



Board of Public Works & Safety and Stormwater Board

Regular Meeting Agenda

2:00 p.m., March 20, 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: March 13, 2023

Approval of Agenda

- 1) Resident request:** Approve installation of a 34-foot wide concrete driveway at 1503 Garland Drive and replace existing curb and sidewalk (Neal Frey)
- 2) Business request:** Approve request by Peachey Roofing to temporarily close the west side sidewalk in front of 105 South Third Street during the installation of a new roof
- 3) Planning & Zoning Department:** Accept the Parke North Second plat with dedication of right of way and easements
- 4) Legal Department:** Resolution. 2023-12, Interlocal Agreement with the City of Nappanee for the Completion of a Joint Federal Aid Project to Purchase and Install Electric Vehicle Charging Stations
- 5) Legal Department:** Resolution 2023-11 – Ratifying the Special Purchase of a 2023 International Grapple Truck, Model MC607 SBA
- 6) Water & Sewer Office:** Request to approve unpaid final accounts
- 7) Engineering Department:** Approve the closure of the pedestrian path and the northbound turn lane of Indiana Avenue between Plymouth Avenue and the entrance to the Indiana Avenue Apartments from March 29, 2023 until April 1, 2023
- 8) Engineering Department:** Approve temporary Right of Entry agreement with James and Jennifer Hochstetler for property at 403 Oak Lane, and authorize Mayor Stutsman to sign on behalf of the City



Privilege of the Floor

CITY OF GOSHEN STORMWATER BOARD

Regular Meeting Agenda

2:00 p.m., March 20, 2023

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

Members: Mayor Stutsman, Mike Landis and Mary Nichols

9) Approve the Agreement with Wessler Engineering, Inc. for professional services for updating Goshen's Stormwater Quality Management Plan, Water Quality Characterization Report, and Assorted Standard Operating Procedures for a cost not to exceed \$46,000

Approval of Civil City and Utility Claims

Adjournment



**BOARD OF PUBLIC WORKS & SAFETY & STORMWATER BOARD
MINUTES OF THE MARCH 13, 2023 REGULAR MEETING**

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

Present: Mike Landis, Mary Nichols and Barb Swartley

Absent: Mayor Jeremy Stutsman

CALL TO ORDER: Acting Chair Mike Landis called the meeting to order at 2:01 p.m.

REVIEW/APPROVE MINUTES: Acting Chair Landis presented the minutes of the March 6, 2023 Regular Meeting. Board member Barb Swartley moved to accept the minutes of the March 6, 2023 meeting as presented. The motion was seconded by Board member Mary Nichols. Motion passed 3-0.

REVIEW/APPROVE AGENDA: Acting Chair Landis presented the meeting agenda with the addition of new agenda item 9) *Board of Public Works & Safety public hearing: Review of the Order of the City of Goshen Building Commissioner for 518 East Jefferson St. (Ron Davidhizar, property owner)*. Board member Swartley moved to approve the agenda as amended. Board member Nichols seconded the motion. Motion passed 3-0.

1) Opening of bids: Opening of sealed quotes for programmable logic controller upgrades (bids were due 1:45 p.m., March 13, 2023)

Opportunity: Sealed quotes were solicited for the installation, configuration and startup of new programmable logic controllers (PLCs). The work will involve the upgrade of the existing Allen Bradley Control Logix PLCs on 15 control systems throughout the City Water Treatment and Sewer Department.

Acting Chair Landis opened the following three bids for the solicited quotes:

Automate, Inc. of Elkhart submitted a bid for \$108,000.

Donohue & Associates, Inc. of Fort Wayne submitted a bid for \$129,000.

Kendall Electric, Inc. of Fort Wayne, submitted a bid for \$117,627.31.

Acting Chair Landis/Swartley moved to refer the bids to the Legal Department for review. Motion passed 3-0.

2) Water & Sewer Business Office: Request for Water billing relief – 25 The Willows – Shirley Truex

BACKGROUND: At the Board's March 6, 2023 meeting, **Shirley Truex**, a resident of 25 The Willows, asked the Board to be excused from paying sewer charges incurred because of a water leak caused by a broken water line under her mobile home Jan. 3-11, 2023.

Kelly Saenz, City Water & Sewer Office Manager, told the Board that the Utility Office notified Truex of the leak on Jan. 5 and again on Jan. 11. After making contact with Truex, City staff determined the water did not flow into the sewer and she qualified for sewer relief. Saenz reported that \$1,826.46 was billed for the sewer service period Dec. 1-Jan. 1 and \$1,563.96 was billed for Jan. 1-Feb. 1. The normal monthly charge: \$49.49 Saenz told the Board that the City was recommending that the Board grant Truex's request for sewer relief in the amount of \$3,291.44.



Saenz said City staff members also were recommending a further bill adjustment for the increased water usage, but that separate action would need to be taken to make that possible. **Mayor Stutsman** confirmed the City could approve the sewer relief today and later consider a reduction in the water bill.

After clarifying the motion with the City Attorney, **Landis/Swartley moved to grant Shirley Truex's request for sewer relief in the amount of \$3,291.44 and that at the March 13 meeting, the Board will consider granting some relief for the water bill. Motion passed 3-0.**

DISCUSSION OF POSSIBLE FOLLOW-UP ACTION ON MARCH 13, 2023:

City Water & Sewer Office Manager Kelly Saenz reviewed the action the Board took at the March 6 meeting and reminded the Board that the matter was back on the agenda for possible water relief. Saenz said that upon review by the City Attorney, it was found that the Board does not have the authority to change or modify the current schedule of water & sewer rates.

Board member Landis asked if a motion was needed. **City Attorney Bodie Stegelmann** said this was just a report. **Saenz** said the department would contact Truex to determine if further help or payments could be arranged. **Based on the City Attorney's legal conclusion, no further action was taken by the Board.**

3) Water & Sewer Billing Office: Request for sewer relief, 178 The Willows, Susan Stoner

Todd Deuel, the son of Susan Stoner, the former resident of 178 The Willows, said that in October, his mother fell and broke her hip and after surgery suffered a stroke. Deuel said his mother is in a long-term care facility and won't be returning to The Willows. He said the home is in the process of being sold and had been unoccupied since October, so no one was living there when the water leak occurred in December. Since no one knew about the leak for several days, Deuel requested sewer relief from the City.

City Water & Sewer Office Manager Kelly Saenz requested sewer relief in the amount of \$157.51, plus \$98.26 for a total amount of \$255.77.

In a written report, **Saenz** informed the Board that there was a water leak caused by a broken water line under the mobile home unit. She said the leak occurred on Dec. 26, 2022 to Jan.3, 2023. The repair to the water line was made on or around Jan. 5, 2023. In addition, Deuel requested that the late penalty of \$98.26 be waived.

Saenz reported that the Utility Billing Office attempted to notify Stoner of the water leak on Dec. 29, 2022 by leaving a door hanger and again on Jan. 5, 2023 by contacting the mobile home community manager. The manager determined the leak had since been repaired. An employee of the Goshen Water & Sewer plant determined the water did not flow into the sewer and therefore, would qualify for sewer relief.

Saenz said the total amount of credit to the customer for this leak is as follows: Dec. 1, 2023 to Jan. 1, 2023, total sewer bills were \$705.37 while the sewer average was \$47.86. The total amount of credit for the same period was \$657.51 and a waiver of the late penalty of \$98.26.

Swartley/Nichols moved to grant Susan Stoner's request for sewer relief in the amount of \$157.51, plus \$98.26 for a total amount of \$255.77. Motion passed 3-0.

4) Water & Sewer Department: Request to close a portion of South 8th Street, March 14-16, 2023, for replacement of a sewer lateral



Superintendent of the City Water Treatment and Sewer Department Kent Holdren told the Board that City staff will be replacing a sewer lateral at 913 South 8th St. He said the work will require excavation of the road, with a trench that will be about 13 feet in depth.

For the safety of the work crews and the public, the City requested permission to close South 8th Street to through traffic, between East Plymouth Avenue and East Jackson Street, on Tuesday, March 14, 2023, starting at 8 a.m., and reopening for traffic on Thursday afternoon, March 16, 2023. He said staff would notify Goshen Schools, emergency medical services and ensure that trash containers were moved to the appropriate locations for pick up.

Swartley/Nichols moved to approve closure of South 8th Street to through traffic, between East Plymouth Avenue and East Jackson Street, on Tuesday, March 14, 2023, starting at 8 a.m., and reopening for traffic on Thursday afternoon, March 16, 2023. Motion passed 3-0.

5) Redevelopment Department: Approve agreement for the completion of the construction project at 1655 Brinkley Way East

City Redevelopment Director Becky Hutsell told the Board that **Brinkley RV has substantially completed construction of its new facility at 1655 Brinkley Way East and is requesting permission to occupy the building until weather permits the remaining work to be completed.**

Hutsell said the construction project is happening concurrently with the City's construction of the public infrastructure in the area and, per the previously executed Development Agreement, the City has agreed to permit use of the building prior to the City's project being complete.

As such, **Hutsell said City staff members have worked with the developers to complete a long list of tasks in advance of this point and has also developed a list of the steps that need to be taken while the remainder of the work is completed. A summary of the steps was summarized below:**

1. Permanent stabilization for the vegetated area on the site plan is to be completed by June 15, 2023.
2. Landscaping is to be installed per the approved plan.
3. Remaining hard surfaces for the employee parking area and northern portion of the lot is to be completed. For now, temporary gravel areas are in place.
4. Occupancy is permitted for the Production Facility only. Office occupancy shall be granted at the time that the final building inspections are completed and approved by City staff for those areas.
5. Water service to the building is currently deemed "non-potable" until the water main loop down County Road 31 to Kercher Road is completed. During that time, Brinkley is to provide drinking water for employees with signage regarding the non-potable water.
6. The maximum work occupancy is limited to the capacity available with the temporary sanitary pumping system. Monitoring of the temporary system is to be completed by the City and/or the City's representatives until the lift station is operational.

Hutsell said the agreement states that **all the remaining work shall be completed no later than Oct. 15, 2023**, but the City expects completion before that time. She noted that there were several attachments to the agreement.

Hutsell said the **City was not requiring a surety bond for the completion of the remaining work, as is normally required, because the developers purchased economic development revenue bonds for about \$24 million, most of that to cover the three construction contracts the City is overseeing. In addition, she said the City requested that the bonds be for 10% more, so the City has a \$2 million contingency that the City controls through the Bank of New York.**



Hutsell said the **surety bonds filed with the City are typically used for homes. She said this is a different scenario because much of the work has been affected by supply chain issues for the City. So, Hutsell said the city has worked hard with Brinkley RV to “to get them up and running while we complete the work.”**

Regarding the lift station, **Acting Chair Landis** asked if the City would have to do much monitoring to ensure Brinkley RV is not overusing the temporary sanitary pumping system. **Hutsell** responded it was a “minimal amount,” adding that the City installed a grinder pump with electricity to it and it will run on its own.

There were no further questions or comments by the Board.

Swartley/Nichols moved to approve the Agreement for the Completion of the Construction Project at 1655 Brinkley Way East.

Acting Chair Landis asked if there were any questions or comments from the Board or public.

Clerk-Treasurer Aguirre said he had few questions for Redevelopment Director Hutsell and/or City Attorney Stegelmann and perhaps any Brinkley RV representative present. He said he was doing so to fulfill his obligations as the City’s chief fiscal officer. He also said the Brinkley RV project is one of the largest City projects in recent years and he hoped it was progressing consistent with City ordinances and appropriate procedures.

Aguirre said he knew it was normal that building occupancy is allowed when construction is “substantially completed,” but in such cases, the City normally requires the posting of surety bonds with the Clerk-Treasurer’s Office for the amount of the expected work – to guarantee it’s done.

As drafted, **Aguirre** said the agreement specified that Brinkley RV would post a surety bond “to guarantee the timely and proper completion of the Work under the terms of this agreement.” Aguirre said he learned Friday that City staff would not be requiring a surety for the reasons Hutsell now outlined. So, he asked if this was the normal procedure with construction of this magnitude and complexity and had this been done in past similar cases.

City Attorney Bodie Stegelmann responded that the contingency built into the Brinkley RV bond was the first time this has ever been done because of contracting and supply chain issues for the City. He said about \$2 million was being held by the City.

Aguirre asked what recourse the City had to assure compliance if required work by Brinkley RV was not completed. He asked what funds the City could retain and asked if the \$2 million could be retained.

City Attorney Stegelmann responded that he didn’t recall from the bond documents what triggered use of the contingency funds. He said generally those funds are used to pay for items of work that comes in higher than expected or the work not being complete due to unexpected contingencies.

Aguirre asked if the City could impose any penalties for non-compliance.

City Attorney Stegelmann responded that he couldn’t recall that from the bond documents.

Given that uncertainty alone, **Aguirre** said he didn’t think the completion agreement should be approved until those questions could be explored and satisfactorily answered.

Aguirre also said the agreement before the Board clearly set forth the specific work that needed to be completed on site – by Oct. 15, 2023 – and also terms that were to be met before the issuance of an occupancy permit. He said the draft agreement made clear the conditions Brinkley RV had to meet before contacting the City Building Department and obtaining a Certificate of Occupancy – prior to occupying the building. In addition, he noted that **Redevelopment Director Hutsell** wrote a letter, dated Jan. 27, 2023, to the Brinkley RV team that included a list of conditions that needed to be met in order to receive Temporary Occupancy for 1655 Brinkley Way East.



However, **Aguirre** said he learned Friday that portions of the building have already been occupied and were being used. So, he asked if others from the City had confirmed that portions of the building have been occupied and for how long. Aguirre also asked why this happened despite the City's clear directives and if there were any consequences for the violation of the City's directives – and if not, why not.

