



## **Board of Public Works & Safety and Stormwater Board**

Regular Meeting Agenda

**2:00 p.m., May 8, 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: April 24, 2023**

### **Approval of Agenda**

- 1) Police Department:** Approve the hiring of Seth D. Bayes for the position of probationary patrol officer, effective May 8, 2023
- 2) Fire Department:** Street closures request for the Memorial Day Parade (May 29, 2023)
- 3) Legal Department:** Approve and authorize Mayor Stutsman to execute the agreement with Kendall Electric for the reconditioning of five (5) breakers previously evaluated with the total cost to City of \$86,989
- 4) Water & Sewer Office:** Request to move \$8,574.11 in uncollected finalized accounts from active to collection, sewer liens and write offs
- 5) Engineering Department:** Approve and authorize the Board to execute the Agreement with Elkhart County for the use of Laredo regarding online access to real estate records.

### **Privilege of the Floor**

### **Approval of Civil City and Utility Claims**

### **Adjournment**



**BOARD OF PUBLIC WORKS & SAFETY & STORMWATER BOARD  
MINUTES OF THE APRIL 24, 2023 REGULAR MEETING**

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

**Present:** Mayor Jeremy Stutsman, Mike Landis and Mary Nichols

**Absent:** Barb Swartley

**CALL TO ORDER:** Mayor Stutsman called the meeting to order at 2:01 p.m.

**REVIEW/APPROVE MINUTES:** Mayor Stutsman presented the minutes of the April 17, 2023 Regular Meeting. Board member Mary Nichols moved to approve the minutes of the April 17, 2023 meeting as presented. The motion was seconded by Board member Mike Landis. Motion passed 3-0.

**REVIEW/APPROVE AGENDA:** Mayor Stutsman presented the meeting agenda. Board member Nichols moved to approve the agenda as submitted. Board member Landis seconded the motion. Motion passed 3-0.

**1) Fire Department: Promotion of Andrew T. LoPresti to Private First Class, retroactive to April 12, 2023**  
Goshen Fire Department Chief Dan Sink told the Board that Andrew T. LoPresti completed his probationary year at the Fire Department on April 12, 2023. Based on his performance and recommendations from his Battalion Chief and Training Officer. Chief Sink requested that LoPresti be promoted to the rank of Private First Class for the Fire Department, retroactive to April 12, 2023.

Nichols/Landis moved to approve the promotion of Andrew T. LoPresti to the rank of Private First Class for the Goshen Fire Department, retroactive to April 12, 2023. Motion passed 3-0.

*After Board approval, Mayor Stutsman swore Andrew T. LoPresti into office as a GFD Private First Class.*

**2) Downtown Goshen Inc. requests: First Friday and related street closures for May 5, June 2, June 3, Aug. 4 and Sept. 1, 2023**

Amanda McMahon, Director of First Fridays for Downtown Goshen Inc., asked the Board for a series of street closures and parking space reservations for First Friday activities as a supplement to her requests in January.

**Requests:** May 5, six parking spaces on Lincoln Avenue on the north side of the street from the Police Booth headed west; June 2, closure of Main Street, from Jefferson Street to Lincoln Avenue, and a half block of East Washington Street, from Main Street to the alley, noon to 10 p.m.; June 3, closure of Main Street, from Jefferson Street to Lincoln Avenue, and a half block of East Washington Street, from Main Street to the alley, until 4 p.m. and a block between Jefferson Street and Lincoln Avenue to remain closed overnight on June 2 until 4 p.m. on June 3; August 4, in addition to original request, the closure of East Washington Street, from the alley to Main Street, from noon to 10 p.m.; and Sept. 1, in addition to the original request, the closure of Main Street, from Jefferson Street to Lincoln Avenue, from noon to 10 p.m. Street barricades also were requested at each end of the street closures.

McMahon informed the Board that affected businesses would be notified of the closures.

Mayor Stutsman asked if there were any City staff responses to the requests. There were none.



Nichols/Landis moved to approve the requested closures and use of parking space as indicated in McMahon's memorandum to the Board. Motion passed 3-0.

**3) Request from Goshen churches: Use of a portion of the City Parking Lot at 315 W. Washington St. for the Health and Compassion Festival, May 6, 2023 (José Luis Gutiérrez)**

Through a translator, **José Luis Gutiérrez, Pastor of Comunidad Cristiana Adulam**, requested permission to use the center portion of the City parking lot, located just north of Goshen Brewing Company at 315 W. Washington St., for the first Health and Compassion Festival, which is being sponsored by a number of local churches.

In his written request to the Board, **Pastor Gutiérrez** asked for use of a portion of the parking lot starting at 6 p.m. on May 5 and continuing until after the festival, which will be from 8 a.m. until 2 p.m. on May 6. He indicated organizers planned to set up tents, tables, and chairs for nonprofits, children's activities, free haircuts, and dispersal of provisions and to allow foot traffic throughout this area of the parking lot.

