indemnify, defend, and hold City harmless from any claim, suit, damages, or liability arising out of, or for damages to any property or injuries to any person, including all costs and other expenses, including reasonable attorneys' fees, any accident or occurrence resulting from Owner's encroachment into the Original Easement. Specifically, if Owner, or any of its agents, damage the City's utility facilities, the City shall not be liable for any damage or injury caused by water or sewer emitting from the City's utility facilities caused by the construction, location, and activities within improvements located in the Easement area.

Owner undertakes the construction of improvements over the City's utility facilities at its own risk.

4. Modifications

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

5. Notices

Any notice required or desired to be given under this agreement shall be deemed sufficient if it is made in writing and delivered personally or sent by regular first-class mail to the parties at the following addresses, or at such other place as either party may designate in writing from time to time.

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

Owner: Keystone RV Company
P.O. Box 2000
Goshen, Indiana 46526
Attn: Legal Department

6. Miscellaneous Provisions

A. This agreement shall be construed in accordance with and governed by the laws of the State of Indiana.

B. In the event that legal action is brought to enforce or interpret the terms of and conditions of this agreement, the proper venue for such action will be in a court of competent jurisdiction in Elkhart County, Indiana.

C. In the event that either party brings an action to enforce any right conferred by this agreement or to force the other party to fulfill any obligation imposed by this agreement, the prevailing party of such action shall be entitled to recover all costs of that action, including reasonable attorneys' fees.

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

E. The waiver by either party of a breach of any provision of this agreement shall not operate or be construed as a waiver of any subsequent breach.

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

G. The undersigned affirm that all steps have been taken to permit them to execute this agreement, and upon their execution of the document bind their respective organizations to the terms of the agreement.

H. This agreement constitutes the entire agreement between the parties and with respect to the Owners encroachment into the City's Easement, and it supersedes all other agreements or understanding between City and Owner with respect to such encroachment.

IN WITNESS WHEREOF, the parties have set their hands to this agreement on the dates set forth below.

City:

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

Jeremy P. Stutsman, Mayor

Date: January _____, 2023

Owner:

Keystone RV Company

By: _____

Printed: _____

Title: _____

Date: January _____, 2023

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public, on January _____, 2023, personally appeared Jeremy P. Stutsman, Mayor of the City of Goshen, Indiana on behalf of the Goshen Board of Public Works and Safety, and acknowledged the execution of the foregoing instrument.

Notary Public
Printed: _____
County of residence: _____
Commission number: _____
My commission expires: _____

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public, on January _____, 2023, personally appeared _____, as _____, on behalf of _____ and acknowledged the execution of the foregoing instrument.

Notary Public
Printed: _____
County of residence: _____
Commission number: _____
My commission expires: _____

This instrument was prepared by Bodie J. Stegelmann, Goshen City Attorney, # 18180-20, City of Goshen Legal Department, 204 East Jefferson Street, Suite 2, Goshen, Indiana 46528, (574) 533-9536.

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



**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: Board of Public Works and Safety

FROM: Goshen Engineering Department

RE: **THE CROSSING SUBDIVISION DRAINAGE – REVISED COMPLETION DATE
(JN: 2020-0033)**

DATE: January 23, 2023

HRP Construction has requested a revised completion date of May 31, 2023. Goshen Engineering concurs the original substantial completion date of November 1, 2022, should be extended due to the weather and site conditions not allowing the punch list items to be completed. These items include, over-seeding, stabilization, rut correction, millings compaction, and straightening arborvitae.

Goshen Engineering recommends the Board approve an extension for over-seeding until May 15, 2023, and for all other punch list items until May 31, 2023.

Requested motion: Approve Change Order No. 5 to extend the completion date for over-seeding to May 15, 2023, and completion of all other punch list items to May 31, 2023.

CITY OF GOSHEN, INDIANA
OFFICE OF THE CITY ENGINEER
204 E. Jefferson Street, Suite 1
Goshen, IN 46528

OWNER: City of Goshen
PROJECT NAME: The Crossing Drainage Reconstruction
PROJECT NUMBER: 2020-0033
CONTRACTOR: HRP Construction

I. DESCRIPTION OF WORK INVOLVED (Use additional sheets if needed)

The original contract substantial completion date of November 1, 2022 should be extended due to the weather and site conditions not allowing the punch list items to be completed. These items include, over-seeding, stabilization, rut correction, millings compaction, and straightening arborvitae. Goshen Engineering recommends the Board approve an extension for over-seeding until May 15, 2023 and all other punch list items until May 31, 2023.