Hutsell responded that the bond funds are being held by the Bank of New York Mellon and the City can draw from those funds to pay the contractors and for other uses with the necessary documentation. At this point, Hutsell said the City intends to use those funds for the public infrastructure, but there is no stipulation that it could not be used otherwise if the City needed to have its contractor complete the work required of Brinkley RV. She said it would be an eligible payment.

Still, **Hutsell** said the City is confident that the required work by Brinkley will be done. Beyond that, Hutsell said Brinkley has two other buildings under construction at the site and the company wants to operate out of them as well. She said Brinkley also has site plans for buildings four and five. Those plans have been submitted for City technical review and she said Brinkley has every intent to complete them. She said the remaining work on site is weather contingent and has required work to be completed by the City.

Hutsell said City staff knew that Brinkley would be closing production Wednesday at its leased facility and planned to move everything to the new site to get it prepped for production this week. She said that required some machines to be turned on to make sure they were running, but the company was not fully operating at the new site.

Hutsell said the City is working collaboratively with Brinkley RV and trying to be good partners to keep the project moving forward.

Asked by **Acting Chair Landis** about the status of the new offices, **Hutsell** said Brinkley RV is still using offices in its old facility. Landis asked if the City will be checking to make sure the offices are not used until the company receives approval from the City. Hutsell said the contractor is working closely with the City Building Department and staff will be keeping an eye on that. She added that Brinkley RV "has been a good partner so far."

Regarding the \$2 million contingency, **Acting Chair Landis** asked how the rest of the project was going and whether those funds would need to be used. **Hutsell** said that contingencies were built into each contract to cover higher material costs. While some funds "have been tapped slightly, Hutsell said there has not been a need to use the 10% excess and she is hopeful the project will come in under contract.

Hutsell also confirmed for **Board members Swartley and Landis** that the bond covers the entire project and that the City believes it has enough money to complete the entire project.

Aguirre said he still would like City staff to pursue why the facility was occupied before the company had the occupancy permit. He said this seemed to set a bad precedent and sent the message that it doesn't matter what the City requires. Aguirre said in this case, a major company ignored City staff. He also said he believed the company owed the City an explanation and an apology for doing that, adding that it didn't show good faith.

Acting Chair Landis noted that **Hutsell** knew Brinkley RV was moving in equipment. He asked if this constituted occupancy or just finishing construction.

Hutsell responded, "To me it could go either way. There were a few final items that we weren't sure were going to come into play in time or we would have had this (agreement) to the Board last Monday. It's been a bit of a race to the finish line for all the different components, working with NIPSCO for power and that type of thing. Had this been approved last Monday, then we could have signed off and it would have been ahead of time. We were hesitant on our part just to make sure that those final steps could be achieved. We didn't want to grant it too far in advance with unknown variables."



There were no further comments.

By a 3-0 margin, the Board then approved the Agreement for the Completion of the Construction Project at 1655 Brinkley Way East.

6) Engineering Department: Accept Lippert Components water utility easement at 3048 Skyview Drive

City Director of Public Works & Utilities Dustin Sailor told the Board that Goshen Engineering is auditing past projects and entering the installed infrastructure into the City's GIS. Through this process, he said an unaccepted or recorded utility easement from 2020 for the above referenced site was found in a project file.

Sailor asked the Board to accept the provided water utility easement and the approximately 550 feet of 8 inch water main within the easement as part of the City's water distribution network.

Swartley/Nichols moved to accept the water main utility easement provided by Lippert Component along the south side of 3048 Skyview Drive, and authorize Dustin Sailor, the City's Director of Public Works, to sign the easement document as that is how it was prepared by Lippert's attorney. Additionally, they moved to accept the approximately 550 feet of 8 inch water main within the described water main utility easement. The motion passed 3-0.

7) Engineering Department: Approve Abonmarche Consulting's Starcraft Lift Station contract amendment No. 1 for \$40,100, bringing the total contract amount to \$90,000

City Director of Public Works & Utilities Dustin Sailor told the Board that attached to the agenda packet was Agreement Amendment No.1 with Abonmarche Consulting for services performed in the design and permitting for the Starcraft Lift Station.

Sailor said that due to an issue with property acquisition, designing utilities around a proposed bridge replacement, and permitting associated with a waterway, the original design scope for this project expanded significantly. He said Abonmarche's contract Amendment No. 1, is for an increase amount of \$40,100, with the previous contract amount brings the total not-to-exceed service contract amount to a \$90,000.

Sailor said in 2022, the lift station project bid was for \$1,685,277.50. In a professional services comparison, Abonmarche's amended fee is 5.34-percent of the contract amount, which Sailor said was a very reasonable service fee when compared to other professional service contracts the City has entered into.

Swartley/Nichols moved to approve Abonmarche Consulting's Starcraft Lift Station Design Contract Amendment No. 1 for \$40,100, which brings the total not-to-exceed service contract amount to \$90,000. The motion passed 3-0.

8) Announcement: The annual statewide tornado siren test will be March 14 (10-10:30 a.m.)

Clerk-Treasurer Richard R. Aguirre told the Board that at the request of **Goshen Fire Department Chief Dan Sink**, he was announcing that the annual statewide tornado siren test will be March 14, 2023 between 10 a.m. and 10:30 a.m.

Aguirre said this is an annual test and part of Severe Weather Preparedness Week as declared by Gov. Holcomb. He said the week was a collaboration of many agencies, including the Indiana State Police, the Department of Homeland Security and the National Weather Service. He also said officials also were calling public attention to the growing problem of severe flooding.



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

Acting Chair Landis opened Privilege of the Floor at 2:37 p.m. There were no public comments.

9) Board of Public Works & Safety public hearing: Review of the Order of the City of Goshen Building Commissioner for 518 East Jefferson St. (Ron Davidhizar, property owner)

At 2:37 p.m., Acting Chair Landis opened a public hearing on the Order of the City of Goshen Building Commissioner for the property at 518 East Jefferson St., Ron Davidhizar, property owner. Davidhizar was not present as the hearing began.

BACKGROUND:

On Dec. 21, 2022, through a written order, City Building Commissioner Myron Grise notified Ronald Davidhizar, the owner of the property at 518 East Jefferson Street, that his property was in violation of the Goshen City Code.

Grise reported that the Goshen Building Department inspected the subject real estate on Sept. 14, 2022. Violations of the Accumulation of Materials, Building Code, and Neighborhood Preservation Ordinance code sections were cited. Grise reported that the real estate was re-inspected on Sept. 29, 2022 and again on Oct. 14, 2022, which showed no significant improvement to the real estate.

Grise reported that the real estate was unsafe within the meaning of Indiana Code §36-7-9-4 in that the building or structure on the real estate is: (1) in an impaired structural condition that makes it unsafe to a person or property; (2) a fire hazard; (3) a public health hazard; (4) dangerous to person or property because of one or more violations of Goshen City Code Title 6 concerning building condition or maintenance; and/or (5) vacant and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of Goshen City Code Title 6.

The following thirteen (13) violations of Title 6 of the Goshen City Code were cited by the Goshen Building Department inspector and had not been satisfactorily repaired or remedied:

1. A permit shall be obtained before a person begins to construct, alter, remodel, rehabilitate, or add to any building or structure, or the placement of a mobile home.
2. There were no working smoke detectors.
3. There was soft, deteriorating wood on the front porch. The building has one or more porches that are not capable of supporting the load that normal use may cause to be placed on them. There was soft, deteriorating wood on the front porch. The stairs on the porch were in disrepair.
4. The building has not been kept in good repair. There was damage to the downstairs bedroom ceiling. There was significant damage to the upstairs closet wall.
5. There was peeling paint/plaster on the bathroom ceiling.
6. The building's wall has not been kept reasonably weather tight and rodent proof. The building has not been kept in good repair. There was significant damage to the front of the dwelling from a downed tree.
7. The dwelling unit at the above cited address is using extension or flexible cords for permanent wiring. Extension or flexible cords are running through doors, under carpets.
8. There was an outlet in the upstairs bedroom that was inoperable. The basement was flooded with six inches of water due to a possible plumbing malfunction.



9. The building has one or more handrails that have not been firmly fastened and capable of supporting normally imposed loads and have not been maintained in good condition.
10. The building has windows and exterior doors that have not been kept reasonably weather tight and in good repair. The front door had broken windows. There were several broken windows.
11. Smoke detectors shall be located in each room used for sleeping purposes and in the common living area on each floor, including the basement.
12. Unable to access basement due to high water.
13. An accumulation of materials, namely wood products and rubbish, on the real estate of the above cited property creates a harborage for rodents or insects. There was roofing materials that had been discarded in the front yard.

Grise advised the property owner that these violations made the premises, at 518 E. Jefferson St., unsafe. Grise ordered the property owner and tenant to vacate the unsafe building and to repair or rehabilitate the unsafe building to bring it into compliance with standards for building condition or maintenance required for human habitation, occupancy or use by completing all repairs set forth in the "Corrective Action Ordered" section of the table, above so that the building and/or structure is in compliance with Title 6 of the Goshen City Code by Jan. 31, 2023.

In the event of a failure comply with this Order, **Grise** advised the property owner that the City of Goshen may take action to make the required corrections and bill the owner for the costs of such work, including, but not limited to, the actual cost of the work performed and an amount equal to the average processing expense the City would incur in pursuing this matter. Such amounts could become a lien upon the real estate and ultimately be enforced in the same manner as any other judgment.

Grise further notified the property owner that a hearing would be held before the Goshen Board of Public Works and Safety on Monday, Feb. 6, 2023 at 2 p.m., or soon thereafter, for the purpose of reviewing the Order of the City of Goshen Building Commissioner.

Grise advised the property owner that he had the right to appear at this hearing with or without counsel, to present evidence, cross-examine opposing witnesses and present arguments. **Should he fail to appear at the time set for the hearing, the hearing would be conducted in his absence.**

Grise advised that the Goshen Board of Public Works and Safety would have the right to affirm, rescind or modify this Order. The Order of the City of Goshen Building Commissioner is issued on December 21, 2022. **Grise's** Order was included in the Board's meeting packet with a memo from Assistant City Attorney Matt Lawson, a four-page inspection final notice of violations (dated Sept. 30, 2022) by City Rental Inspector Ryan Conrad of the City Building Department and 34 pages of color photographs showing the home's condition.

On Feb. 6, 2023 Mayor Stutsman convened the noticed hearing on the Review of the Order of the City of Goshen Building Commissioner for 518 East Jefferson St. (Ron Davidhizar, property owner). The **Mayor** noted that property owner Ronald Davidhizar was not present. The **Mayor** asked **City Attorney Bodie Stegelmann** if the Board should proceed with the hearing.



City Attorney Stegelmann responded that Davidhizar received formal notification of the hearing and that it would be held. **City Rental Inspector Ryan Conrad** said he had been in contact with Davidhizar's maintenance supervisor for the property but not Davidhizar. **Assistant City Attorney Matt Lawson** told the Mayor that Davidhizar had personally signed the certified mailing for the notice of this hearing.

Mayor Stutsman swore in **Ryan Conrad** to provide truthful testimony during the hearing. Reading from a memo dated and distributed to the Board today (Feb. 6, 2023), Conrad reported:

- On Sept. 14, 2022, Conrad conducted an inspection of the property at 518 E. Jefferson St. and determined that several maintenance violations existed.
- Conrad notified the property owner, Ron Davidhizar, in writing, that he would have 30 days to correct the violations. Conrad inspected the real estate again on Sept. 29 and Oct. 14 and determined that there was no significant improvement to the real estate.
- During a re-inspection of the property this morning (Feb. 6, 2023), it appeared that the property owner has made some improvements. A new roof and porch have been installed. However, code violations still exist.
- There is missing wood siding on the on the front porch with exposed insulation.
- There are broken windows on the property.
- Numerous extension cords are being used to operate portable space heaters and other appliances, thus creating a fire hazard.
- An outlet in one of the bedrooms is malfunctioning, creating an additional need for extension cords.
- There is flooring that does not have adequate support.
- There are exterior wood surfaces that are not properly covered.
- There are newly installed stairs on the porch that do not have the required handrails.
- Additionally, Conrad was advised today by the tenant that the heating system works intermittently. The tenant stated that he occasionally uses the oven to provide additional heat.
- Conrad asked the Board to affirm the Building Commissioner's order and that matter be reset for a compliance hearing in another 30 days to continue monitoring progress. He reported that here have been some repairs, but more need to be worked on.

In response to a question from **Mayor Stutsman**, **Conrad** said the tenant was using space heaters because the furnace only works intermittently. **Conrad** said when he visited today, the indoor temperature of the home was comfortable, but the tenant said the furnace is not reliable, so the oven was turned on today. The Mayor responded that was not safe. Conrad confirmed the home has an old furnace.

Board members and Ryan further discussed the condition of the property, work done and alleged violations that still needed to be corrected. Also discussed was the furnace, which wasn't included in the Building Commissioner's original order.

The City Attorney said that he wasn't sure, due to the need for due process, that an order could be issued today on a matter the property owner wasn't aware would be heard today. He said action on the furnace should begin with notice to the property owner. **Mayor Stutsman** said the City staff should begin work on the paperwork for the new issues, including the furnace, right away so as not to get too far behind on those matters.



Mayor Stutsman asked the City Attorney for advice on how to take action today and whether to mention the need to repair the furnace. **Stegelmann** said Board could direct City staff to start enforcement action related to the furnace, since that would begin the process of putting the property owner on notice this was an issue that must be resolved

Mayor Stutsman then made a motion that the Board affirm the findings of the City Building Commissioner's order for 518 East Jefferson Street, determining that the listed violations existed and must be repaired in 30 days and that City staff should address the furnace issue. He also moved that the matter be continued to March 13, 2023 for another compliance hearing. Landis seconded the motion. Motion passed 4-0.