**Gutiérrez** also wrote that two adjacent businesses, Goshen Brewing Company and the Center for Healing and Hope, support the festival. He requested "no parking" signs to be staked at the included parking spots the night before the event. He also requested access to the City owned electrical outlets at the north end of the lot.

**Mayor Stutsman** asked if there were any City staff questions or concerns about the requests. There were none.

**Nichols/Landis** moved to allow use of a portion of the City parking lot located just north of Goshen Brewing Company at 315 W. Washington St., and the use of City electrical outlets from 6 p.m. on May 5 through 2 p.m. on May 6, for the first Health and Compassion Festival. Motion passed 3-0.

**4) Business request: The Wholesome Tortilla request for alley and projection lighting for its temporary restaurant at 119 East Lincoln Avenue (Magali Vergara & Rafael Chavez)**

**Rafael Chávez y Moreno and Magali Vergara López, owners of The Wholesome Tortilla**, asked for approval to install decorative lights in the alley between 115 and 119 East Lincoln Avenue to provide safety in the alley at night, to provide aesthetic enhancement within the alleyway, and to lead passersby to their new restaurant. **Chávez** said the Wholesome Tortilla was moved into a space behind Venturi, 123 E. Lincoln Ave.

In response to a question from **Mayor Stutsman**, **Vergara** clarified that she and **Moreno** were only asking for permission to install lights in the alley. In response to a question from **Board member Landis**, **Moreno** said he would be installing the lights.

**City Director of Public Works & Utilities Dustin Sailor** said the lights will need to be 16 feet in height. **Board member Landis** advised that the lights will need to be strong enough to not fall on passing vehicles.

**Nichols/Landis** moved to approve the request from **Rafael Chávez y Moreno and Magali Vergara López** to install lights in the alley between 115 and 119 East Lincoln Avenue. Motion passed 3-0.

**5) Mayor's Office: Approve agreement between the City of Goshen and the Michiana Area Council of Governments (MACOG) and authorize the Mayor to sign the agreement (authorizes the City making \$62,000 in local matching funds available to MACOG)**

**Mayor Stutsman** told the Board that up for approval was an annual agreement between the City and the Michiana Area Council of Governments (MACOG) to provide Interurban Trolley Service to the City of Goshen.



Under the agreement, MACOG will receive grants from the Indiana Department of Transportation (INDOT) and from the Federal Transit Administration (FTA) for the program's administration, operation, and capital equipment needs as outlined in the annual Elkhart-Goshen Urbanized Area Program of Projects. The City will make available to MACOG \$62,000 in local matching funds for the period Jan. 1, 2023 through Dec. 31, 2023.

Before the meeting, the Clerk-Treasurer distributed a memorandum, dated April 24, 2023, by **City Attorney Bodie Stegelmann** explaining and recommending approval of the Transit Services Agreement between the City of Goshen and the Michiana Area Council of Governments for Interurban Trolley and Interurban Trolley ADA Paratransit Services (**EXHIBIT #1**).

**Mayor Stutsman** said \$62,000 would go to MACOG for trolley service in 2023. He added that the cost to the City of Goshen is expected to increase when MACOG expands trolley service. **City Attorney Stegelmann** said the \$62,000 in funds would be the same amount as called for in last year's agreement.

**Nichols/Landis** moved to approve the transit services agreement between the City of Goshen and the Michiana Area Council of Governments and authorize the Mayor to sign the agreement. Motion passed 3-0.

**6) Legal Department: Resolution 2023-14 – Declaring Surplus and Authorizing the Disposal of IT Equipment**  
**Shannon Marks**, the Legal Compliance Administrator for the City Legal Department, told the Board that the City Information Technology Department wishes to dispose of 25 custom computer towers that are no longer needed or are unfit for the purpose for which they were intended. Components will be reused or recycled where possible. Marks said Resolution 2023-14 would declare the property as surplus and authorize its disposal in accordance with the provisions of Indiana Code § 5-22-22-8 by demolishing or junking property that is worthless or of no market value. **Nichols/Landis** moved to pass Resolution 2023-14 – Declaring Surplus and Authorizing the Disposal of IT Equipment. Motion passed 3-0.