Subtotal - \$0.00

II. ADJUSTMENTS IN AMOUNT OF CONTRACT

1. Amount of original contract		\$1,366,090.23
2. Net (Addition/ Reduction) due to all Previous Contract Supplements Numbers 1 to <u>4</u>		\$79,584.33
3. Amount of Contract, not including this supplement		\$1,445,674.56
4. Addition/ Reduction to Contract due to this supplement		\$0.00
5. Amount of Contract, including this supplemental		\$1,445,674.56
6. Total (Addition/ Reduction) due to all Change Orders (Line 2 + Line 4)		\$79,584.33
7. Total percent of change in the original contract price Includes Change Order No. 1 to <u>5</u> (Line 6 divided by Line 1)		5.83%

III. CONTRACT SUPPLEMENT CONDITIONS

1. The contract completion date established in the original contract or as modified by previous Contract Supplement(s) is hereby extended/~~reduced~~ by 129 calendar days, making the final completion date May 31, 2023.
2. Any additional work to be performed under this Contract supplement will be carried out in compliance with the specifications included in the preceding Description of Work Involved, with the supplemental contract drawing designed as _____, and under the provisions of the original contract including compliance with applicable equipment specifications, general specifications and project specifications for the same type of work.
3. This Contract Supplement, unless otherwise provided herein, does not relieve the contractor from strict compliance with the guarantee provisions of the original contract, particularly those pertaining to performance and operation of equipment.
4. The contractor expressly agrees that he will place under coverage of his Performance and Payment Bonds and contractor's insurance, all work covered by this Contract Supplement. The contractor will furnished to the owner evidence of increased coverage of this Performance and Payments bonds for the accrued value of all contract supplements, which exceed the original contract price by (5.83) percent.

RECOMMENDED FOR ACCEPTANCE

Dustin K. Sailor 1.18.23
Dustin Sailor, P.E.
City Engineer

ACCEPTED: BOARD OF PUBLIC WORKS AND SAFETY
CITY OF GOSHEN, INDIANA

Mayor

Member

Member

Member

Member

ACCEPTED: CONTRACTOR

HRP Construction

BY: _____
Signature of authorized representative of Contractor



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: Board of Public Works, Safety & Stormwater
FROM: Jeffery Weaver, Deputy Clerk-Treasurer
RE: Encumbrances from the 2022 Budget to the 2023 Budget
DATE: January 23, 2023

Attached for the Board's approval and execution is the list of accounts with a balance in the 2022 budget that will be encumbered into the 2023 budget.

At the end of each year, department heads review any unspent budget and compare it to their outstanding invoices or contracts. If any 2022 unspent budget is available to pay an outstanding 2021 invoice or contract, then the amount can be encumbered into 2023, but only for the approved expense.

The attached budgeted amounts were remaining in the 2022 budget, and department heads requested to encumber the amounts into 2023. For each encumbrance, the department heads presented an invoice, purchase order, or executed agreement or contract. They were reviewed by the Clerk-Treasurer's and Mayor's offices. The final approval for these encumbrances falls on the Board of Works to approve the total encumbrance amount.

The encumbrances rolled into 2023 total \$14,573,893.53. This is the largest amount we have ever encumbered due primarily in delays in our capital projects. 75% of the total encumbrances, or \$11,072,389.29 are capital expenses, and the remaining amounts are various contracts or invoices for services and supplies.

Requested motion:

Move to approve \$14,573,893.53 of encumbrances from 2022 into the 2023 budget.

CITY OF GOSHEN, INDIANA

ENCUMBRANCES FROM 2022 BUDGET TO 2023

<u>Account Number</u>	<u>Account Title</u>	<u>Encumbered Amount</u>
101-510-04-421.0501	CT/Other Office Expenses	\$ 419.55
101-510-05-421.0501	Legal/Other Office Expenses	548.02
101-510-05-433.0501	Legal/Other Printing & Advertising	240.00
101-510-05-439.0800	Legal/Subscriptions And Dues	114.00
101-510-05-439.0901	Legal/Other Services And Charges	2,401.62
101-510-07-436.0102	Bd Works/Electrical Maintenance	2,020.25
101-510-07-442.0001	Bd Works/Capital Projects	67,592.35
101-510-07-445.0201	Bd Works/Other Equipment	606,726.00
101-510-15-431.0301	Bldg Dept/Professional Service	14,816.54
101-520-11-413.1100	Police/2002 Benefit	5,400.00
101-520-11-422.0151	Police/Other Supplies	580.23
101-520-11-422.0154	Police/Other Equipment	17,463.54
101-520-11-432.0301	Police/Travel Expenses	5,000.92
101-520-11-436.0201	Police/Equipment Repairs	2,340.00
101-520-12-422.0300	Ambulance/Medical Supplies	2,361.05
101-520-12-439.0910	Fire/Instruction	8,033.72
101-550-46-431.0500	Env/Services Contractual	15,527.98
101-550-46-431.0503	Env/Other Professional Service	23,525.62
101-550-46-442.4601	Env/Capital Projects	9,982.00
201-530-00-429.0001	MVH/Other Operating Supplies	26,064.00
201-530-00-444.0401	MVH/Equip Motor Vehicle	23,797.00
202-530-00-431.0501	Local Rd & St/Service Contract	318,214.51
203-530-00-444.0403	Mvh Rest/Row Materials	36,406.07
204-550-00-431.0503	P&R/Other Professional Service	6,780.93
204-550-00-436.0101	P&R/Repairs To Bldg & Structures	20,832.82
204-550-00-442.0001	P&R/Capital Projects	414,636.00
218-560-00-431.0101	Edit Tax/Redevelopment	27,600.00
218-560-00-431.0501	Edit Tax/Services Contractual	857,199.44
218-560-00-431.0502	Edit Tax/Chamber Of Commerce	50,000.00
218-560-00-431.0504	Edit Tax/Downtown Goshen Inc.	70,000.00
218-560-00-431.0510	Edit Tax/Econ Dev Corp/Elk Co	67,500.00
218-560-00-431.0512	Edit Tax/No Cent Ind Bus Assis	10,000.00
218-560-00-431.0514	Edit Tax/Goshen Theatre Inc	75,000.00
218-560-00-431.0516	Edit Tax/Goshen Historical Soc	15,000.00
218-560-00-442.0006	Edit Tax/Capital Projects	1,727,376.94