After the hearing, the Legal Department conveyed to Ron Davidhizar the Order of the City Board of Works and Safety regarding the property at 518 E. Jefferson St. It informed him that a hearing was conducted Feb. 6, 2023, provided a summary of the case and the Board's actions on Feb. 6, 2023. It further advised Davidhizar that a compliance hearing would be conducted on March 13, 2023 at 2 p.m. (EXHIBIT #1)

MARCH 13, 2023 COMPLIANCE HEARING TESTIMONY, DISCUSSION AND BOARD ACTION:

Acting Chair Mike Landis convened the hearing. He noted that Ron Davidhizar was present/not present. He asked **City Rental Inspector Ryan Conrad** to provide an update.

Reading from a memorandum to the Board, which included new photos showing the current condition of the home (**EXHIBIT #2**), **Conrad** reported that he conducted a re-inspection of the property located at 518 E. Jefferson St. the morning of March 13, 2023 and determined that the following violations still exist on the property:

- There is a bedroom window that is broken and as a result, covered with foam board, which is preventing egress.
- The front door window is broken and covered with plastic.
- Numerous extension cords are being used throughout the dwelling due to inoperable electric outlets, creating a fire hazard.
- There are gaps in the wood siding and there are other exterior wood surfaces which have not been properly coated.

Conrad also reported that, "The owner stated that he intends to complete the needed repairs by March 15. I recommend the City give the property owner until March 17. If the repairs are not completed by that date, the City move forward with repairs and bill the property owner for the work, as per the order of February 6."

Acting Chair Landis asked if there was anyone present to represent Ron Davidhizar. There was no response.

Landis asked if painting the exterior of the home was possible this week. **Conrad** said it wasn't because of the weather. Landis asked if that requirement should be separated out of the order. Conrad said the Board could do that. **Landis** asked if there were other matters on the property that needed to be addressed. **Conrad** said there were not. Landis suggested the Board set two dates for the completion of the work. **City Attorney Stegelmann** agreed, suggesting an earlier deadline for some work and perhaps a week later for other work.



Clerk-Treasurer Aguirre said that he understood that there has been a change in the condition of the furnace, which was the subject of extended conversation at the Board's last meeting. **Conrad** responded that the furnace has been repaired and is fully functioning.

Board member Swartley asked about the conditions of some outside items that were previously reported. **Conrad** said those areas have been repaired.

Swartley/Nichols then moved to give the property owner of 518 East Jefferson Street until March 17, 2023 to replace broken out glass in the bedroom and front door window and make the electrical outlets operable and by April 15 to repair gaps in the wood siding and paint any exterior wood surfaces that have not been properly coated or the City will move forward with repairs and bill the owner for the work pursuant to the Board's order of Feb. 6, 2023. Motion passed 3-0.

At 2:42 p.m., Acting Chair Landis closed the public hearing on the Order of the City of Goshen Building Commissioner for the property at 518 East Jefferson Street (Ron Davidhizar, property owner).

Approval of Civil City and Utility Claims

As all matters before the Board of Public Works & Safety were concluded, Acting Chair Landis/Board member Swartley moved to approve Civil City and Utility claims and adjourn the meeting. Motion passed 3-0.

Adjournment

Acting Chair Landis adjourned the Board of Works meeting at 2:43 p.m.

EXHIBIT #1: *Feb. 6, 2023 Order of the City Board of Works & Safety, prepared by the Legal Department and conveyed to Ron Davidhizar, regarding the property at 518 E. Jefferson St.*

EXHIBIT #2: *City Rental Inspector Ryan Conrad memo to the Board about a re-inspection on March 13, 2023. The memo, presented to the Board today, included new photos showing the current condition of the home.*

APPROVED:

Mayor Jeremy P. Stutsman



Mike Landis, Member

Mary Nichols, Member

Barb Swartley, Member

ATTEST

Richard R. Aguirre, City of Goshen Clerk-Treasurer

3-6-23

To: Goshen City Board of Works

Re; Request for Wider Driveway at 1503 Garland Drive Goshen IN

My name is Neal Frey and I am building a new home at the above address where the previous home had burned down.

My request is to allow the Installation of the new concrete driveway at a width of 34' at the right of way line. See the attached site plan.

We would remove the existing curb and existing public sidewalk and replace both as required. We would install the new driveway, curb and sidewalk per the City of Goshen Engineering Dept. specifications.

Team Construction Co. would intend to do the work as the Spring Weather would allow.

A few of our thoughts behind this request:

- Keeping cars parked on the driveway as opposed to on street parking aesthetically more pleasing and certainly safer.

- Safer, since this property is located on a corner lot, if cars are parked on the street it could be difficult for traffic to see around the corner and pose the potential for a collision.

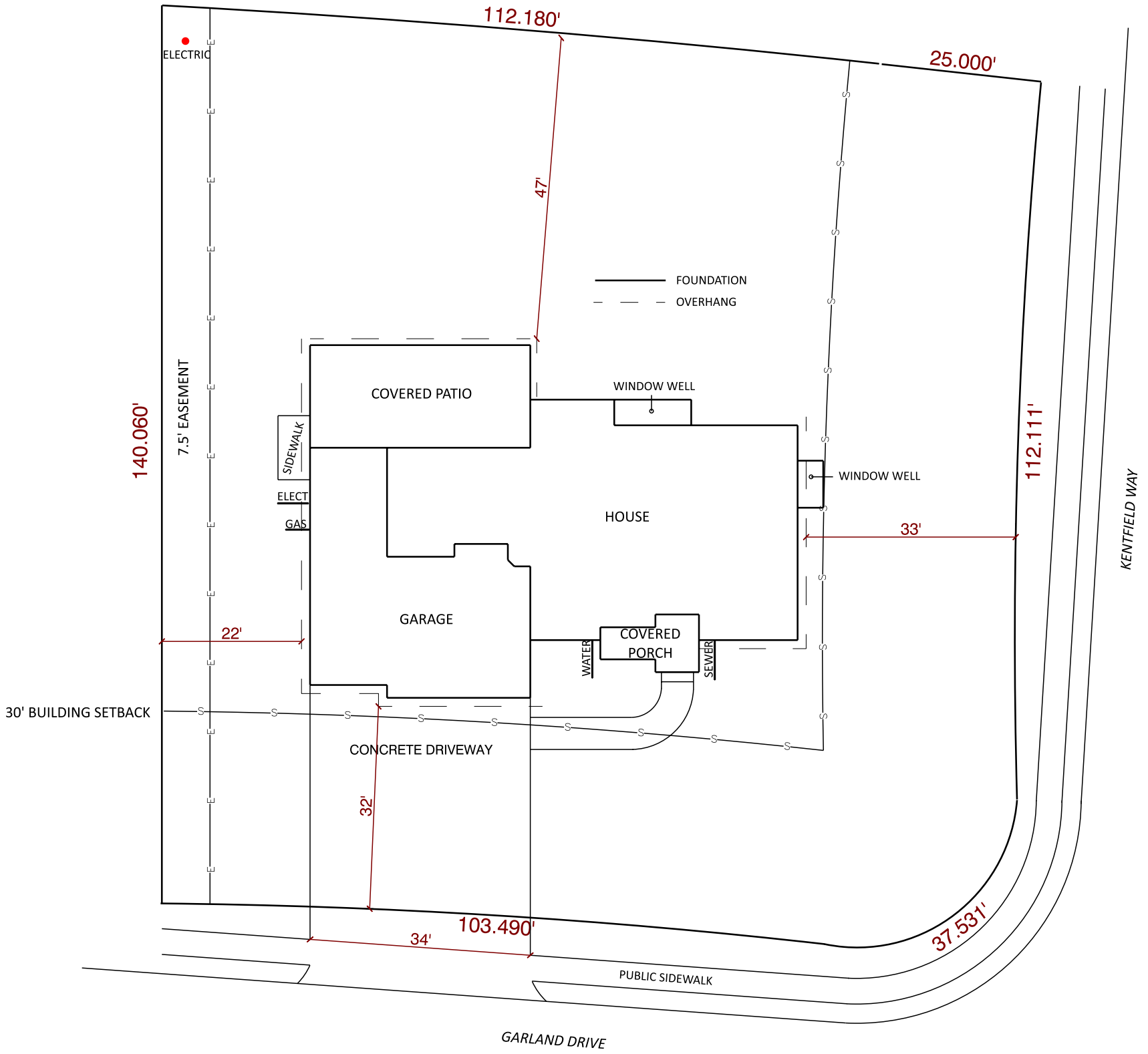
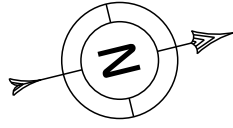
- Safer as backing out of the driveway from both sides of the road with a car parked on the road poses a potential Hazard.

- With the setback distance without the full width it would require that I cross and drive on the grass if am parjing a trailer in the garage.

- We might note that the driveways in the same neighborhood located at 1618 Winsted, 1508 Brookfield, 1401 and 1403 Elmhurst are of similar widths.

Thank you for Considering

Neal Frey



1849 W. Lincoln Ave.
Goshen, IN 46526
574-533-3100

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NOTES

| | |
|--------------|--|
| JOB NAME | FREY Neal |
| JOB LOCATION | 1503 Garland Dr. Goshen 46526 The Meadows Lot 29 |
| SCALE | 1" = 20'-0" |
| DATE | 11/15/2022 |
| DRAWING | SITE PLAN (34) |



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: March 20, 2023
Subject: Peachey Roofing & General Construction request to temporarily close the sidewalk in front of 105 South Third Street during the installation of a new roof

The Clerk-Treasurer received the following request on March 16, 2023:

I'm Abram Peachey, owner of Peachey's Roofing and General Construction. The company has a permit to install a metal roof on the house at a residence located at 105 South. 3rd Street Goshen, Indiana 46526.

I'm a little concerned with the road so close, but was hoping we can set up our ladders and planks and work on the road side Tuesday, March 21 2023 – the day after spring begins, which is March 20, 2023.

And so, I am wondering if it would be an option to put cones out in the middle of the sidewalk with caution tape for pedestrian awareness while the company is installing the roof. Or is there a possibility to close the sidewalk through the time of construction, which may consist of maybe 6 hours or such?

Thank-you for your consideration in the matter.

Abram Peachey

Mr. Peachey said he would be present for the Board's meeting.

On the attached page are photos of the front of 105 South Third Street.

Suggested motion: Approve the request from Peachey Roofing and General Construction to temporarily close the west side sidewalk in front of 105 South Third Street during the installation of a new roof on March 21, 2023. Detour signs should be in place until the work is completed.



Richard Aguirre, City Clerk-Treasurer
CITY OF GOSHEN

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Rhonda L. Yoder, AICP
PLANNING & ZONING DEPARTMENT, CITY OF GOSHEN
204 East Jefferson Street, Suite 4 • Goshen, IN 46528-3405
Phone (574) 537-3815 • Fax (574) 533-8626 • TDD (574) 534-3185
rhodayoder@goshencity.com • www.goshenindiana.org

MEMORANDUM

To: Board of Public Works & Safety
From: Rhonda L. Yoder, Planning & Zoning Administrator
Date: March 20, 2023
RE: Parke North Second - Acceptance of Plat

A one-lot subdivision has been submitted, *Parke North Second*, which is the second phase of Parke North subdivision. The property is zoned Industrial M-1.

The subdivision meets the requirements of the Zoning and Subdivision Ordinances.

There is no public infrastructure being constructed as part of the plat, so no bond/surety is required.

The subdivision drainage plan was accepted by the Board of Works on February 13, 2023.

The plat includes dedication of right of way for Kercher Road, and includes a number of easements.

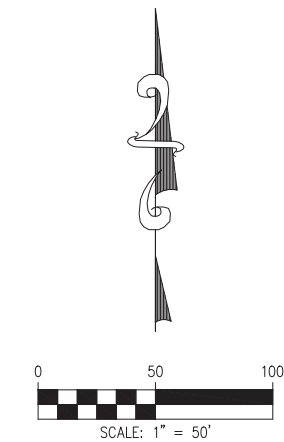
Please accept the Parke North Second plat with dedication of right of way and easements, and sign the plat.

Requested Motion: Move to accept the Parke North Second plat with dedication of right of way and easements.