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

**Mayor Stutsman** opened Privilege of the Floor at 2:14 p.m. There were no comments.

**Approval of Civil City and Utility Claims**

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

**Adjournment**

**Mayor Stutsman** adjourned the Board of Works & Safety meeting at 2:14 p.m.

**EXHIBIT #1: Memorandum, dated April 24, 2023, by City Attorney Bodie Stegelmann explaining and recommending approval of the Transit Services Agreement between the City of Goshen and the Michiana Area Council of Governments for Interurban Trolley and Interurban Trolley ADA Paratransit Services.**



APPROVED:

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Mayor Jeremy P. Stutsman

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Mike Landis, Member

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Mary Nichols, Member

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Barb Swartley, Member

ATTEST

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Richard R. Aguirre, City of Goshen Clerk-Treasurer



**Jose' D. Miller**

**Chief of Police**

111 E Jefferson St  
Goshen, Indiana 46528

TO: Goshen Board of Public Works & Safety  
Mayor Jeremy Stutsman  
Member Mary Nichols  
Member Mike Landis  
Member Barb Swartley

Date: May 8<sup>th</sup>, 2023

From: Jose' Miller, Chief of Police

Reference: The hiring of Seth D. Bayes

I am requesting that the Board of Public Works and Safety **approve the hiring of Seth D. Bayes for the position of probationary patrol officer.**

Seth has passed all exams and has been approved by both the local and State pension boards. Seth is an Army veteran who served for approximately seven (7) years. Seth left the armed forces and was hired by the Elkhart County Sheriff's Office. Seth started his career in the Sheriff's Office corrections division. Seth graduated from the Indiana Law Enforcement Academy and became a deputy on the patrol division where he worked for approximately two (2) years.

I would like this hiring to be **effective today May 8<sup>th</sup>, 2023**. I believe Seth will make a great addition to the Goshen Police Department and this community.

Seth will not be present for the Board of Works Meeting. He will be sworn in at another time and place.

A handwritten signature in black ink, appearing to be "J. Miller", written in a cursive style.

Jose' Miller #116  
Chief of Police  
Goshen City Police Department  
111 E. Jefferson Street  
Goshen, IN. 46528

**Telephone: (574) 533-8661**

**Hearing Impaired: (574) 533-1826**

**FAX: (574) 533-1826**



**Danny C. Sink, Chief**  
**FIRE DEPARTMENT, CITY OF GOSHEN**  
209 North Third Street • Goshen, IN 46526-3201

Phone (574) 533-7878 • Fax (574) 534-2804 • TDD (574) 534-3185  
dannysink@goshencity.com • www.goshenindiana.org

April 27, 2023

To: The Board of Works and Public Safety

RE: Memorial Day Parade

From: Fire Chief Danny Sink

On behalf of the VFW and the DAV; I would like to request permission for the annual Memorial Day Parade on Monday, May 29, 2023. The parade will begin at 10 – 10:15 a.m.

Our parade route will be the usual; starting on Jefferson Street at the Police Department – Main Street – Pike Street – N. First Street – to Oakridge Cemetery.

I would also like to request the closing of:

- 100 and 200 blocks E. Jefferson Street
- S. 5<sup>th</sup> Street between Washington and Madison Street

For staging of vehicles and apparatus for the parade.

Thank you for your consideration.



## 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](http://www.goshenindiana.org)

May 8, 2023

**To:** Board of Public Works and Safety

**From:** Brandy L. Toms

**Subject:** Agreement with Kendall Electric for Reconditioning of 5 breakers.

On behalf of Wastewater, attached for the Board's approval and authorization for the Mayor to execute is an agreement with Kendall Electric, an authorized distributor for Eaton Corporation. After some time spent on negotiating terms, Eaton Corp has requested that the City process this order through Kendall Electric, in order to meet City's terms. Eaton Corp will still do the reconditioning work of five (5) breakers and expect the work to be completed within 12 weeks' time. Once reconditioned, these breakers will be reserved for use as emergency replacements should the need ever arise. Kendall Electric will be paid a total sum of \$86,989.00 for the reconditioning of the breakers.

### **Suggested Motion:**

Approve and authorize Mayor Stutsman to execute the agreement with Kendall Electric for the reconditioning of five (5) breakers previously evaluated with the total cost to City of \$86,989.00.

# AGREEMENT

## With Kendall Electric Reconditioning of Five (5) DS Breakers

THIS AGREEMENT is entered into on \_\_\_\_\_, 2023, which is the last signature date set forth below, by and between **Kendall Electric** (“Contractor”), an authorized distributor for Eaton Corporation, whose mailing address is 4905 Lincolnway East, Mishawaka, IN 46544, and **City of Goshen, Indiana**, a municipal corporation and political subdivision of the State of Indiana acting through the Goshen Board of Public Works and Safety (“City”).

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

### **Section 1. Contractor Duties**

Contractor shall provide City the services to recondition five (5) DS breakers and to provide and install new trip units, which services are more particularly described in Contractor’s April 25, 2023 Quote No.: S112932078 attached as Exhibit A which references and incorporates Eaton Corp’s April 18, 2023 proposal No.: CHK4-220727-06-BPB attached hereto as Exhibit B (hereinafter referred to as “Duties”).