(Continued Next Page)

CITY OF GOSHEN, INDIANA

ENCUMBRANCES FROM 2022 BUDGET TO 2023 (Continued)

<u>Account Number</u>	<u>Account Title</u>	<u>Encumbered Amount</u>
402-570-00-423.0110	CCD/Bldg Repairs	91,304.00
402-570-00-431.0501	CCD/Serv Contractual	339,324.02
402-570-00-445.0101	CCD/Office Equipment	6,718.45
433-510-00-436.0501	CCI Fire/Repairs To Buildings	68,124.50
433-510-00-445.0501	CCI Fire/Other Equipment	184,524.72
439-530-00-442.0001	Stm Wtr Mgmt/Capital Expenses	50,372.75
473-560-00-431.0502	SE E.D. TIF/Contr Svcs	1,327,467.50
473-560-00-442.0000	SE E.D. TIF/Capital Proj	5,710,663.74
480-560-00-431.0502	Cons Riverrace/US33/Contractual Svcs	30,299.48
480-560-00-442.0000	Cons Riverrace/US33/Capital Project	<u>2,233,593.27</u>
	Total	<u>\$ 14,573,893.53</u>



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

MEMORANDUM

TO: City of Goshen Stormwater Board

FROM: Stormwater Department

RE: GREEN OAKS OF GOSHEN STORMWATER ENFORCEMENT
(JN: 2019-2038)

DATE: January 23, 2023

The developer of the Green Oaks of Goshen assisted living facility located at 282 Johnston Street began land disturbance and construction activities in September 2021, and until April 2022, the management of erosion and sediment control measures met local and state requirements. However, in April of 2022, the Goshen Stormwater Department and Elkhart County Soil and Water Conservation District began to routinely observe erosion and sediment control practices in violation of the Project's stormwater pollution prevention plan (SWPPP). In total, the Goshen Stormwater Department has issued six (6) Notices of Violation to the owner and contractors (Evergreen Construction Company and Ritschard Bros. Inc.).

These violations included:

1. **Stone Construction Dive** is either not properly maintained or missing
2. **Inlet Protection** measures not installed or properly maintained
3. **Sediment Tracking** onto Johnston Street was not cleaned up in a timely manner
4. **Disturbed Soils not Stabilized** in a timely manner
5. Missing **Stormwater Permit Documentation** (i.e., Notice of Intent (NOI) and SWPPP Contact Information)
6. **Perimeter Protection** measures not properly installed or maintained
7. Uncontained **Concrete Washout or Mortar Washout** dumped on the ground
8. Inappropriate **Dewatering** techniques

These erosion and sediment control violations persisted over the months resulting in the discharge of sediment from the construction project to the Moose Lodge Pond to the south, which has an eventual release to Rock Run Creek. Some attempts to correct the issues occurred but the issues persisted. There was sufficient work completed to finally stabilize disturbed soils around the stormwater detention basin but it was not sufficiently completed until late August when the Goshen Stormwater Department began asking for areas of disturbed soil to be stabilized in April.



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Of the above violations numbers 6 & 7 continued to be out of compliance and numbers 2 & 3 continued to need routine maintenance during a January 17, 2023, inspection. An update on the site conditions will be provided to the Stormwater Board during today's meeting.

A summary of the violation occurrences and the points assigned to each violation through the Stormwater Enforcement Matrix is provided for the Stormwater Boards' review and use. In total, Green Oaks of Goshen has accumulated 712 points with violations ranging from one occurrence to eight occurrences.

At this time, the Goshen Stormwater Department is requesting progression into the next level of enforcement by proceeding with one of the three remaining steps per Section 7.02, Notice of Violation, of Ordinance 4328, which is to be directed by the Stormwater Board.

NOV Action 3 – Enter into an agreed order with the approval of the Board of Works and Safety which order may include payment of a fine by the violator.

NOV Action 4 – Issue a stop work order until all corrective measures have been completed.