Parke North Second

Part of the Southeast Quarter of Section 22, Township 36 North, Range 6 East
Elkhart Township, City of Goshen, Elkhart County, Indiana

Lippert Components Manufacturing, LLC
(Doc. #2013-30769)



ABBREVIATIONS:

| | |
|----------|--|
| Fnd. | Found |
| R/W | Right-of-way |
| P.O.C. | Point of Commencement |
| P.O.B. | Point of Beginning |
| r | Radius of curvature |
| a | Arc length |
| cd | Chord distance |
| cb | Chord bearing |
| P | Plat distance &/or bearing |
| D | Deed distance &/or bearing |
| R.Rec. | Record distance &/or bearing |
| M.Meas. | Measured distance &/or bearing |
| C./Calc. | Calculated distance &/or bearing |
| C.F.R. | Calculated from Record distance &/or bearing |
| C.F.D. | Calculated from Deed distance &/or bearing |
| C.F.P. | Calculated from Plat distance &/or bearing |
| LAR/W | Limited Access Right-of-way |
| INDOT | Indiana Department of Transportation |
| C.S.O. | County Surveyor's Office |
| C.R.O. | County Recorder's Office |
| C.H.D. | County Highway Department |

● 5/8"x24" Rebar with T-E Incorporated ID
Cap Stamped "T-E INC FIRM #0070"

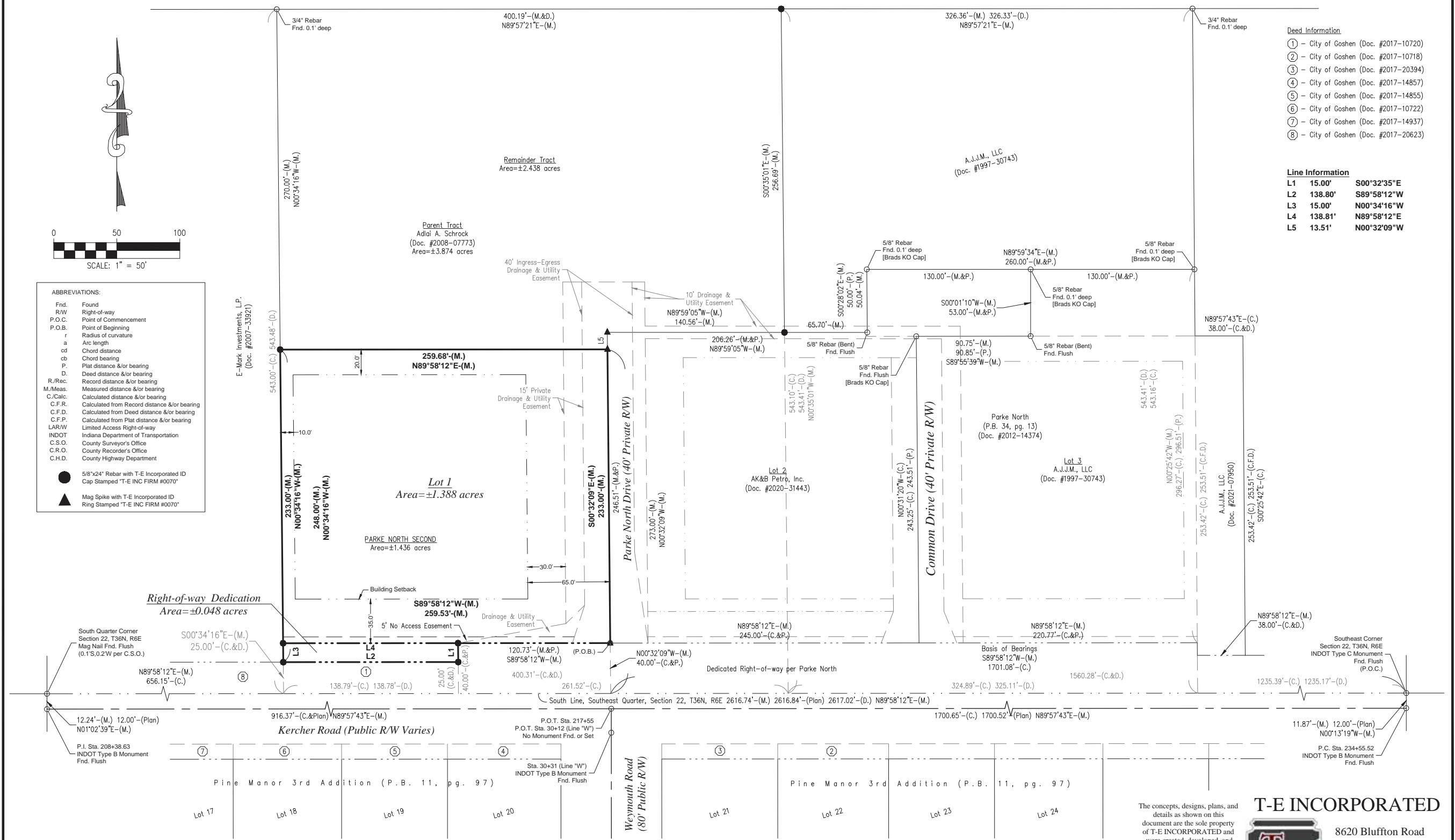
▲ Mag Spike with T-E Incorporated ID
Ring Stamped "T-E INC FIRM #0070"

Deed Information

- ① - City of Goshen (Doc. #2017-10720)
- ② - City of Goshen (Doc. #2017-10718)
- ③ - City of Goshen (Doc. #2017-20394)
- ④ - City of Goshen (Doc. #2017-14857)
- ⑤ - City of Goshen (Doc. #2017-14855)
- ⑥ - City of Goshen (Doc. #2017-10722)
- ⑦ - City of Goshen (Doc. #2017-14937)
- ⑧ - City of Goshen (Doc. #2017-20623)

Line Information

| | | |
|----|---------|-------------|
| L1 | 15.00' | S00°32'35"E |
| L2 | 138.80' | S89°58'12"W |
| L3 | 15.00' | N00°34'16"W |
| L4 | 138.81' | N89°58'12"E |
| L5 | 13.51' | N00°32'09"W |



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Surveying * Engineering * Asphalt * Utilities * Site Development

Parke North Second

Part of the Southeast Quarter of Section 22, Township 36 North, Range 6 East
Elkhart Township, City of Goshen, Elkhart County, Indiana

PLAN COMMISSION STAFF APPROVAL

UNDER THE AUTHORITY PROVIDED BY CHAPTER 174, ACTS OF 1947, ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF INDIANA AND ORDINANCE ADOPTED BY THE COMMON COUNCIL OF THE CITY OF GOSHEN, INDIANA, THIS PLAT WAS GIVEN APPROVAL BY THE CITY OF GOSHEN, AS FOLLOWS:

APPROVED BY ZONING ADMINISTRATOR ON BEHALF OF THE CITY PLAN COMMISSION ON THIS _____ DAY OF _____, 20____.

RHONDA YODER, ZONING ADMINISTRATOR

AUDITOR

DULY ENTERED FOR TAXATION THIS _____ DAY OF _____, 20____.

PATRICIA A. PICKENS ELKHART COUNTY AUDITOR.

RECORDER

RECEIVED FOR RECORD THIS _____ DAY OF _____, 20____, AT _____:

AND RECORDED IN PLAT BOOK _____, PAGE _____ AND INSTRUMENT _____

FEE: _____ ELKHART COUNTY RECORDER.
KAALA BAKER

ACCEPTANCE OF DEDICATION

BE IT RESOLVED BY THE BOARD OF PUBLIC WORK AND SAFETY, CITY OF GOSHEN, INDIANA THAT THE DEDICATIONS ON THIS PLAT ARE HEREBY APPROVED AND ACCEPTED THIS _____ DAY OF _____, 20____.

MAYOR JEREMY STUTSMAN MICHAEL A. LANDIS MARY NICHOLS

BARB SWARTLEY

CITY OF GOSHEN, INDIANA DRAINAGE MAINTENANCE STATEMENT

THE CITY OF GOSHEN, INDIANA IS A MUNICIPAL SEPARATE STORM SEWER (MS4) COMMUNITY GOVERNED BY INDIANA'S MUNICIPAL SEPARATE STORM SEWER SYSTEM GENERAL PERMIT (INR040000). THE CITY OF GOSHEN'S POST CONSTRUCTION STORM WATER ORDINANCE REQUIRES THE OWNER AND ITS ASSIGNS TO EXECUTE A STORM WATER MAINTENANCE COVENANT FOR THE OPERATION, MAINTENANCE, AND REPAIR OF ALL STORM WATER MANAGEMENT FACILITIES, AS DESCRIBED IN THE DEVELOPMENT'S "POST CONSTRUCTION STORM WATER MANAGEMENT PLAN". TO ADMINISTER THE "POST CONSTRUCTION STORM WATER MANAGEMENT PLAN", THE OWNER AND ITS ASSIGNS SHALL MAINTAIN AN ACCESS AND MAINTENANCE EASEMENT OVER THE STORM WATER SYSTEM AND A FUNDING MECHANISM FOR THE MAINTENANCE OF SAID STORM WATER SYSTEM. ANY CHANGES TO THE MAINTENANCE AGREEMENT BY THE DEVELOPMENT AND/OR ASSIGNS SHALL BE APPROVED BY THE DEPARTMENT OF STORM WATER MANAGEMENT AND THEN RECORDED WITH THE ELKHART COUNTY RECORDER.

AT A MINIMUM, THE "STORM WATER MAINTENANCE POLLUTION PREVENTION PLAN" SHALL REQUIRE THE MAINTENANCE OF ALL DRAINAGE FACILITIES INCLUDING CULVERTS AND SWALES. NO OWNER OR ITS ASSIGN SHALL PERMIT, ALLOW OR CAUSE ANY OF SAID FACILITIES TO BE OBSTRUCTED, REMOVED OR IN ANY WAY IMPEDE THE FLOW OF WATER ACROSS OR THROUGH SAID FACILITIES. IN THE EVENT ANY SUCH FACILITIES BECOME DAMAGED OR IN DISREPAIR, IT SHALL BE THE RESPONSIBILITY OF THE OWNER AND ITS ASSIGNS TO REPAIR SUCH FACILITIES AT THE COLLECTIVE'S EXPENSE.

THE CITY OF GOSHEN WILL ENFORCE THE "POST CONSTRUCTION STORM WATER MANAGEMENT PLAN", AND SHALL TAKE LEGAL ACTION, IF NECESSARY, AGAINST ANY PARTY IN NON-COMPLIANCE.

IN THE EVENT AN OWNER OR ITS ASSIGNS FAIL TO MAINTAIN SUCH DRAINAGE FACILITIES IN GOOD WORKING ORDER AND REPAIR, THE CITY OF GOSHEN, INDIANA, MAY REPAIR SUCH DRAINAGE FACILITIES AND INVOICE THE COSTS OF SUCH REPAIR TO THE OWNER AND ITS ASSIGNS. THE CITY OF GOSHEN, INDIANA, IS GRANTED AN EASEMENT ACROSS THE OWNER AND ASSIGN'S REAL ESTATE FOR THE PURPOSE OF REPAIRING AND INSPECTING ANY DRAINAGE FACILITIES ON SAID OWNER OR ASSIGNS' REAL ESTATE. THE AMOUNT OF ANY ASSESSMENT FOR THE COSTS OF REPAIR, AS ASSESSED BY THE CITY, SHALL CONSTITUTE A LIEN UPON THE REAL ESTATE OF THE OWNER AND ASSIGNS, AND AN ENCUMBRANCE UPON THE TITLE OF SAID REAL ESTATE.

THE CITY OF GOSHEN, INDIANA, IS FURTHER GRANTED RIGHT OF ACTION FOR THE COLLECTION OF SAID INDEBTEDNESS FROM THE OWNER AND ASSIGNS, AND FOR THE FORECLOSURE OF SAID LIEN IN THE MANNER IN WHICH MORTGAGES ARE FORECLOSED UNDER THE LAWS OF SAID STATE OF INDIANA. ANY SUCH COLLECTION AND/OR FORECLOSURE ACTION SHALL BE MAINTAINED IN THE COURTS OF GENERAL JURISDICTION OF THE STATE OF INDIANA, AND SHALL BY COMMENCED IN ELKHART COUNTY, INDIANA.

LEGAL DESCRIPTION

THIS DESCRIPTION, PREPARED BY AARON J. CARL, PROFESSIONAL SURVEYOR LICENSE NUMBER LS20800123 AND EMPLOYED BY T-E INCORPORATED, WAS CREATED AS PART OF AN ORIGINAL SURVEY FOR JOB NO. 22061 ON SEPTEMBER 28, 2022. ALL DOCUMENTS REFERENCED HEREIN ARE RECORDED IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

A PART OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 36 NORTH, RANGE 6 EAST, ELKHART TOWNSHIP, CITY OF GOSHEN, ELKHART COUNTY, INDIANA, ALSO BEING PART OF A TRACT OF LAND CONVEYED TO ADLAI A. SCHROCK BY DOCUMENT 2008-07773, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 22, BEING MARKED BY AN INDOT TYPE C MONUMENT; THENCE SOUTH 89 DEGREES 58 MINUTES 12 SECONDS WEST (BEING THE BASIS OF ALL BEARINGS THIS DESCRIPTION), ON AND ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 1701.08 FEET TO AN EXTENSION OF THE WEST LINE OF LOT 2 IN THE PLAT OF PARKE NORTH AS RECORDED IN DOCUMENT 2012-14374; THENCE NORTH 00 DEGREES 32 MINUTES 09 SECONDS WEST, ON AND ALONG SAID EXTENSION, A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING, ALSO BEING THE SOUTHWEST CORNER OF SAID LOT 2, BEING MARKED BY A MAG SPIKE WITH AN IDENTIFICATION DISK STAMPED "T-E INC FIRM ID #0070"; THENCE SOUTH 89 DEGREES 58 MINUTES 12 SECONDS WEST, ON AND ALONG THE NORTH LINE OF THE DEDICATED RIGHT-OF-WAY AS SHOWN IN SAID PLAT OF PARKE NORTH, A DISTANCE OF 120.73 FEET TO THE NORTHWEST CORNER OF SAID DEDICATED RIGHT-OF-WAY, BEING MARKED BY A 5/8-INCH DIAMETER REBAR WITH AN IDENTIFICATION CAP STAMPED "T-E INC FIRM ID #0070" (FROM HEREIN REFERRED TO AS "T-E CAP"); THENCE SOUTH 00 DEGREES 32 MINUTES 35 SECONDS EAST, ON AND ALONG THE WEST LINE OF SAID DEDICATED RIGHT-OF-WAY, A DISTANCE OF 15.00 FEET TO THE NORTHEAST CORNER OF A 0.056 ACRE TRACT OF LAND CONVEYED TO THE CITY OF GOSHEN BY DOCUMENT 2017-10720, BEING MARKED BY A "T-E CAP"; THENCE SOUTH 89 DEGREES 58 MINUTES 12 SECONDS WEST, ON AND ALONG THE NORTH LINE OF SAID 0.056 ACRE TRACT, A DISTANCE OF 138.80 FEET TO THE EAST LINE OF A TRACT OF LAND CONVEYED TO E-MARK INVESTMENTS, L.P. BY DOCUMENT 2007-33921, ALSO BEING THE NORTHWEST CORNER OF SAID 0.056 ACRE TRACT, BEING MARKED BY A "T-E CAP"; THENCE NORTH 00 DEGREES 34 MINUTES 16 SECONDS WEST, ON AND ALONG SAID EAST LINE OF THE E-MARK TRACT, A DISTANCE OF 248.00 FEET TO A "T-E CAP"; THENCE NORTH 89 DEGREES 58 MINUTES 12 SECONDS EAST, A DISTANCE OF 259.68 FEET TO THE WEST LINE OF SAID LOT 2, BEING MARKED BY A MAG SPIKE WITH AN IDENTIFICATION DISK STAMPED "T-E INC FIRM ID #0070"; THENCE SOUTH 00 DEGREES 32 MINUTES 09 SECONDS EAST, ON AND ALONG SAID WEST LINE OF LOT 2, A DISTANCE OF 233.00 FEET TO THE POINT OF BEGINNING, CONTAINING 1.436 ACRES, MORE OR LESS, BEING SUBJECT TO AND/OR TOGETHER WITH ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