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

### **Section 2. Effective Date; Term**

- (A) The agreement shall become effective on the day of execution and approval by both parties (the “Effective Date”).
- (B) Contractor agrees to complete its Duties and return the breakers to the City within 12 weeks of the Effective Date.

### **Section 3. Compensation**

City agrees to compensate Contractor as follows for performing all Duties:

<b>Item</b>	<b>Description</b>	<b>Price (DIST NET)</b>
001	Westinghouse DS-420: Full Class I Reconditioning along with Digitrip 910LSG trip unit and new motor	\$17,738
002	Westinghouse DS-416H: Full Class 1 Reconditioning along with Digitrip 910LSG trip unit	\$17,393
003	Westinghouse DS-416H: Full Class 1 Reconditioning along with Digitrip 910LSG trip unit	\$17,393
004	Westinghouse DSL-206: Full Class 1 Reconditioning along with Digitrip 910LSG trip unit	\$17,048
005	Westinghouse DS-632: Full Class 1 Reconditioning along with Digitrip 910LSG trip unit	\$17,417
<b>Total Price:</b>		<b>\$86,989</b>

#### **Section 4. Payment**

- (A) City shall pay Contractor the agreed price(s) set forth in Section 3 above for each phase of Duties, (i.e. each “Item” set forth in Section 3, above), satisfactorily completed under this agreement as Items are completed.
- (B) Payment shall be made forty-five (45) days following the City’s receipt of a detailed invoice from Contractor. The invoice shall be sent to the following address, or at such other address as City may designate in writing.

City of Goshen  
c/o Goshen Wastewater Department  
1000 W. Wilden Ave  
Goshen, IN 46528
- (C) If any dispute arises, the undisputed amount will be paid. Payment is deemed to be made on the date of mailing the check.
- (D) Contractor is required to have a current W-9 form on file with the Goshen Clerk-Treasurer’s Office before City will issue payment.

#### **Section 5. Ownership of Documents**

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

#### **Section 6. Licensing/Certification Standards**

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

#### **Section 7. Independent Contractor**

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

reporting of compensation earned and payment of taxes. City will not withhold federal, state or local income taxes or any other payroll taxes.

### **Section 8. Non-Discrimination**

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

### **Section 9. Employment Eligibility Verification**

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

### **Section 10. Contracting with Relatives**

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

### **Section 11. No Investment Activities in Iran**

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

## **Section 12. Indemnification**

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

## **Section 13. Force Majeure**

- (A) Except for payment of sums due, neither party shall be liable to the other or deemed in default under this agreement if and to the extent that such party's performance under this agreement 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 agreement and the other party shall have no recourse.

## **Section 14. Default**

- (A) If Contractor fails to perform the Duties or comply with the provisions of this agreement, then Contractor may be considered in default.
- (B) It shall be mutually agreed that if Contractor fails to perform the Duties or comply with the provisions of this agreement, City may issue a written notice of default and provide a period of time that shall not be less than fifteen (15) days in which Contractor shall have the opportunity to cure. If the default is not cured within the time period allowed, the agreement may be terminated by the City. In the event of default and failure to satisfactorily remedy the default after receipt of written notice, the City may otherwise secure similar services in any manner deemed proper by the City, and Contractor shall be liable to the City for any excess costs incurred
- (C) Contractor may also be considered in default by the City if any of the following occur:
  - (1) There is a substantive breach by Contractor of any obligation or duty owed under the provisions of this agreement.
  - (2) Contractor is adjudged bankrupt or makes an assignment for the benefit of creditors.
  - (3) Contractor becomes insolvent or in an unsound financial condition so as to endanger performance under the agreement.

- (4) Contractor becomes the subject of any proceeding under law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors.
- (5) A receiver, trustee, or similar official is appointed for Contractor or any of Contractor's property.
- (6) Contractor is determined to be in violation of federal, state, or local laws or regulations and that such determination renders Contractor unable to perform the Duties described herein.
- (7) The agreement or any right, monies or claims are assigned by Contractor without the consent of the City.

### **Section 15. Termination**

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

### **Section 16. Notice**

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

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

Contractor: Kendall Electric  
Attention: Jim Gronewold  
4905 Lincolnway East  
Mishawaka, IN 46544

### **Section 17. Subcontracting or Assignment**

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

## **Section 18. Amendments**

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

## **Section 19. Waiver of Rights**

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

## **Section 20. Applicable Laws**

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

**Section 25. Authority to Bind Contractor**

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

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

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

**Kendall Electric**

\_\_\_\_\_  
Jeremy P. Stutsman, Mayor

\_\_\_\_\_  
Printed: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_



Quotation S112932078

Order Date: 04/25/23	
Terms: Net Due 45 Days	
Customer PO#	Release #
DS BREAKER RECONDITI	
Ordered By: CHARLIE RIGGS	
Phone: 574-534-5901	