NOV Action 6 – File a complaint in a court of competent jurisdiction within Elkhart County seeking a judicial determination that this ordinance has been violated and requesting the imposition of fines.

The Goshen Stormwater Department recommends the Goshen Stormwater Board consider **NOV Action 3** and enter into an agreed order with all parties. A draft agreed order has been prepared by the Goshen Legal Department and is available for the Stormwater Board's use.

Requested Motion: I move the Goshen Stormwater Board enters into an agreed order with the identified parties associated with the Green Oaks of Goshen project for immediate and full compliance with local and state regulations and the project's stormwater pollution prevention plan.

**NOTICE OF VIOLATION AND NOTICE OF HEARING
BEFORE THE GOSHEN BOARD OF PUBLIC WORKS AND SAFETY
AND STORMWATER BOARD**

December 28, 2022

To: Green Oaks of Goshen, LLC, Evergreen Construction Company, Ritschard Bros. Inc.

Green Oaks of Goshen, LLC
566 West Lake Street #400
Chicago, IL 60661

Evergreen Construction Company
566 West Lake Street #400
Chicago, IL 60661

Ritschard Bros. Inc.
1204 West Sample Street
South Bend, IN 46619

RE: Green Oaks Assisted Living at 282 Johnston Street, Goshen, Indiana

You are each notified that the construction project on the above referenced real estate (construction site) is in violation of the Goshen City Code Title 6, Article 6, Chapter 2, as set forth in more detail below.

Green Oaks of Goshen, LLC is the owner of the real estate, Evergreen Construction Company and Ritschard Bros. Inc are the contractors performing work on the project.

The City of Goshen Department of Stormwater Management found the following violation(s) of the Goshen City Code at the construction site as a result of inspections on the following dates:

1. April 14, 2022 Violation of Section 6.6.2.4. Timely stabilization needed along south end of property, timely implementation needed of rock filter around detention pond outlet, and no self-inspections completed since March 11, 2022.
2. July 7, 2022 Violation of Section 6.6.2.4. Routine maintenance and corrective actions have not occurred on site, a lack of bank stabilization resulted in sediment discharge off-site, blockage of an existing drainage path for properties to the west occurred, below grate protection measures are needed to prevent flooding, and wattles are over-topped with sediment and undercut by runoff.
3. October 28, 2022 Violation of Section 6.6.2.4 Construction drive is ineffective and large amounts of tracking have occurred, a mortar mixing machine is being washed out directly into the soil, and dewatering is discharging directly to roadway with no treatment.
4. November 7, 2022 Violation of Section 6.6.2.4 Construction drive is ineffective and sediment tracking continues, inlet baskets have not been cleaned out and are damaged, a mortar mixing machine is being washed out directly into the soil, and accumulation of sediment in the roadway.

5. December 13, 2022 Violation of Section 6.6.2.4 Construction drive is ineffective and sediment tracking continues, a mortar mixing machine is being washed out directly into the soil, and Notice of Intent and Storm Water Pollution Prevention Plan information is not properly posted.

You have been ordered by the Goshen Department of Stormwater Management to bring the construction site into compliance with the Goshen City Code.

You are further notified that a hearing will be held before the Goshen Board of Public Works and Safety and Stormwater Board (Board) on **Monday, January 23, 2023 at 2:10 p.m.** (local time), or soon thereafter, to review the violation(s). This hearing will be held at the Goshen Police & Court Building in the Court Room/Council Chambers at 111 East Jefferson Street, Goshen, Indiana.

You each have the right to appear at this hearing with or without counsel, to present evidence, cross-examine opposing witnesses and present arguments. Should you fail to appear at the time set for the hearing, the hearing will be conducted in your absence. The Board will determine the nature and extent of the violation(s) and the sanction to be imposed if violations are found.

If the Goshen Board of Public Works and Safety and Stormwater Board finds that you have violated Goshen City Code Title 6, Article 6, Chapter 2, you have the right to appeal the Board's determination to a court of competent jurisdiction within twenty (20) days of the Board's action by filing a verified complaint. The court may affirm, modify, or reverse the action taken by the Goshen Board of Public Works and Safety and Stormwater Board. Any such appeal shall be heard de novo.

Dated this 3 day of JANUARY, 2023.