STATEMENT OF UTILITIES

AN EASEMENT IS HEREBY GRANTED TO THE CITY OF GOSHEN, ALL PUBLIC UTILITY COMPANIES, INCLUDING COMMUNICATION COMPANIES, NORTHERN INDIANA PUBLIC SERVICE COMPANY, AND SEVERAL PRIVATE UTILITY COMPANIES WHERE THEY HAVE A CERTIFICATE OF TERRITORIAL AUTHORITY TO RENDER SERVICE AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, TO INSTALL, PLACE, AND MAINTAIN SEWERS, WATER MAINS, GAS MAINS, ELECTRIC LINES, CONDUITS, BRACES, GUYS, ANCHORS, AND OTHER PUBLIC AND PRIVATE APPURTENANCES IN, UPON, ALONG AND OVER THE STRIPS OF LAND DESIGNATED ON THE PLAT MARKED "UTILITY EASEMENT" FOR THE PURPOSES OF SERVICING THE PUBLIC IN GENERAL WITH SEWER, WATER, GAS, ELECTRIC, COMMUNICATION SERVICE, AND OTHER PUBLIC AND PRIVATE UTILITIES, INCLUDING THE RIGHT TO USE THE STREETS, WHERE NECESSARY AND TO OVERHANG LOTS WITH AERIAL SERVICE WIRES TO SERVE LOTS ADJACENT TO EASEMENTS, TOGETHER WITH THE RIGHT TO ENTER UPON SAID EASEMENTS FOR PUBLIC AND PRIVATE UTILITIES AT ALL TIMES FOR ANY OF THE PURPOSES AFORESAID AND TO TRIM AND KEEP TRIMMED ANY TREES, SHRUB, OR SAPLINGS THAT INTERFERE WITH ANY SUCH UTILITY EQUIPMENT. NO PERMANENT BUILDING OR IMPROVEMENT, SEMIPERMANENT STRUCTURE, TREE, OR FENCE SHALL BE PLACED ON SAID EASEMENT. STILL, THE SAME MAY BE USED FOR GARDENS, SHRUBS, UNFIXED LANDSCAPING, AND OTHER PURPOSES THAT DO NOT INTERFERE WITH THE USE OF SAID EASEMENT FOR SUCH PUBLIC UTILITY PURPOSES.



Vicinity Map (n.t.s.)

CERTIFICATE OF OWNERSHIP

WE, THE UNDERSIGNED, DO HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY DESCRIBED IN THE ABOVE CAPTIONED AND THAT AS SUCH OWNERS WE HAVE CAUSED THE ABOVE DESCRIBED TO BE SURVEYED AS SHOWN ON THE HEREON DRAWN PLAT AS OUR FREE AND VOLUNTARY ACT AND DEED.

ADLAI A. SCHROCK

DEED OF DEDICATION

KNOWN ALL MEN BY THESE PRESENT THAT THE UNDERSIGNED, AS PROPRIETORS, HAVE CAUSED THE ABOVE DESCRIBED LAND TO BE SURVEYED AND SUBDIVIDED AS SHOWN THIS PLAT, THAT SAID SUBDIVISION IS TO BE KNOWN AS **PARKE NORTH SECOND**, THAT THE LOTS HAVE THEIR RESPECTIVE DIMENSIONS GIVEN IN FEET AND DECIMAL PARTS THEREOF, ALL STREETS, ALLEY AND PUBLIC OPEN SPACES SHOWN AND NOT HERETOFORE DEDICATED, ARE HEREBY DEDICATED TO THE PUBLIC. BUILDING SETBACK LINES ARE HEREBY ESTABLISHED AS SHOWN ON THIS PLAT, BETWEEN WHICH SETBACK LINES AND THE PROPERTY LINE OF THE STREETS THERE SHALL BE ERECTED OR MAINTAINED NO BUILDING OR STRUCTURE.

ADLAI A. SCHROCK

NOTARY PUBLIC CERTIFICATE

STATE OF INDIANA)

SS:

COUNTY OF _____)

BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY CAME THE ABOVE OWNERS AND ACKNOWLEDGED THE EXECUTION OF THIS PLAT.

WITNESS MY HAND AND SEAL THIS _____ DAY OF _____, 20____.

NOTARY PUBLIC MY COMMISSION EXPIRES _____

POST CONSTRUCTION STORMWATER MANAGEMENT STATEMENT

THE SUBDIVISION MUST COMPLY WITH THE UNIFORM REQUIREMENTS FOR POST CONSTRUCTION STORMWATER MANAGEMENT ORDINANCE 4329 AS ORDAINED BY THE COMMON COUNCIL OF THE CITY OF GOSHEN, INDIANA ON THE 3RD DAY OF JANUARY 2006 AND ADOPTED ON THE 6TH DAY OF JANUARY 2006.

SURVEYOR CERTIFICATION

I, AARON J. CARL, DO HEREBY CERTIFY THAT I AM A LAND SURVEYOR, LICENSED IN THE STATE OF INDIANA, AND DO HEREBY FURTHER CERTIFY THAT I HAVE SURVEYED THE PROPERTY HEREIN DESCRIBED AS T-E INCORPORATED SURVEY NUMBER 22061, DATED JULY 21, 2022 AND HAVE DIVIDED THE SAME INTO BLOCKS AND LOTS AS SHOWN HEREON. ALL LOT CORNERS ARE MARKED WITH 5/8-INCH DIAMETER REBARS WITH IDENTIFICATION CAPS STAMPED "T-E INC FIRM ID #0070". DIMENSIONS ARE IN FEET AND DECIMAL PARTS THEREOF. 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.

T-E INCORPORATED
FIRM #0070
8620 Bluffton Road
Fort Wayne, IN 46809
Ph: (260) 489-5541

BY: Aaron J. Carl
Licensed Land Surveyor
Indiana LS #20800123

AARON J. CARL



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Surveying * Engineering * Asphalt * Utilities * Site Development



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

March 20, 2023

To: Board of Public Works and Safety

From: Matt Lawson, Assistant City Attorney

Subject: Resolution 2023-12, Interlocal Agreement with the City of Nappanee for the Completion of a Joint Federal Aid Project to Purchase and Install Electric Vehicle Charging Stations

Attached to Resolution 2023-12 is an Interlocal Agreement with the City of Nappanee to jointly purchase and install electric vehicle charging stations. This joint project will be funded, in part, with federal Carbon Reduction Program funds.

Suggested Motion:

Move to adopt Resolution 2023-12, Interlocal Agreement with the City of Nappanee for the Completion of a Joint Federal Aid Project to Purchase and Install Electric Vehicle Charging Stations

GOSHEN BOARD OF PUBLIC WORKS AND SAFETY

RESOLUTION 2023-12

**Interlocal Agreement with the City of Nappanee
for the Completion of a Joint Federal Aid Project
to Purchase and Install Electric Vehicle Charging Stations**

WHEREAS the City of Goshen and the City of Nappanee have negotiated an interlocal agreement to jointly purchase and install electric vehicle charging stations using Carbon Reduction Program funding.

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

NOW, THEREFORE, BE IT RESOLVED that the Goshen Board of Public Works and Safety approves the terms and conditions of the Interlocal Agreement with the City of Nappanee for Completion of a Joint Federal Aid Project to jointly purchase and install electric vehicle charging stations as attached to and made a part of this resolution.

BE IT FURTHER RESOLVED that the Mayor and Clerk-Treasurer are authorized to execute the Interlocal Agreement on behalf of the Goshen Board of Public Works and Safety and the City of Goshen.

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

Jeremy P. Stutsman, Mayor

Member

Member

Member

Member

INTERLOCAL AGREEMENT
BETWEEN THE CITY OF GOSHEN AND THE CITY OF NAPPANEE
FOR COMPLETION OF A JOINT FEDERAL AID PROJECT

This Agreement is made and entered into this ____ day of March, 2023, by and between the City of Goshen, Indiana ("Goshen") and the City of Nappanee, Indiana ("Nappanee") (both parties are collectively referred to as "Parties").

WITNESSETH:

WHEREAS, the Michiana Area Council of Governments ("MACOG") is a regional intergovernmental agency established to foster cooperative, coordinated and comprehensive planning activities in Elkhart, Kosciusko, Marshall and St. Joseph Counties;

WHEREAS, MACOG issued a Call for Projects to local public agencies within the South Bend and Elkhart-Goshen Urbanized Areas and deemed it necessary to combine multiple applications for federal Carbon Reduction Program ("CRP") funding for electric vehicle charging stations ("EVCS") into one project to reduce the administrative burden and address gaps in regional charging infrastructure;

WHEREAS, the lack of charging in any community in the MACOG region limits the ability of electric vehicles to travel and therefore limits the adoption of cleaner vehicles;

WHEREAS, Nappanee is the only city in the MACOG region that does not currently have any publicly available EVCS located downtown or plans in place to fund such projects through other public or private sources;

WHEREAS, Goshen has incorporated fully electric vehicles into its municipal fleet, is evaluating future opportunities for electrification, and has a need to quickly recharge these vehicles to prevent operational disruptions; and no other entities have known plans to install Level 3 Direct Current Fast Charging ("Level 3 DCFC") EVCS near Goshen;

WHEREAS, Goshen and City of Nappanee agree to execute a joint project for electric vehicle charging infrastructure installation utilizing CRP funding through INDOT and MACOG;

WHEREAS, other identified potential sources of funding that would not require an interlocal agreement are unavailable to Goshen, or nationally competitive;

WHEREAS, the estimate cost of the project (including costs of preliminary engineering, design, construction and inspection) will be approximately \$260,700;

WHEREAS, the Level 3 DCFC EVCS located in downtown Goshen is estimated to cost \$212,800, with an 80% federal share of \$170,240 and 20% local match of \$42,560;

WHEREAS, the Level 2 EVCS located in downtown Nappanee is estimated to cost \$47,900 with an 80% federal share of \$38,320 and 20% local match of \$9,580;

WHEREAS, Indiana Code § 5-22-22-10 allows for the transfer of property between governmental bodies “upon terms and conditions agreed upon by the governmental bodies as evidenced by adoption of a substantially identical resolution by each entity . . . for any amount of property or cash as agreed upon by the governmental bodies;” and

WHEREAS, after due consideration the Goshen Board of Works and Nappanee Board of Public Works find and determine that it is in the best interests of both parties to confirm and approve the Interlocal Agreement.

NOW, THEREFORE in consideration of the foregoing and of the promises and commitments herein contained, the parties hereby agree as follows:

1. Recitals. The representations, covenants, and recitations set forth in the foregoing recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement.

2. Purpose. Goshen enters into an interlocal agreement with Nappanee to purchase and install a Level 3 DCFC EVCS in a single location in downtown Goshen capable of charging at least two vehicles simultaneously at no less than 60 kW or one vehicle at 125 kW combined, and Level 2 EVCS in two locations in downtown Nappanee capable of charging a total of least 4 vehicles simultaneously at 7 kW or greater (“Project”).

3. Administration. Questions of administration of this Agreement shall be decided by a joint board comprised of the Goshen and Nappanee Mayors.

4. Goshen Responsibilities. Goshen shall be responsible to perform the following:

a. Consulting with representative of Nappanee designated by its Mayor on the following:

- i. Selection of a consultant for preliminary engineering;
- ii. Project scope, site selection, and electrical service to ensure that the cost and configuration are acceptable to Nappanee;
- iii. Development of written specifications and the selection of hardware and software before any purchases are made; and

- iv. Design of all signage for EV Parking, Wayfinding, and pavement markings, as well as the placement of bollards, bumpers, or other measures to protect the station.
- b. Procurement of all hardware, software, warranties, subscriptions, necessary equipment, and utility upgrades utilizing standard public purchasing requirements and its internal policies;
- c. Requiring that all invoices are itemized to identify the portion of the expenses attributable to Nappanee's EVCS;
- d. Invoicing Nappanee for 20% of Nappanee's share of the project;
- e. Transferring all assets to Nappanee upon payment;
- f. Conducting all required reporting and invoicing with INDOT;
- g. Ensuring that the project complies with all current and future guidance and program requirements released by the U.S. Department of Transportation's Federal Highway Administration;
- h. Coordinating with the designated representative of Nappanee to confirm that sufficient local funding is available to cover the necessary share of the additional amount if the project cost for Nappanee exceeds the original estimate;
- i. Maintaining the documents, contracts, notices, and other records in connection with the Project, including the financial records and providing a financial summary to the Parties for all funds expended and received in connection with the Project;
- j. Providing such other general administrative services as are necessary to complete the Project; and
- k. Receiving, disbursing, and accounting for all monies of the joint undertaking through its Clerk-Treasurer.