KENDALL ELECTRIC  
 4905 LINCOLNWAY E  
 MISHAWAKA IN 46544-4229  
 574-259-0026 Fax 574-259-0109

Sold To: 146629  
 GOSHEN (CITY OF)  
 1000 WEST WILDEN AVENUE  
 ATTN CHARLIE RIGGS  
 GOSHEN, IN 46528

Ship To: 232072  
 GOSHEN (CITY OF) DS BREAKER RECON  
 1000 WEST WILDEN AVENUE  
 GOSHEN, IN 46528-2532

Warehouse	Ship Via	Freight Allowed		Account Manager	Inside Salesperson	
EMSH	DIRECT	Out: No	In: No	STEVEN LOW, 6931- EELK	JAMES GRONEWOLD, 3402-EMS	
Cust Ln #	Order Qty	ID #	Description	Req Date	Price / UOM	Ext Amount
	1ea	3636520	^LOT OF EATON per Neg# CGK4-220727-06-BPB	04/25/23	86989.000	86989.00
			This Lot Shipment Consists of:			
			Ord Qty Shp Qty Description			
			1 WESTINGHOUSE DS-420: FULL CLASS I RECONDITIONING ALONG WITH DIGITRIP 910LSG TRIP UNIT AND NEW MOTOR			
			1 WESTINGHOUSE DS-416H: FULL CLASS I RECONDITIONING ALONG WITH DIGITRIP 910LSG TRIP UNIT			
			1 WESTINGHOUSE DS-416H: FULL CLASS I RECONDITIONING ALONG WITH DIGITRIP 910LSG TRIP UNIT			
			1 WESTINGHOUSE DSL-206: FULL CLASS I RECONDITIONING ALONG WITH DIGITRIP 910LSG TRIP UNIT			
			1 WESTINGHOUSE DS-632: FULL CLASS I RECONDITIONING ALONG WITH DIGITRIP 910LSG TRIP UNIT			
			*** TAXES NOT INCLUDED ***			
					Subtotal	86989.00
					S&H CHGS	TBD
					Sales Tax	TBD
					Amount Due	86989.00

This quotation is an offer to sell you the goods or services described herein on the terms set forth above and on our standard Terms and Conditions of Sale, which are available at [http://www.kendallgroup.com/legal/t\\_and\\_c\\_sale](http://www.kendallgroup.com/legal/t_and_c_sale) or by calling 800-632-5422. Your order of any goods or services identified in this quotation constitutes your acceptance of our standard Terms and Conditions of Sale. We object to any different or additional terms and reject any prior offers we received from you. Wire, conduit & pipe pricing valid for 04/25/2023 only. Open, special order or non-stock items may not be returnable. Prices expire on, and are subject to change after, 05/25/2023 unless otherwise stated on our quotation, cover page, or e-mail.

04/18/2023

**PROPOSAL**

TO: CITY OF GOSHEN

RE: **Negotiation Number: CGK4-220727-06-BPB**  
**Subject: DS Breaker Reconditioning**  
**Jobsite Location: Goshen, IN**

Eaton's Electrical Services & Systems (EESS) is pleased to provide the following proposal for the work scope described herein:

**SCOPE OF WORK**

Eaton's Electrical Services & Systems will provide the necessary field service personnel, tools, materials and approved test equipment to perform the following work on:

As a result of the evaluation of the 5 DS breakers sent to Eaton's Power Breaker Reconditioning Center, Eaton recommends that all 5 circuit breakers be Class Reconditioned. In addition to the Class 1 reconditioning, all of the breakers will require for Eaton to provide and install new trip units. The DS-420 needs a new motor for its electrical operation.

Note that no on-site labor is included in this proposal and shipping and installation of breakers is the customer's responsibility.

**Class 1 Reconditioning** is the process of maintaining Low Voltage (LV) or Medium Voltage (MV) power circuit breakers or contactors by complete tear down to the smallest component level of the entire device, including component specific cleaning, component level inspection and testing to restore the breaker to operating condition using the Original Breaker Manufacturer's information and replacement parts. Reverse engineered parts (designs copied from existing parts by other manufacturers) are not considered to be "qualified design parts" unless specifically design verified.