Dustin Sailor, CPESC
City of Goshen Stormwater Superintendent

Enforcement Matrix for MCM #4 - Construction Site Stormwater Runoff Control

Offense	First Occurrence	Second Occurrence	Third Occurrence	Fourth and Subsequent Occurrences
Administrative				
Construction without a Stormwater Pollution Prevention Plan (SWPPP)	100**	150**	200**	500**
SWPPP Amendment Required	10	20	40	100
NOI not properly posted	0	2	4	8
Location of SWPPP not posted	0	2	4	8
Self-inspection not performed/forms not provided	0	10	20	30
Permit Renewal deadline missed	30	30	30	30
BMPs				
Concrete/Mortar Washout (WO)				
a. discharge is going directly into a surface water	50**	50**	75**	100**
b. discharge into a catch basin (CB) (connected to an MS4 conveyance)	25*	50**	75**	100**
c. discharge into a catch basin (CB) (not connected to an MS4 conveyance)	20*	30*	40*	50**
d. discharge does not reach CB or surface water	0	4	8*	12*
e. maintenance required (WO water is still contained)	0*	4	8	12
f. maintenance required (WO water is leaking out)	5*	10*	20*	40*
Perimeter Protection				
a. not installed (on plans)	0	10	25	40
b. maintenance required (sediment is not leaving site)	0	5	10	25
c. maintenance required (sediment is leaving site)	5	10	15*	30*
Construction Entrance/Exit				
a. not installed (on plans)	0	20	30*	40**
b. maintenance required (tracking is not occurring)	0	10	20	30
c. maintenance required (tracking is occurring)	0*	15*	25*	40*
Site Stabilization				
a. not installed when or as required by SWPPP	0	10	20	30
b. not installed correctly	0	10	20	30
Inlet Protection				
a. not installed (on plans)	0	5	10	15
b. maintenance required (on-site impact)	0	2	4	6
c. maintenance required (off-site impact)	5	10*	15*	20**
d. discharge to an inlet connected to an MS4 conveyance	25*	50**	75**	100**
Dewatering				
a. causing erosion or depositing sediments	0	5	10	25
b. discharge of sediment/other pollutants into a surface water or an MS4 conveyance	50**	50**	75**	100**
Runoff Controls (check dams, outlet protection)				
a. not installed or not installed correctly (on plans)	0	10	20	30
b. maintenance required (erosion is occurring)	0	5	10	25
c. discharge of sediment/other pollutants into a surface water	50**	50**	75**	100**
Other				
a. not installed or not installed correctly (on plans)	0	5	10	15
b. maintenance required (on-site impact)	0	2	4	6
c. maintenance required (off-site impact)	5	10*	15*	20*
Trash/Litter				
Spill Control/Containment	0	5	10	15
Direct discharge of pollutants to a surface water	50**	50**	75**	100**
Total Points per Occurrence				

* Corrective action required immediately or within one business day

** Stop Work Order issued immediately

Point Total	Resulting Fine
0-15	\$0
16-25	\$50
26-30	\$100
31-40	\$150
41-50	\$250
51-60	\$300
61-70	\$400
71-80	\$500
81-99	\$750
100-110	\$1,000
111-125	\$1,500
126-150	\$2,000
151-175	\$2,500

Severity of Violation	Response	Form of Communication
Minimal (No Impact)	Educational	site visit, call, meeting, email, inspection report (or combination)
Minor (Indirect Impact)	Non-Compliance Notice	Minor violation - Requires a written response. No penalties if violations are corrected.
Moderate (Direct Impact)	Warning Letter	Formal enforcement. Penalties may be assessed.
Significant (Direct Impact)	Notice of Violation (NOV)	Significant violation(s). Immediate corrective action required. Stop Work Order Issued.



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

NOTICE OF VIOLATION(S)

THIS SITE HAS FAILED TO MEET COMPLIANCE STANDARDS FOR ONE OR ALL OF THE FOLLOWING:

- City of Goshen Construction Site Stormwater Run-off Control Ordinance 4328, Section(s): 4
- Indiana Department of Environmental Management (IDEM) Construction Stormwater General Permit Regulations
- Project Site Stormwater Pollution Prevention Plan (SWPPP)
- Indiana Stormwater Quality Manual

Address/Location: Green Oaks Assisted Living Property owner: Green Oaks of Goshen LLC
 Observed Violator: Evergreen Construction Company and Ritschard Bros Inc. Date: December 13, 2022

Level of violation: 1. Major/Direct (0-2 days) 2. Moderate/Indirect (2-7 days) 3. Minimal/No Impact (7-14 days)

The following violation(s) was (were) noted:

- Construction Drive/Trackinglevel (1) Construction drive is ineffective and sediment tracking continues
- Perimeter Protection.....level () _____
- Inlet Protection.....level () _____
- Concrete Washoutlevel (1) A mortar mixing machine is being washed out directly into the soil
- Waste (trash/debris/etc.)level () _____
- Temp/Perm Stabilizationlevel () _____
- Otherlevel (1) NOI and SWPPP information is not properly posted
- Otherlevel () _____

VIOLATION(S) MUST BE CORRECTED BY THE DATE PROVIDED TO AVOID ENFORCEMENT ACTIONS

- Warning. Corrective actions by: _____ Previous Warning(s): Oct 6 & 31, & Nov 7, 2022
- Notice of Violation for non-compliance. Corrective actions by: December 16, 2022 Re-inspection to follow. Non-compliance may result in additional actions
- Enforcement Action
 - Board of Public Works, Safety & Stormwater - Date/Time: January 9, 2023 at 2:00 pm
 - Other: _____