5. Nappanee Responsibilities. Nappanee shall be responsible to perform the following:

- a. Consenting to Goshen entering into contracts as necessary on behalf of the project;
- b. Authorizing the payment of 20% of their share of the project;
- c. Reimbursing Goshen within 30 days of receipt of any invoices;
- d. Installing proper signage;

e. Owning and maintaining the Level 2 EVCS's located in Nappanee, including administrative accounts to manage the station operation and user fees and associated utility accounts.

6. Term. This Agreement shall be in effect for a term of

7. No Additional Duties or Standards Imposed. The parties specifically acknowledge that this Agreement does not address or impose upon Goshen any additional standards or duties which it does not specifically assume under the terms of this Agreement, and that no further understanding, commitments or agreements exist pertaining to the Purpose specified in this agreement.

8. Filing Requirements. Within thirty (30) days after the approval and execution of this Agreement, Goshen shall have this Agreement recorded and filed with the appropriate governmental offices and agencies as required by Indiana Code.

9. Supplemental Documents. The Parties agree to execute any and all supplementary documents and to take any and all supplementary steps as are reasonable and appropriate to accomplish the purposes and provisions of this Agreement.

10. Non-Discrimination. Pursuant to I.C. § 22-9-1-10, neither Goshen nor Nappanee, nor any of their contractors or subcontractors, shall discriminate against any employee or applicant for employment, to be employed in the performance of any work under this Agreement with respect to hire, tenure, terms or conditions or privileges of employment, or any matter directly or indirectly related to employment because of race, color, religion, sex, disability, national origin, ancestry or veteran status. Breach of this covenant may be regarded as a material breach of this Agreement.

11. Anti-Nepotism. Goshen and Nappanee are aware of the provisions under I.C. § 36-1-21 with respect to anti-nepotism in contractual relationships with governmental entities, and shall comply with such statute.

12. Investment Activity. Pursuant to I.C. 5-22-16.5, Goshen certifies that it is not engaged in investment activities in Iran.

13. E-Verify Program. Pursuant to I.C. § 22-5-1.7-11, Goshen and Nappanee agree to and shall enroll in and verify the work eligibility status of all of its newly hired employees after the date of the Agreement through the E-Verify Program as defined in I.C. § 22-5-1.7-3. Goshen and Nappanee further both represent and certify, subject to the pains and penalties of perjury, that each does not knowingly employ an unauthorized alien.

14. Amendment. This Agreement, and any exhibits attached hereto, may be amended only by the mutual written consent of the parties, by the adoption of a resolution approving said amendment as provided by law, and by the execution of said amendment by the parties.

15. No Other Agreement. Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations, and discussions relative to the subject matter hereof and is a full integration of the agreement of the parties.

16. Severability. If any provision, covenant, agreement or portion of this Agreement or its application to any person, entity or property is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants, agreements, or portions of this Agreement, and to that end, any provisions, covenants, agreements or portions of this Agreement are declared to be severable.

17. Indiana Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana.

18. Notice. Any notices required or permitted under this Agreement shall be given to the parties at their respective mailing addresses provided below by deposit in the United State mail, certified mail, return receipt requested, with proper postage affixed thereto, and which notices shall be effective three (3) days after date of mailing:

Goshen: City of Goshen
c/o Goshen Legal Department
204 East Jefferson Street, Suite 2
Goshen, IN 46528

Nappanee: City of Nappanee
c/o Phil Jenkins, Mayor
300 West Lincoln St.
Nappanee, IN 46550

The parties may change their respective mailing addresses by providing written notice of the new address in accordance with the terms and provisions of this paragraph.

19. 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 this Agreement may not be assigned without the express written consent of the non-assigning party.

20. Counterparts. This Agreement may be executed in multiple counterparts with multiple but separate signature pages, with the multiple counterparts and multiple but separate signature pages constituting one single and unified Agreement when combined.

IN WITNESS WHEREOF, the parties have duly executed this Agreement pursuant to all requisite authorizations as of the date first above written.

[Signature pages follow]

City of Goshen, Indiana

By: _____
Jeremy P. Stutsman, Mayor

ATTEST:

By: _____
Richard R. Aguirre, Clerk-Treasurer

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, a Notary Public in and for said County and State, this _____ day of _____, 2023, personally appeared Jeremy P. Stutsman, Mayor and Richard R. Aguirre, Clerk-Treasurer, and acknowledged that as said representatives, they respectively executed the foregoing Interlocal Agreement for and on behalf of, and in the name of the City of Goshen, Indiana, for the uses and purposed therein mentioned, and that they were authorized so to do.

WITNESS my hand and notarial seal.

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

City of Nappanee, Indiana

By: _____

Printed: _____

Title: _____

ATTEST:

By: _____

Printed: _____

Title: _____

STATE OF INDIANA)

) SS:

COUNTY OF ELKHART)

Before me, a Notary Public in and for said County and State, this ____ day of _____, 2023, personally appeared _____ (Name), _____ (Title) and _____ (Name), _____ (Title) and acknowledged that as said representatives executed the foregoing Interlocal Agreement for and on behalf of, and in the name of the City of Nappanee, Indiana, for the uses and purposed therein mentioned, and that they were authorized so to do.

WITNESS my hand and notarial seal.

Printed Name: _____

Notary Public of _____ County, IN

My Commission Expires: _____

Commission Number: _____

APPROVAL

The City of Goshen Common Council hereby approves of the above and foregoing Interlocal Agreement this ___ day of _____, 2023.

City of Goshen Common Council

By: _____
Jeremy P. Stutsman, Presiding Officer

ATTEST:

By: _____
Richard R. Aguirre, Clerk-Treasurer

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, a Notary Public in and for said County and State, this ___ day of _____, 2023, personally appeared Jeremy P. Stutsman, Mayor and Richard R. Aguirre, Clerk-Treasurer, and acknowledged that as said representatives, they respectively executed the foregoing Interlocal Agreement for and on behalf of, and in the name of the City of Goshen, Common Council, for the uses and purposed therein mentioned, and that they were authorized so to do.

WITNESS my hand and notarial seal.

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

APPROVAL

The City of Nappanee Common Council hereby approves of the above and foregoing Interlocal Agreement this ___ day of _____, 2023.

City of Nappanee Common Council

By: _____

Printed: _____

Title: _____

ATTEST:

By: _____

Printed: _____

Title: _____

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, a Notary Public in and for said County and State, this ___ day of _____, 2023, personally appeared _____ (Name), _____ (Title) and _____ (Name), _____ (Title) and acknowledged that as said representatives, they respectively executed the foregoing Interlocal Agreement for and on behalf of, and in the name of the City of Nappanee Common Council for the uses and purposed therein mentioned, and that they were authorized so to do.

WITNESS my hand and notarial seal.

Printed Name: _____

Notary Public of _____ County, IN

My Commission Expires: _____

Commission Number: _____

This instrument was prepared by Matt Lawson, Atty. #31752-49, Asst. City Attorney,
City of Goshen, Indiana, 204 E. Jefferson, Suite 2, Goshen, Indiana 46526.

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. /s/ Matt Lawson



CITY OF GOSHEN LEGAL DEPARTMENT

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

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

To: Board of Public Works and Safety
From: Brandy L. Toms
Subject: Resolution 2023-11 – Ratifying the Special Purchase of a 2023 International Grapple Truck, Model MC607 SBA
Date: March 20, 2023

Attached for the Board's approval is Resolution 2023-11 Ratifying the Special Purchase of a 2023 International Grapple Truck, Model MC607 SBA. IC 5-22-10-5 allows the City to make a special purchase when there exists a unique opportunity to obtain supplies and services at a substantial savings to the City. The City Street Department needs a grapple truck to more effectively and efficiently perform various projects throughout the City. The City's Fleet Manager contacted W.A. Jones and learned that this piece of equipment would cost approximately \$300,000. The Fleet Manager had an opportunity to talk to the City of South Bend and got to inspect a similar unit learning the cost to them was approximately \$216,000. City's Fleet Manager then reached out to Best Equipment, Co., Inc and was informed of the availability of a 2023 International Grapple Truck that was drastically discounted after being used as a demonstration unit at a work truck show after a customer purchase fell through. Upon learning of the availability of this unit, City's Fleet Manager contacted the Mayor Stutsman about the availability, the substantial savings to the City and of the limited time it would be available. Given all these factors, Mayor Stutsman approved the purchase and delivery of the equipment was made to City Garage on March 10, 2023. This Board is being asked to ratify the purchase of the 2023 International Grapple Truck from Best Equipment, Co, Inc. for One Hundred Ninety-Six Thousand Four Hundred Forty-One Dollars and Forty-Seven Cents (\$196,441.47), made at a substantial savings to the City.

Suggested Motion:

Move to pass and adopt Resolution 2023-11 Ratifying the Special Purchase a 2023 International Grapple Truck, Model MC607 SBA from Best Equipment, Co, Inc. at a cost of One Hundred Ninety-Six Thousand Four Hundred Forty-One Dollars and Forty-Seven Cents (\$196,441.47).

GOSHEN BOARD OF PUBLIC WORKS AND SAFETY

RESOLUTION 2023-11

Ratify the Purchase of a 2023 International Grapple Truck, Model MC607 SBA

WHEREAS, the City through its purchasing agent may make a special purchase under Indiana Code § 5-22-10 without soliciting bids or proposals if it determines in writing the basis for the special purchase and the selection of a particular contractor.

WHEREAS, Indiana Code § 5-22-10-5 allows the City to make a special purchase when there exists a unique opportunity to obtain supplies or services at a substantial savings to the City.

WHEREAS, the City of Goshen Street Department has indicated their need for a grapple truck to more effectively and efficiently perform the various projects conducted throughout the City.

WHEREAS, the City of Goshen's Fleet Manager contacted W.A. Jones and received a verbal quote of approximately \$300,000. This quote was provided by W.A. Jones to the Fleet Manager with certainty as W.A. Jones was currently building two (2) of the same vehicles for the City of Elkhart. The Fleet Manager also contacted the City of South Bend, where he was able to inspect their grapple truck and learned the cost to the City of South Bend was \$216,447.96.

WHEREAS, the Fleet Manager contacted Best Equipment, Inc. and was made aware of a grapple truck available at a substantial savings due to the unit being used as a demonstration display at a work truck show after a customer order fell through.

WHEREAS, when the Fleet Manager learned of the availability of this grapple truck at a substantial savings to the City at a purchase price of \$196,441.47 and contacted Mayor Stutsman, who authorized the Fleet Manager to move forward with the purchase based on the fact that the grapple truck was immediately available and at substantial savings to the City.

WHEREAS, the Fleet Manager is now asking to ratify the purchase of the 2023 International grapple truck.

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

(1) That the purchase made by the Fleet Manager, under authorization of Mayor Stutsman, of a 2023 International Grapple Truck, Model MC607 SBA, at the cost of \$196,441.47, was made at a substantial savings and, therefore, is ratified. (A copy of the invoice is attached to this resolution and the vehicle was received by Central Garage on March 10, 2023).

(3) The contract records for the special purchase authorized by this resolution shall be maintained by the Goshen Board of Public Works and Safety in a separate file in the Clerk-Treasurer's Office for a minimum of five (5) years in accordance with Indiana Code § 5-22-10-3.

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

Jeremy P. Stutsman, Mayor

Mary Nichols, Member

Michael A. Landis, Member

Barb Swartley, Member



Remit To:
 BEST EQUIPMENT CO., INC
 5550 POINDEXTER DR
 INDIANAPOLIS, IN 46235-9041
 800-372-2378

INVOICE

Page 1 of 1

Invoice Number: S1213860
 Invoice Date: 3/10/2023

PLEASE INSPECT PROMPTLY.
 ALL RETURNS SUBJECT TO A 25% RESTOCKING FEE & FREIGHT CHARGES
 NO RETURNS ON ELECTRICAL ITEMS.
 NO RETURNS AFTER 30 DAYS.
 ANY INVOICE PAID AFTER THE INVOICE DUE DATE IS SUBJECT TO A
 MONTHLY FINANCE CHARGE OF 1.5% (ANNUAL RATE OF 18%)
 3% HANDLING CHARGE WILL BE ADDED TO ALL CREDIT CARD SALES.

EXPERTS IN MUNICIPAL AND CONTRACTOR ENVIRONMENTAL SOLUTIONS SINCE 1917

Bill
 To: CITY OF GOSHEN
 320 STEURY AVE
 GOSHEN, IN 46528

Ship
 To: CITY OF GOSHEN
 320 STEURY AVE
 GOSHEN, IN 46528

| | | | |
|-----------|------------------|----------------------|--------------|
| Ship Via | DELIVERY | Customer ID | GOSHEN |
| Ship Date | 3/10/2023 | P.O. Number | 22-1361 |
| Due Date | 3/10/2023 | P.O. Date | 3/9/2023 |
| Terms | DUE UPON RECEIPT | Original Invoice No. | 33273 |
| | | SalesPerson | MIKE BINKERD |

| Item/Description | Unit | Quantity | Unit Price | Total Price |
|---|------|----------|------------|-------------|
| PT-TL3-0223-4405 LIGHTNING LOADER ONE NEW PETERSEN, MODEL TL3 SERIAL # TL3-0223-4405 MOUNTED ON NEW 2023 INTERNATIONAL CHASSIS, MODEL MV607 SBA VIN # 1HTEUMMN2P5508107 | EACH | 1 | 196,441.47 | 196,441.47 |
| SOURCEWELL CONTRACT # 040621-PII SOURCEWELL MEMBERSHIP # 168175 | | | | |

LIABILITY OF THE GOODS/EQUIPMENT IN THIS
 SALES INVOICE TRANSFERS TO THE BUYER,
 ONCE EQUIPMENT IS UNLOADED/DELIVERED
 TO THE BUYER, AS ACKNOWLEDGED BY
 SIGNATURE OF THIS SALES INVOICE.