Eaton is pleased to provide the following proposal for our Class 1 Reconditioning of Low Voltage Circuit Breakers. Eaton's Reconditioning process is comprised of a 6 point process including:  
Receiving/inspection/testing (unique ID assigned and registered into Eaton database)  
Complete disassembly (without complete disassembly, problems may not be clearly visible)  
Component specific cleaning and analysis  
Reassembly  
Final inspection & test per IEEE/NEMA  
Documentation into a computerized data base

Benefits realized with a Class 1 Reconditioned circuit breaker include:

- Maximize system uptime
- System reliability
- Standardize on design and features
- System coordination
- Safety
- Reduce maintenance costs

**PRICING**

To provide the services as described above, Eaton Corporation would charge:

Item	Description	Price (C/N)
001	Westinghouse DS-420: Full Class I Reconditioning along with Digitrip 910LSG trip unit and new motor	\$17,738.00
002	Westinghouse DS-416H: Full Class 1 Reconditioning along with Digitrip 910LSG trip unit	\$17,393.00
003	Westinghouse DS-416H: Full Class 1 Reconditioning along with Digitrip 910LSG trip unit	\$17,393.00
004	Westinghouse DSL-206: Full Class 1 Reconditioning along with Digitrip 910LSG trip unit	\$17,048.00
005	Westinghouse DS-632: Full Class 1 Reconditioning along with Digitrip 910LSG trip unit	\$17,417.00
<b>Total Price(C/N):</b>		<b>\$86,989.00</b>

**CLARIFICATIONS AND EXCEPTIONS**

- **Seller shall not be responsible for any failure to perform, or delay in performance of, its obligations resulting from the COVID-19 pandemic or any future epidemic, and Buyer shall not be entitled to any damages resulting thereof.**
- EESS will initiate minor corrective actions to equipment to facilitate repairs to the equipment; however, any parts/materials identified during the inspection requiring replacement, such as control power module, fuses, etc., will be submitted on a separate proposal with cost.
- Eaton has not included any applicable sales tax in this proposal
- All testing will be performed per Eaton standard testing guidelines
- All device settings to be supplied by others
- This service is weather permitting if this is outdoor equipment.
- No time/labor included for site specific training meetings/classes/videos. If required, additional charges will apply and will be billed separately from this proposal

**DELIVERY**

**Equipment:** Equipment shipment will be F.O.B. point of origin and is estimated (as of the date of this proposal) at 10-12 weeks after the breakers are received by our breaker reconditioning center. Estimated shipment dates subject to change.

**SAFETY CLARIFICATIONS**

- Eaton will not perform work activities in situations where the proper level of PPE is not practical. At no time will work be performed when the arc-flash exposure levels are above 40 cal/cm<sup>2</sup>.
- To establish an electrically safe work condition, the customer is to provide an up-to-date site electrical one-line diagram(s) for lockout/tagout purposes showing all sources of power.
- For electrical outages requiring utility isolation, the customer and utility shall coordinate lockout/tagout requirements with Eaton in a written plan of execution.
- Customer shall be responsible to perform all switching. Any requirement of Eaton for perform switching will require customer signature and a minimum of two EESS personnel present. Additional charges will apply.
- The customer supplied Arc-Flash study along with their labeled equipment to meet NFPA requirements will be used to determine the Personal Protective Equipment (PPE) required to perform the work required for this proposal. When a current study and labeling is not available, the time required to determine the proper PPE will be at the current rate per hour, unless included within the Eaton scope of work.

**CUSTOMER-REQUIRED SUPPORT**

- The owner/contractor shall make all equipment available upon arrival of EESS personnel, including removal from service, to permit continuous progression of work. Stand by or delays that are out of the control of EESS will be charged at published services rates plus applicable expenses.
- The owner/contractor shall be responsible for maintaining power to vital or necessary plant equipment and processes.
- The owner/contractor will coordinate all outages and perform all switching to de-energize/isolate equipment to be serviced.
- The owner/contractor shall supply a suitable and stable source of power for operation of test equipment at each test site when normal power is removed. EESS shall specify requirements.
- The owner/engineer will supply a complete set of electrical plans, including the plant single-line diagram, specifications and any pertinent change orders EESS prior to commencement of work.
- Customer shall ensure copies of Operations and Maintenance Manuals and related literature for equipment being serviced is available on site for use by EESS personnel.
- The owner / contractor shall provide the assistance of a qualified electrician / individual from a contractor or the facility familiar with the electrical system to provide access to electrical equipment and assistance to Eaton field service personnel, as required during the time that service is performed, per NFPA 70E and OSHA CFR1910.269.
- The owner / contractor shall be responsible for proper waste disposal of all waste by-products produced in the performance of this work.

**SAFETY TRAINING OF EESS FIELD PERSONNEL**

- All EESS field personnel received training to comply with OSHA CFR1910.269 Electrical Safety Standard, which sets minimum safety rules and practices for the design, operation, and maintenance of high-voltage systems (over 600 volts).

**PROCESS ADJUSTMENTS**

- This proposal was prepared based upon EESS understanding of the documentation and discussions listed in EESS Scope of Work. If a change to the system functionality, hardware and/or software is to be used, or work scope is presented to EESS, then EESS will respond by issuing an addendum to this proposal describing the impact on the schedule and cost of the system or work additions or subtractions.
- Work related to the changes will not begin until the impact is mutually agreed upon by customer and EESS.