Compliance achieved/Notice of Violation and/or enforcement action released

Copy provided to: Owner Builder Contractor Other: Elkhart County SWCD
 Issued by: Print: Jason Kauffman, Goshen Stormwater Coordinator Signature: Jason Kauffman Digitally signed by Jason Kauffman Date: 2022.12.13 15:51:29 -05'00'



STORMWATER DEPARTMENT
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NOTICE OF VIOLATION(S)

THIS SITE HAS FAILED TO MEET COMPLIANCE STANDARDS FOR ONE OR ALL OF THE FOLLOWING:

- City of Goshen Requirements for Stormwater Management Associated with Illicit Discharges Ordinance 4327, Section(s): 2.01

Address/Location: Green Oaks Assisted Living Property owner: Green Oaks of Goshen LLC

Observed Violator: Evergreen Construction Company and Ritschard Bros Inc. Date: December 27, 2022

Level of violation: 1. Major/Direct (0-2 days) 2. Moderate/Indirect (2-7 days) 3. Minimal/No Impact (7-14 days)

The following violation(s) was (were) noted:

- Waterway Discharge level (1) Bypass pumping muddy water directly into waterway without proper protection
- Storm Sewer Inlet Discharge level () _____
- Leaking Vehicle/Equipment level () _____
- Concrete Washout level () _____
- Waste (trash, debris, etc.) level () _____
- Other level () Previous discussions on proper dewatering and bypass pumping have occurred
- Other level () with the Observed Violators.

VIOLATION(S) MUST BE CORRECTED BY THE DATE PROVIDED TO AVOID ENFORCEMENT ACTIONS

- Warning. Corrective actions by: _____ Previous Warning(s): See Other above
- Notice of Violation for non-compliance. Corrective actions by: 12/30/2022 Re-inspection to follow. Non-compliance may result in additional actions
- Enforcement Action:
 - Board of Public Works, Safety & Stormwater - Date/Time: _____ at 2:00 pm
 - Other: _____

Compliance achieved/Notice of Violation and/or enforcement action released

Copy provided to: Owner Builder Contractor Other: Elkhart County SWCD

Issued by: Print: Jason Kauffman, Stormwater Coordinator Signature: Jason Kauffman Digitally signed by Jason Kauffman
Date: 2022.12.28 12:35:25 -05'00'



Inspection Report

[View Project](#)

[View Inspection](#)

Green Oaks of Goshen, LLC

Address

282 Johnston Street
Goshen IN

Inspector: Jason Kauffman, Stormwater Coordinator (574) 537-3832
jasonkauffman@goshencity.com

Inspection Date: 01/17/2023

Inspection Time: 01:13 PM

Weather Trends: Cloudy

Temperature: F

Last Precip. Date: 01/13/2023

Last Precip. Amount: 0.01 in

Last Precip. Source: CoCoRaHS

Reason for Inspection: Violation Follow-Up

Comments:

Follow-up Action: Other

I met with Patrick Enocksen on-site and we looked at the different issues identified in this report. Conditions continue to be similar to past site inspections but there is no sediment being tracked off-site or muddy water being discharged from the project site.

Inspection Items

Name: Admin / Site Management -- NOI Permit & SWPPP Contact

Required: Information Posted

Inspected: Yes

Status: Active

Condition: Correct

Description: Construction Stormwater General Permit Notice of Intent (NOI) and SWPPP Contact Information (Trained Individual) must be posted in a publicly visible location near site entrance.

Comment:



Name: Admin / Site Management -- Site Photo

Required: Yes

Inspected: Yes

Status: Active

Condition: none

Description: Upload digital photo of current construction or earthwork at time of inspection.

Comment:



Name: Construction Entrance -- Stone Construction Entrance/Exit

Required: Yes

Inspected: Yes

Status: Active

Condition: Correct

Description: 8

Comment: Continue to sweep internal pavement to prevent sediment from leaving the site.



Name: Sediment Control -- Sediment Tracking

Required: Yes

Inspected: Yes

Status: Active

Condition: Routine Maintenance

Description: Roadways must remain free of sediment at all times. Should sediment be tracked off of a project, the roadway must be swept clean by the end of the day in which the tracking occurred.

Comment: No sediment tracking observed during the inspection, however, the accumulated sediment along the curb line needs to be removed. This issue exists on both sides of Johnston Street. This was discussed with Patrick.



Name: Wash Out Facilities -- Washout Containment

Required: Yes

Inspected: Yes

Status: Active

Condition: Ineffective

Description: To include in-ground lined area and lined steel containers that are meant to store caustic wastewater from materials such as concrete, mortar, and stucco. Install proper signage pointing users to the washout area. Washout areas must be installed a minimum of 50' from waterbodies or storm drains and maintained when they reach 50% capacity (a minimum 12

Comment: The plastic liner of the concrete washout area is damaged and has fallen into the pit. Additionally, mortar washout was found on the ground by the machine (see image later in report).