Carl Gaines Fleet Mgr. Mar 10, 2023
 SIGNATURE DATE

| | | |
|---|-------------------|-------------------|
| Amount Subject to Sales Tax USD 0 | Subtotal: | 196,441.47 |
| Amount Exempt from Sales Tax 196,441.47 | Invoice Discount: | 0.00 |
| | Tax: | 0.00 |
| | Total USD: | 196,441.47 |

BEST EQUIPMENT COMPANY, INC.

NEW EQUIPMENT DELIVERY FORM

Form to be completed in full at time of equipment delivery. Please return this completed form and signed invoice to Best Equipment Company, Inc.

| INTERNAL - Office to Complete | |
|--|--|
| BEST EQ. PO #: 22-6279 | INVOICE #: S1213860 |
| DATE OF DELIVERY: 03-10-2023 | |
| CUSTOMER/ORGANIZATION: City of Goshen Central Garage | |
| DELIVERY STREET ADDRESS: 320 Steury Ave | |
| CITY, STATE, ZIP: Goshen, IN 46528 | |
| SALES REPRESENTATIVE: Mike Binkerd | |
| SERVICE MANAGER: Kevin Weiss | |
| EQUIPMENT | |
| BODY MAKE: Petersen | CHASSIS MAKE: International |
| BODY MODEL: TL3 | CHASSIS MODEL: MV607 SBA |
| BODY SERIAL: 223-4405 | CHASSIS VIN: 1HTEUMMN2PS508107 |
| AUX HOURS: NA | MILEAGE: 2478 HOURS: 62 |

For equipment with multiple components, the primary/main component is listed on this form. This Delivery Form pertains to all delivered components.

Please see above referenced invoice for the complete list of additional components, if any.

| CUSTOMER - Customer to Complete | |
|--|--|
| CG <small>Customer Initial</small> | I HAVE BEEN GIVEN AND SHOWN THE ORIGINAL EQUIPMENT MANUFACTURER MANUAL AND/OR ELECTRONIC RESOURCES THAT OUTLINE PROPER SAFETY, OPERATION, AND MAINTENANCE PROCEDURES FOR THE EQUIPMENT DESCRIBED ABOVE. |
| CG <small>Customer Initial</small> | I ACKNOWLEDGE THAT AT DELIVERY, ADDITIONAL OPERATIONAL AND MAINTENANCE TRAINING, IF ANY, ARE SUPPLEMENTAL TO THE ORIGINAL EQUIPMENT MANUFACTURER MANUALS AND RESOURCES. |
| CG <small>Customer Initial</small> | I ACKNOWLEDGE RESPONSIBILITY FOR SAFETY, OPERATION, AND MAINTENACE AND KNOW WHERE TO FIND THE ORIGINAL EQUIPMENT MANUFACTURER MANUALS, RECOMMENDATIONS, AND REQUIREMENTS FOR SAFETY, OPERATION, AND MAINTENANCE. |
| NAME PRINTED: Carl Gaines | |
| TITLE: Fleet Manager | |
| SIGNATURE: <i>Carl Gaines / Fleet Mgr</i> | |
| DATE: Mar 10, 2023 | |

| BEST EQUIPMENT COMPANY, INC. - Sales Representative to Complete | |
|---|--|
| NAME PRINTED: Mike Binkerd | |
| TITLE: Northern Indiana Sales | |
| SIGNATURE: <i>Mike Binkerd</i> | |
| DATE: 2023-03-10 | |

*****REQUEST*****

DATE: Monday, March 20, 2023

TO: GOSHEN BOARD OF WORKS

FROM: GOSHEN WATER & SEWER
KELLY SAENZ

RE: UNPAID FINAL ACCOUNTS

The original amount of unpaid final Water/Sewer accounts for this period was **\$11,000.76**
Collection letters were sent out and payments of **\$3,103.99** had been collected.

The uncollected amount equals **\$7,896.77**

Therefore I am requesting to **move our uncollected finalized accounts from active to Collection, Sewer Liens and Write offs.**

These are accounts for the most part were finalized thru **Monday, December 19, 2022**

WATER: \$3,416.35
SEWER: \$4,480.42

TOTALS 6-2022

| | | |
|-----------------|-------------------|-------------|
| REPORT TOTAL | | \$11,000.76 |
| BPS TOTAL | \$3,189.03 | \$7,811.73 |
| COUNTY TOTAL | \$4,251.00 | \$3,560.73 |
| W-WRITE OFF | \$227.32 | \$3,333.41 |
| S-WRITE OFF | \$229.42 | \$3,103.99 |
| PAYMENT TOTAL | \$3,103.99 | \$0.00 |
| AGREEMENT TOTAL | \$0.00 | \$0.00 |



**Engineering Department
CITY OF GOSHEN**

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

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

MEMORANDUM

TO: Board of Public Works and Safety

FROM: Goshen Engineering Department

RE: **INDIANA AVENUE APARTMENTS
INDIANA AVENUE LANE RESTRICTIONS (JN: 2020-2010)**

DATE: March 20, 2023

Ancon Construction has requested permission to close the pedestrian path and the northbound turn lane of Indiana Avenue for the Indiana Avenue Apartments between Plymouth Avenue and the entrance to the Indiana Avenue Apartments, from Wednesday, March 29 until Saturday, April 1. The schools will be on spring break while the work is being performed. Work during this period, will include the removal of 7 failed sidewalk panels, and replacing with new panels. Northbound traffic will still have access on Plymouth Avenue, as shown in the attached traffic control plan.

Requested motion: Move to approve the closure of the pedestrian path and the northbound turn lane of Indiana Avenue between Plymouth Avenue and the entrance to the Indiana Avenue Apartments from March 29, 2023 until April 1, 2023.

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

Jeremy Stutsman, Mayor

Barb Swartley, Member

Mary Nichols, Member

Michael Landis, Member



Closed

Closed

2022/ 9/28 PM



**Engineering Department
CITY OF GOSHEN**

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

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

MEMORANDUM

TO: Board of Public Works and Safety

FROM: Goshen Engineering Department

RE: **ASPHALT PAVING PROJECT
(JN: 2023-0002)**

DATE: March 20, 2023

In order to properly complete the asphalt pavement on the north side of Oak Lane, work will extend beyond the existing right of way of Oak Lane. The temporary Right of Entry agreement will provide the contractor access to remove the existing concrete and repave with asphalt. The existing concrete has failed and will need removed in order for the asphalt paving to work properly. All disturbed areas will be restored per current City Standards.

Requested motion: Move to approve temporary Right of Entry agreement with James and Jennifer Hochstetler for property at 403 Oak Lane, and authorize Mayor Stutsman to sign on behalf of the City.

RIGHT OF ENTRY AGREEMENT

**With James Hochstetler and Jennifer Hochstetler
For Oak Lane Paving Project**

THIS RIGHT OF ENTRY AGREEMENT is entered into on March _____, 2023, between the City of Goshen, Indiana, a municipal corporation and political subdivision of the State of Indiana, by its Board of Public Works and Safety, hereinafter referred to as "City," and James Hochstetler and Jennifer Hochstetler, whose mailing address is 403 Oak Lane, Goshen, Indiana, hereinafter referred to as "Property Owner."

WHEREAS City is planning to pave, resurface, or replace the surface of Oak Lane, hereinafter referred to as "the Project;"

WHEREAS it is necessary for City to enter upon the land of Property Owner as part of the Project and wishes to begin the paving or resurfacing work as soon as possible; and

WHEREAS Property Owner is willing to grant this right of entry to allow City and its employees, agents, and contractors entry upon the real property described below for the purpose of paving, resurfacing, or replacing Oak Lane and proceeding with the Project.

NOW, THEREFORE, City and Property Owner agree as follows:

1. Property Owner grants City and its employees, agents, and contractors the right to enter upon real property located generally at 403 Oak Lane, Goshen, Indiana, and more particularly described as follows:

The extension of the boundaries of the right-of-way of Oak Lane a distance of one hundred four (104) feet, plus or minus, from its northern boundary.

2. The term of this right of entry shall terminate one (1) year from the execution of this right of entry agreement or upon completion of the Project, whichever occurs first.

3. This right of entry shall permit the City and its employees, agents, and contractors to enter upon the real property of Property Owner described in Paragraph 1 for the purpose of replacing the full depth of the current concrete surface of the drive depicted in blue on the 2023 City of Goshen Paving Package document, attached hereto and made a part hereof, and proceeding with the Project, and to do such acts thereon as would be permitted if the real property had actually been acquired by City. City agrees to perform the work in a manner that eliminates disruption to Property Owner's day-to-day functions as much as is reasonably possible. City agrees to indemnify Property Owner for any loss or damage to any of Property Owner's real property or fixtures located outside the area described in Paragraph 1 arising out of or in connection with the work under the Project. The City shall repair any damage it causes to the area described in Paragraph 1, and shall restore the surface outside of the paved area to the same or better condition that existed immediately prior to the use of the area described in Paragraph 1.

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

5. This agreement constitutes the entire agreement between the parties with respect to the subject of this agreement, and supersedes all other agreements or understanding between City and Property Owner related thereto.

IN WITNESS THEREOF, the undersigned have executed this Right of Entry Agreement on the dates set forth below.

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

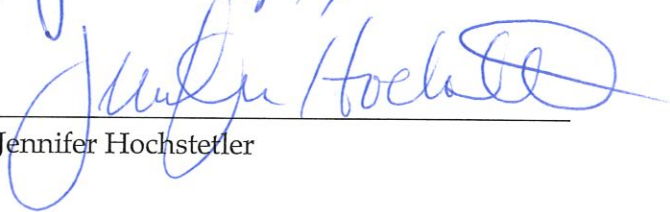
Property Owner

Jeremy P. Stutsman, Mayor



James Hochstetler

Date: _____

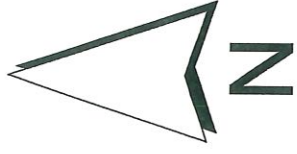


Jennifer Hochstetler

Date: 3/13/2023

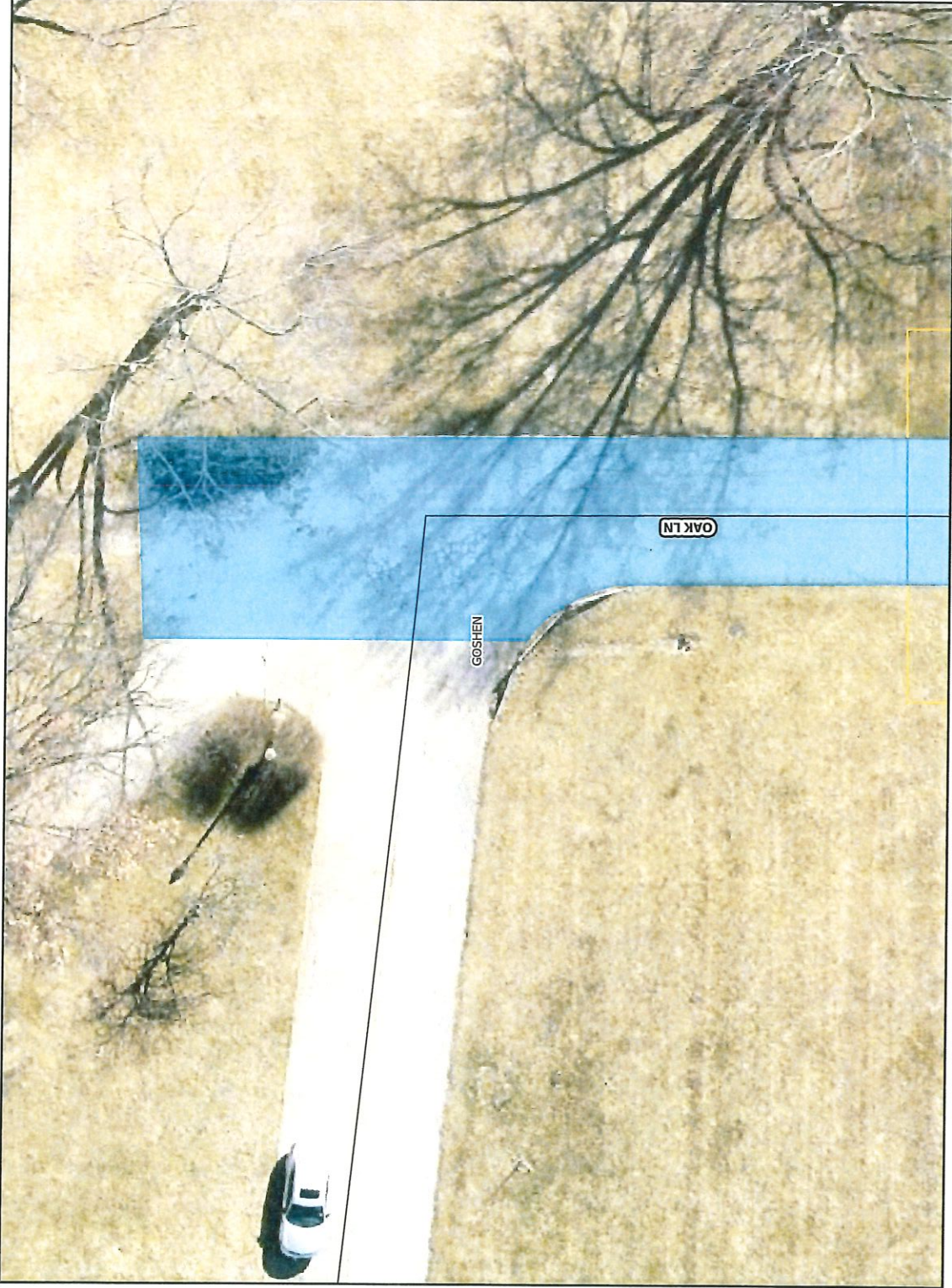
2023 City of Goshen Paving Package

Oak Lane from US 33 to Dead End. - Revised



Legend

- Full-Depth Reclamation
- Full-Depth Replacement
- Mill and Pave
- Mill and Pave w/ Full-Depth Patching
- Overlay
- Overlay w/ Full-Depth Patching



Extend concrete removal and new pavement to the end of the north-south roadway as shown. Approximately 280 square yards. Right of entry will be obtained by the City of Goshen Legal Department.