**STAND-BY TIME**

- Stand-by time is defined as EESS time spent on-site waiting for personnel or access to equipment necessary to perform the required steps for the service work outlined within this proposal.
- Under the terms of this proposal, stand-by time is not included within the Scope of Work.
- Stand-by or delays that are outside the immediate control of EESS will be charged separately at published services rates plus any applicable expenses.

**PROPRIETARY AND CONFIDENTIAL INFORMATION**

- This submittal contains Eaton proprietary and confidential information, which may only be used by the addressee to evaluate and respond to this submittal. By accepting this submittal from Eaton, the addressee agrees to not use this submittal, or any information contained herein, in any manner adverse to Eaton's interests; to keep in confidence the submittal and all information contained; and to not disclose to any third party or publish this submittal, any portion thereof, or any information contained herein without Eaton's prior written consent.

## TERMS AND CONDITIONS

Any order arising out of this offer will be governed by the conditions contained in Eaton Selling Policy 25-000 dated September 1, 2021. This offer is valid for 30 days from date of issue unless otherwise extended, modified or withdrawn, in writing, by Eaton Corporation. Payments are due and payable net within thirty (30) days from the date of each invoice.

To accept this proposal, please:

1. Reference: **CGK4-220727-06-BPB**
2. Issue a purchase order to **EATON CORPORATION**
  - Email purchase order to [DustinJenkins@Eaton.com](mailto:DustinJenkins@Eaton.com)
3. Acceptance of proposal signature
  - a. \_\_\_\_\_

A HARDCOPY OF THE PURCHASE ORDER MUST BE RECEIVED BY EESS PRIOR TO SERVICE BEING SCHEDULED.

Should there be any further questions or needs, please contact at any time. It is a privilege to have this opportunity to be of service. Eaton's Electrical Services & Systems looks forward to working with you on this project.

Sincerely,

*Dustin Jenkins*

**Dustin Jenkins**

[DustinJenkins@eaton.com](mailto:DustinJenkins@eaton.com)

**312-859-5564**

Sr. Service Sales Engineer

Eaton Corporation

Electrical Services and Systems Division

**\*\*\*REQUEST\*\*\***

**DATE: Monday, May 8, 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 **\$10,646.42**  
Collection letters were sent out and payments of **\$2,072.31** had been collected.

The uncollected amount equals **\$8,574.11**

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, January 30, 2023**

**WATER: \$3,855.33**  
**SEWER: \$4,718.78**

## TOTALS

REPORT TOTAL		\$10,646.42
BPS TOTAL	<b>\$3,529.57</b>	\$7,116.85
COUNTY TOTAL	<b>\$4,241.75</b>	\$2,875.10
W-WRITE OFF	<b>\$325.76</b>	\$2,549.34
S-WRITE OFF	<b>\$477.03</b>	\$2,072.31
PAYMENT TOTAL	<b>\$2,072.31</b>	\$0.00
AGREEMENT TOTAL	<b>\$0.00</b>	\$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

engineering@goshencity.com • www.goshenindiana.org

## MEMORANDUM

TO: Board of Works and Public Safety

FROM: Engineering Department

RE: **AGREEMENT WITH ELKHART COUNTY FOR THE USE OF LAREDO  
REGARDING ONLINE ACCESS TO REAL ESTATE RECORDS**

DATE: May 8, 2023

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The Engineering Department requests the approval of an Agreement with Elkhart County for the use of Laredo regarding online access to real estate records. The City of Goshen must retain documentation of all Easement Agreements and Property Deeds on file to satisfy the requirements of the Indiana Finance Authority's Asset Management Program Guidelines.

Elkhart County Recorder's Office can grant access to Laredo software allowing us to search and print records from our offices under an Agreement. The terms of the agreement will cost \$250 per month, plus \$1 per page printed, to be invoiced monthly, for a total of three months. The month of May will be prorated to reflect the start date of the Agreement.

**Requested Motion: Approve and authorize the Board to execute the Agreement with Elkhart County for the use of Laredo regarding online access to real estate records.**

Elkhart County Recorder's Office  
117 North 2<sup>nd</sup> Street  
Goshen, IN 46526 (574) 535-6755

**LAREDO AGREEMENT**  
**Regarding Use of Online Access to Real Estate Records**

This Agreement made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_,  
by and between the Elkhart County Recorder and \_\_\_\_\_  
\_\_\_\_\_ (“Customer”).