Name: Perimeter Control -- Perimeter Control

Required: Yes

Inspected: Yes

Status: Active

Condition: Ineffective

Description: Measures including silt fence, straw wattles, or vegetative buffer that are intended to protect water quality by reducing off-site discharges of sediment in stormwater runoff. Replace when the measure is damaged or sediment has accumulated to half the height of the measure. All measures are to be turned up slope to prevent stormwater from flowing around the ends.

Comment: The recently installed straw wattles do not meet installation requirements to prevent erosion. Wattles need to be entrenched and have good contact with the soil to prevent undercutting.



Name: Inlet Protection -- Inlet Protection

Required: Yes

Inspected: Yes

Status: Active

Condition: Routine Maintenance

Description: Ensure inlet protection is installed and maintained per plan. Inlet protection needs to be maintained or replaced if any tearing has occurred or sediment build up has reached 50%.

Comment: Inlet protection on Johnston Street is in good shape. The storm drains on the site are protected with coir fiber mats. Make sure the fiber mats are not damaged and entirely covers the grate.

In the image below the fiber mat looks to be in good shape but the corner is damaged and the underlying grate is exposed.



Name: Outlet Control -- Outlet Protection

Required: Yes

Inspected: Yes

Status: Active

Condition: Routine Maintenance

Description: Pipe and other drainage outfalls have protection installed, such as a riprap apron, to prevent scouring conditions. The riprap is to be installed level with the surrounding soil and with the middle lower than the edges. Sediment deposited at the bottom of the slope due to erosion must be removed and the disturbed area stabilized.

Comment: Outlet protection measures must be installed per the SWPPP specifications. The riprap in the following picture does not quite meet SWPPP specifications.



Name: Sediment Control -- Retention Basin

Required: Yes

Inspected: Yes

Status: Active

Condition: Correct

Description: Used for sediment control and stormwater infiltration during and/ or after construction. Install and maintain in accordance with SWPPP. Basin floor should be free from accumulated sediment and banks should be fully stabilized to prevent erosion.

Comment: The stormwater detention basin continues to be stable, however, there is concern of sediment washing into the basin from disturbed ground, how the discharge structure will be installed, when the riprap of the emergency overflow weir will be grouted, etc.



Name: Admin / Site Management -- Soil Stockpile

Required: Yes

Inspected: Yes

Status: Active

Condition: Correct

Description: Excavated material that is being stored on site must be located away from open stormwater inlets, surrounded by a perimeter protection measure at a minimum of 10 feet from the bottom of the pile, and vegetated if inactive for more than 7 days. Off-site Stockpiles should be included in the SWPPP if it is not stored at another permitted site.

Comment: No on-site stockpiles observed.

Name: Ground Stabilization -- Stabilization Phasing

Required: Yes

Inspected: Yes

Status: Active

Condition: Routine Maintenance

Description: Permanent or temporary vegetative seeding installed and maintained in designated areas according to SWPPP. Any disturbed area that is inactive for more than 7 days requires stabilization. Permanent stabilization must achieve a uniform and dense 70% coverage over the entire disturbed area with no large bare areas or signs of erosion.

Comment: Keep an eye on areas of disturbance where water flows across bare soils to prevent erosion.



Name: Wash Out Facilities -- Washout Containment

Required: No

Inspected: Yes

Status: Active

Condition: Not Applied

Description: To include in-ground lined area and lined steel containers that are meant to store caustic wastewater from materials such as concrete, mortar, and stucco. Install proper signage pointing users to the washout area. Washout areas must be installed a minimum of 50' from waterbodies or storm drains and maintained when they reach 50% capacity (a minimum 12

Comment: Washout at mortar mixing area. Patrick explained how the mortar mixing area should be removed next week.



Name: Perimeter Control -- Straw Wattles

Required: No

Inspected: Yes

Status: Active

Condition: Routine Maintenance

Description: Clean rice or wheat straw wattles (no grass straw with weed seed)

Comment: Sediment behind wattles must be removed to prevent overtopping. Additionally, slowing water down before it reaches the slope is helpful.



Name: Admin / Site Management -- Portable Toilet

Required: No

Inspected: Yes

Status: Active

Condition: Routine Maintenance

Description: Portable toilet(s) must be secured on two corners, placed off of hard surface, on level ground, and away from stormwater conveyances or waterbodies. Tipped

portable toilets must be cleaned immediately and contaminated soil must be removed from site.

Comment: The securing strap on the portable toilets are not secured. There is good secondary containment under the areas.



Name: Admin / Site Management -- Trash Control

Required: No

Inspected: Yes

Status: Active

Condition: Routine Maintenance

Description: Confirm trash receptacle available and maintained on site. Dumpsters must be covered when not in use. Check perimeters of site for blown trash and clean it up immediately.

Comment: Construction trash continues to build up on the site and in the detention basin. Clean up daily.



I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and provided the information submitted. Based on my inquiry of the person or persons who managed this system or those persons directly responsible for gathering the information, the information submitted, is to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.