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

MEMORANDUM

TO: Board of Public Works and Safety and Stormwater Board

FROM: Stormwater Department

RE: **AGREEMENT WITH WESSLER ENGINEERING, INC. TO PROVIDE PROFESSIONAL SERVICES TO PREPARE A REVISED STORMWATER QUALITY MANAGEMENT PLAN AND WATER QUALITY CHARACTERIZATION REPORT AND TO UPDATE STORMWATER MANAGEMENT STANDARD OPERATING PROCEDURES**

DATE: March 20, 2023

The City of Goshen Stormwater Department is working to comply with the updated requirements of Indiana's current Municipal Separate Storm Sewer System General Permit (MS4GP), which took effect on December 18, 2021. As part of this process the Goshen Stormwater Department would like to contract with Wessler Engineering, Inc. to update the City's current Stormwater Quality Management Plan and Water Quality Characterization Report by July 15, 2023, at a cost not to exceed \$30,000. In addition, Wessler Engineering, Inc. will review the current stormwater management related standard operating procedures (SOPs) and update and create new SOPs as needed to comply with the current MS4GP requirements by November 5, 2023, at a cost not to exceed \$16,000.

The Goshen Stormwater Department requests the Board of Public Works and Safety acceptance of the attached agreement with Wessler Engineering, Inc. and approval for Mayor Stutsman to sign the agreement.

Requested Motion: Approve the Agreement with Wessler Engineering, Inc. for Professional Services for updating Goshen's Stormwater Quality Management Plan, Water Quality Characterization Report, and Assorted Standard Operating Procedures for a cost not to exceed \$46,000.

AGREEMENT

With Wessler Engineering, Inc. to provide Professional Services to Prepare a revised Stormwater Quality Management Plan and Complete a Water Quality Characterization Report.

THIS AGREEMENT is entered into on _____, 2023, which is the last signature date set forth below, by and between **Wessler Engineering, Inc.** (“Consultant”), whose mailing address is 6219 South East Street, Indianapolis, IN 46227, 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. Scope of Professional Services

Consultant shall provide City the professional services in conjunction with Municipal Separation Storm Sewer System Services (MS4), (hereinafter referred to as “Duties”).

On December 9, 2021, Indiana Department of Environmental Management (IDEM) eliminated the current MS4 permit-by-rule and issued the MS4 General Permit (MS4GP). This requires City to update their MS4 program to comply with the new permit requirements.

Consultant’s Duties under this agreement include:

- (A) Complete a Water Quality Characterization Report (WQCR) for receiving waters identified in the Notice of Intent (NOI). Include a land use assessment, inventory of stormwater quality structural and nonstructural management measures, identification of receiving water impairments and sensitive areas.
- (B) Prepare a revised Stormwater Quality Management Plan (SWQMP). Best management practices (BMPs) selected by City will include a description of the BMP, measurable goals, the responsible entity for implementation of the BMP, schedule, environmental impact, recordkeeping requirements and annual reporting information. The SWQMP will address each of the minimum control measures (MCMs) and contain the following:
 - 1. Update the public education and outreach requirements (MCMs 1 and 2) to incorporate the new requirements and implementation timetables.
 - 2. Update the illicit discharge detection and elimination (IDDE) requirements (MCM 3) to include the new requirements and implementation timetables.
 - 3. Update the construction and post-construction requirements (MCMs 4 and 5) to incorporate the new requirements and implementation timetables.
 - 4. Update the municipal operations pollution prevention and good housekeeping requirements (MCM 6) to incorporate the new requirements and implementation timetables.

- (C) Provide a summary table for tracking measurable goals and annual reporting information. Consultant and City to develop methods for tracking measurable goals for ongoing program implementation and annual reporting for all minimum control measures. Services do not include the preparation of the annual report.
- (D) Summarize training requirements according to the MS4GP for MS4 staff, construction contractors/builders, and reviewers and inspectors.
- (E) Organize and conduct approximately four meetings in 2023 with City. It is anticipated that three meetings will be held virtually with one in-person meeting. Topics will include:
 - 1. Review MS4 documents available from City and incorporate into a new SWQMP format.
 - 2. Review MCMs 1, 2, and 3 (public education, outreach, participation and involvement and illicit discharge detection and elimination).
 - 3. Review MCMs 4 and 5 (construction site stormwater runoff and post-construction stormwater runoff).
 - 4. Review MCM 6 (municipal operations pollution prevention and good housekeeping).
- (F) Preparation and/or updating of up to thirty (30) standard operation procedures (SOPs) corresponding to the five minimum control measures (MCMs):
 - 1. Public Education, Outreach, Participation, and Involvement;
 - 2. Illicit Discharge Detection and Elimination;
 - 3. Construction Site Stormwater Run-Off;
 - 4. Post- Construction Stormwater Run-Off;
 - 5. Municipal Operations Pollution Prevention & Good Housekeeping.

Section 2. Effective Date; Term

- (A) The agreement shall become effective on the day of execution and approval by both parties.
- (B) Consultant acknowledges that time is of the essence and that the timely performance of its Duties is an important element of this agreement. Consultant shall perform all Duties as expeditiously as is consistent with professional skill and care in the orderly progress of the Duties.
- (C) Consultant shall complete all Duties described in Scope of Professional Services Items A-E by July 15, 2023.
- (D) Consultant shall complete all Duties described in Scope of Professional Services Item F by November 5, 2023.

Section 3. Compensation

- (A) City agrees to compensate Consultant as follows for performing all Duties:

| | |
|---|------------------------|
| Scope of Professional Services Items A-E..... | Not-to-Exceed \$30,000 |
| Scope of Professional Services Item F..... | Not-to-Exceed \$16,000 |

- (B) City will compensate Consultant for the time and materials based on the Hourly Rate and Reimbursement Expense Schedule set forth below and the actual hours worked, but in no event will the total compensation exceed the fees set forth in paragraph (B) for the respective Duties. Consultant's Hourly Rate and Reimbursement Expense Schedule is as follows:

2023 HOURLY RATE and REIMBURSABLE EXPENSE SCHEDULE

| <u>Position</u> | <u>Hourly Rate*</u> |
|--|-------------------------|
| Principal Engineer I/II | \$235/\$250 |
| Senior Project Manager I/II | \$210/\$235 |
| Senior Project Engineer I/II | \$210/\$235 |
| Project Manager I/II | \$165/\$175 |
| Assistant Project Manager | \$145 |
| Project Engineer I/II/III/IV | \$135/\$145/\$165/\$175 |
| Engineer | \$120 |
| Electrical/Control System Senior Project Manager I/II | \$210/\$250 |
| Electrical/Control System Senior Project Engineer I/II | \$210/\$240 |
| Electrical Project Manager I/II | \$165/\$175 |
| Electrical Project Engineer I/II/III/IV | \$135/\$145/\$165/\$175 |
| Electrical Engineer | \$120 |
| Control System Engineer I/II/III/IV | \$125/\$145/\$165/\$180 |
| Control System Technician I/II | \$95/\$105 |
| Environmental Services Senior Project Manager I/II | \$165/\$175 |
| Environmental Services Project Manager I/II | \$140/\$150 |
| Environmental Services Assistant Project Manager | \$115 |
| Environmental Scientist I/II/III | \$90/\$100/\$110 |
| Senior CAD Manager I | \$180 |
| CAD Manager I/II | \$135/\$160 |
| GIS Manager I/II | \$130/\$155 |
| Senior Designer I/II | \$125/\$140 |
| Designer | \$115 |
| GIS Technician I/II/III | \$95/\$105/\$115 |
| Technician I/II/III/IV | \$70/\$90/\$100/\$110 |
| Senior Resident Project Representative I/II | \$120/\$130 |
| Resident Project Representative I/II/III/IV | \$70/\$90/\$100/\$110 |
| Senior Field Services Manager | \$150 |
| Field Services Manager I/II | \$120/\$135 |
| Registered/Professional Land Surveyor | \$210 |
| Senior Survey Technician | \$150 |
| Survey Manager I/II | \$135/\$145 |
| Survey Crew Chief I/II/III | \$90/\$100/\$110 |
| Utility Coordinator | \$135 |

| | |
|-----------------------|-------------|
| Project Analyst I/II | \$105/\$120 |
| Project Coordinator | \$90 |
| Project Administrator | \$65 |

Reimbursable Expenses shall be charged as follows:

| <u>Item and Unit</u> | <u>Unit Cost</u> |
|--|-------------------------------|
| Mileage (per mile) | At current IRS published rate |
| Copies:(each) Black & White 8.5"x11" / 11"x17" | \$0.20 |
| 24"x36" | \$1.00 |
| Color 8.5"x11"/ 11"x17" | \$0.25/\$0.50 |
| Plots-Bond: (each) 12"x18"/ 24"x36" | \$0.50/\$1.00 |
| GPS Survey Equipment/Robotic Total Station/ GPS Map Kit | \$25.00 per hour |
| Drone Equipment | \$25.00 per hour |
| Sewer CCTV Camera | \$20.00 per hour |
| Postage/shipping/freight, Lodging and Per Diems | At Cost |
| Subcontractor/Subconsultant fees | Cost + 10% |
| eCommunication Construction Software License through Eastern Engineering (per project) | At Cost |

Section 4. Payment

- (A) City shall pay Consultant for Duties satisfactorily completed under this agreement.
- (B) Payment shall be upon City's receipt of a detailed invoice from Consultant. 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 Stormwater Department
204 East Jefferson Street, Suite 1
Goshen, IN 46528

- (C) Payment will be made within forty-five (45) days following City's receipt of the invoice. If any dispute arises, the undisputed amount will be paid. Payment is deemed to be made on the date of mailing the check.
- (D) Consultant 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 Consultant or Consultant's employees, agents or subconsultants under this agreement, shall become and remain the property of and may be used by City. Consultant may retain a copy of the Documents for its records.

Section 6. Licensing/Certification Standards

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

Section 7. Independent Consultant

- (A) Consultant shall operate as a separate entity and independent Consultant of the City of Goshen. Any employees, agents or subconsultants of Consultant shall be under the sole and exclusive direction and control of Consultant and shall not be considered employees, agents or subconsultants 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 Consultant and/or Consultant's employees, agents or subconsultants.
- (B) Consultant understands that City will not carry worker's compensation or any other insurance on Consultant and/or Consultant's employees or subconsultants. Prior to commencing work under this agreement, and if Consultant utilizes employees or subconsultants to perform work under this agreement, Consultant agrees to provide City a certificate(s) of insurance showing Consultant's and any subconsultant's compliance with workers' compensation statutory requirements.
- (C) Consultant 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

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 subconsultants, or any other person acting on behalf of Consultant or a subconsultant, 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) 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 subconsultants, who perform work under this contract, to certify to the Consultant that the subconsultant does not knowingly employ or contract with an unauthorized alien and that the subconsultant 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 subconsultant.
- (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 10. 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 11. 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 12. Indemnification

Consultant 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 Consultant or any of Consultant'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 Consultant 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 Consultant fails to perform the services or comply with the provisions of this agreement, then Consultant may be considered in default.
- (B) It shall be mutually agreed that if Consultant 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 Consultant 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 Consultant shall be liable to the City for any excess costs incurred

- (C) Consultant may also be considered in default by the City if any of the following occur:
- (1) There is a substantive breach by Consultant of any obligation or duty owed under the provisions of this contract.
 - (2) Consultant is adjudged bankrupt or makes an assignment for the benefit of creditors.
 - (3) Consultant becomes insolvent or in an unsound financial condition so as to endanger performance under the contract.
 - (4) Consultant 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 Consultant or any of Consultant's property.
 - (6) Consultant is determined to be in violation of federal, state, or local laws or regulations and that such determination renders Consultant unable to perform the services described under these Specification Documents.
 - (7) The contract or any right, monies or claims are assigned by Consultant 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. Consultant 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 Consultant.
- (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

Consultant: Wessler Engineering, Inc.
6219 South East Street
Indianapolis, IN 46227

Section 17. Subcontracting or Assignment

Consultant 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 Consultant to subcontract or assign any portion of the agreement shall not be construed to relieve Consultant 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) Consultant 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) Consultant 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 Consultant.

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

Wessler Engineering, Inc.

Jeremy P. Stutsman, Mayor

Printed: _____

Title: _____

Date Signed: _____

Date Signed: _____