**TERMS AND CONDITIONS**

1. The Elkhart County Recorder agrees to furnish online access to real estate records in its office. Documents are recorded on the date presented or the next working day, but documents sent in the mail may take several days to reach our office.
2. Recorder's document dates:  
DEEDS: all deeds available back to 1830, indexed back to 1838  
MORTGAGES: all mortgages available back to 1960, indexed back to 1960  
MISCELLANEOUS: all miscellaneous available back to 1852, indexed back to 1904
3. The index is not construed to be true and complete; rather it is a **working index** subject to error, omission and future modification.
4. Payment by Customer is due twenty (20) days from the date of the invoice. Payments not received by that date will result in access being suspended until payment is received in full. Invoices will be provided via Laredo Connect (<https://fidlar.com/LaredoConnect.aspx>), a website for which the Customer will be required to create an account at no additional charge. Laredo Connect accounts must be created before the end of the month in which this agreement is signed. Failure to do so may result in Laredo access being suspended until the Customer complies.
5. In no event shall the Recorder be liable for special, indirect, incidental, or consequential damages, including, but not limited to, loss of income, loss of profits, loss of time, or additional expense, whether such damages arise out of breach of contract, negligence, strict liability, or any other theory of liability. Customer specifically understands and recognizes that the system by which these services are offered is developmental and may experience problems of various kinds resulting in an inability to provide such services.
6. Customer agrees the Recorder, Elkhart County, and their employees will not be liable for any claim or demand of any nature or kind whether asserted against the Recorder or against the Customer by any third party, arising out of the services or materials provided or use of the same. Customer agrees to indemnify and hold the Recorder, Elkhart County, and their employees harmless from claims of third parties arising out of Customer's use of the services or materials provided pursuant to this Agreement.
7. The Customer agrees to not data scrape/web scrape/data harvest/web harvest/data mine or extract anything from any system used, maintained or owned by the Recorder. A “data scrape/web scrape/data harvest/web harvest/data mine” occurs when a computer program has extracted data from human-readable out-put coming from another program. A breach of this paragraph shall result in revocation of this Agreement.

8. Customer shall not in any way enhance, alter the public records accessed, or disclose any confidential information contained thereon. Customer agrees not to sell copies of the documents or images received under this Agreement.
9. When the Laredo program is operating, after 2 minutes of no activity, the user will receive an automatic disconnect notice. Regardless of whether the user elects to continue, cancel or disable this automatic disconnect notice, the Customer agrees to pay the normal fees for all online time until the Laredo session is closed.
10. This Agreement requires a minimum three-month commitment. Either party may cancel this Agreement at any time for any reason. The Customer shall provide written notice to the Recorder when they want to cancel or change the Agreement. Customer may change user plans within the first 5 days of any given month. Cancellation shall not relieve a party of its obligations incurred prior to the effective date of the cancellation. Unless cancelled by either party as provided herein, this Agreement shall be automatically renewed upon like terms for successive calendar year periods.
11. Each time the Customer selects "print" in Laredo, the Customer shall be charged a fee of \$1.00. The \$1.00 charge shall apply regardless of whether the Customer prints a hard copy or saves the record to an electronic file.
12. Recorder reserves the right to withdraw any service without consulting Customer prior to withdrawing such service, and shall have no liability whatsoever to the Customer in connection with deletion or interruption of any such service.
13. Customer acknowledges that it has read this Agreement and agrees that it is the complete and exclusive Agreement between parties, superseding all other communications, oral or written. This Agreement may be modified only by written amendments signed by the parties.
14. This Agreement is governed by Indiana law without resort to conflict of law principals. Jurisdiction of any dispute shall be exclusively in the courts of Elkhart County, Indiana.

CUSTOMER AGREES TO THE TERMS OUTLINED ABOVE

Signed \_\_\_\_\_ Date \_\_\_\_\_  
*Customer*

Printed \_\_\_\_\_  
*Customer*

Signed \_\_\_\_\_ Date \_\_\_\_\_  
*Elkhart County Recorder*

Printed \_\_\_\_\_  
*Elkhart County Recorder*

*(To subscribe to Laredo, please fill out the form on the next page.)*

**Elkhart County, IN Laredo Subscriber Information**

Name \_\_\_\_\_

Title \_\_\_\_\_

Name of Company \_\_\_\_\_

Street Address \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

Phone \_\_\_\_\_

Email Address \_\_\_\_\_

Billing Address \_\_\_\_\_

**Elkhart County Laredo Price:**

- A. **0-250 Minutes:**                    **\$50.00/Month** (\$0.20/Min. Overage)
- B. **251-1000 Minutes:**                **\$100.00/Month** (\$0.15/Min. Overage)
- C. **1001-3000 Minutes:**               **\$200.00/Month** (\$0.12/Min. Overage)
- D. **Unlimited:**                            **\$250.00/Month**

- All print fees are \$1.00/Page

Plan (Circle One): A B C D

Username: \_\_\_\_\_