Signature



Date

**AGREED ORDER OF THE CITY OF GOSHEN
BOARD OF PUBLIC WORKS AND SAFETY AND STORMWATER BOARD**

JANUARY 23, 2023

TO: Green Oaks of Goshen, LLC, Evergreen Construction Company, Ritschard Bros. Inc.

Green Oaks of Goshen, LLC
566 West Lake Street #400
Chicago, IL 60661

Evergreen Construction Company
566 West Lake Street #400
Chicago, IL 60661

Ritschard Bros, Inc.
1204 West Sample Street South Bend, IN 46619

RE: Green Oaks Assisted Living at 282 Johnston Street, Goshen, Indiana

A hearing was held before the City of Goshen Board of Public Works and Safety and Stormwater Board (the “Board”) on January 23, 2023 to review ongoing erosion and sediment control issues associated with the Green Oaks of Goshen construction project located at 282 Johnston Street, Goshen, Indiana (the “construction site”). Notice of the hearing was provided to the parties involved with the Green Oaks of Goshen construction project, including Green Oaks of Goshen, LLC, Evergreen Construction Company, and Ritschard Bros, Inc.

Jason Kauffman appeared before the Goshen Stormwater Board representing the Goshen Department of Stormwater Management (“Goshen Stormwater”).

_____ appeared for Green Oaks of Goshen, LLC.

_____ appeared for Evergreen Construction Company.

_____ appeared for Ritschard Bros, Inc.

Evidence was presented to the Board which now finds as follows:

Goshen Stormwater has been working with the contractor for Green Oaks to

address ongoing erosion and sediment control issues since April of 2022.

Goshen Stormwater has found the following violations of the Goshen City Code at the construction site as a result of inspections on the following dates:

1. April 14, 2022: Violation of Section 6.6.2.4. Timely stabilization needed along south end of property, timely implementation needed of rock filter around detention pond outlet, and no self-inspections completed since March 11, 2022.
2. July 7, 2022: Violation of Section 6.6.2.4. Routine maintenance and corrective actions have not occurred on site, a lack of bank stabilization resulted in sediment discharge off-site, blockage of an existing drainage path for properties to the west occurred, below grate protection measures are needed to prevent flooding, and wattles are over-topped with sediment and undercut by runoff.
3. October 28, 2022: Violation of Section 6.6.2.4. Construction drive is ineffective and large amounts of tracking have occurred, a mortar mixing machine is being washed out directly into the soil, and dewatering is discharging directly to roadway with no treatment.
4. November 7, 2022: Violation of Section 6.6.2.4. Construction drive is ineffective and sediment tracking continues, inlet baskets have not been cleaned out and are damaged, a mortar mixing machine is being washed out directly into the soil, and accumulation of sediment in the roadway.
5. December 13, 2022: Violation of Section 6.6.2.4. Construction drive is ineffective and sediment tracking continues, a mortar mixing machine is being washed out directly into the soil, and Notice of Intent and Storm Water Pollution Prevention Plan information is not properly posted.

Despite receiving several notices from Goshen Stormwater, the construction site continues to have ongoing erosion and sediment control issues.

The construction site is higher on Goshen Stormwater's priority list because stormwater runoff flows through the project site into the pond on the Moose Lodge campground property and out to Rock Run Creek.

It is therefore AGREED TO by Green Oaks of Goshen, LLC, Evergreen Construction Company, and Ritschard Bros. Inc., and ORDERED by the Board of Public Works and Safety and Stormwater Board and that all parties involved with the Green Oaks of Goshen construction project, shall take all necessary action to immediately bring the construction site into compliance with the Goshen City Code, and

1. Continue to perform self-inspections in accordance to the Construction Stormwater General Permit
2. Maintain and keep NOI and SWPPP properly posted

3. Maintain proper perimeter protection
4. Maintain proper site stabilization
5. Maintain on-site fueling areas and material storage areas spill/control containment
6. Maintain proper inlet protection
7. Maintain construction entrances, prevent sediment tracking, and clean-up any sediment tracked off-site the same day it occurs
8. Maintain proper concrete and mortar washout containments
9. Maintain proper outlet protection measures to prevent sediment discharge through the stormwater detention basin

In the event that the parties fail to comply with this Agree Order, Goshen Stormwater may seek the enforcement of the order through a court of competent jurisdiction within Elkhart County and seek the imposition of fines.

This Agreed Order of the City of Goshen Board of Public Works and Safety and Stormwater Board is issued and agreed to effective January 23, 2023.

CITY OF GOSHEN
BOARD OF PUBLIC WORKS AND SAFETY
AND STORMWATER BOARD

By: _____
Jeremy P. Stutsman, Mayor

GREEN OAKS OF GOSHEN, LLC

By: _____
Title: _____

EVERGREEN CONSTRUCTION COMPANY

By: _____
Title: _____

RITSCHARD BROS, INC.

By: _____
Title: _____