



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

Regular Meeting Agenda

**2:00 p.m., July 24, 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 Gina Leichty**

### **Approval of Minutes: July 17, 2023**

### **Approval of Agenda**

**1) Police Department:** Approve the hiring of Donald “Don” C. Cramer as a Special Police Officer, effective July 24, 2023

**2) Fire Department:** Conditional Offer of Employment to Dakota “Kody” Miller

**3) Resident request:** To ensure the safety of attendees, the partial closure of 9<sup>th</sup> Street, between Bridge Street and Mercer Avenue, on July 30, 2023 for a private block party

**4) Abonmarche request:** On behalf of Hydra Holdings, LLC, approve waiver from design standards and specifications for parking and driveway services for a temporary driveway

**5) Legal Department:** Approve and authorize Mayor Leichty to execute the agreement with Rain Guard Seamless Guttering, LLC to furnish and install gutters on the 20x20 shed at Reith Interpretative Center at a cost of \$970

**6) Engineering Department:** Approve an on-call professional services contract with Jones Petrie Rafinski for \$100,000, and authorize the Mayor to sign task orders as they are developed

### **Privilege of the Floor**

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

### ***Adjournment***



## BOARD OF PUBLIC WORKS & SAFETY & STORMWATER BOARD MINUTES OF THE JULY 17, 2023 REGULAR MEETING

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

**Present:** Mayor Gina Leichty, Mike Landis, Mary Nichols, and Barb Swartley

**Absent:** none

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

**REVIEW/APPROVE MINUTES:** Mayor Leichty presented the minutes of the July 10, 2023 Regular Meeting. Board Member Barb Swartley moved to accept the minutes as presented and the motion was seconded by Board Member Mike Landis. Motion passed 4-0.

**REVIEW/APPROVE AGENDA:** Mayor Leichty presented the meeting agenda with the addition of two items submitted today by City Department heads: 10. Fire Department request: Traffic pattern for change for the Elkhart County 4H Fair and 11. Redevelopment Department request: Approve Economic Development Agreement with Cherry Creek, LLC for the Southeast Housing TIF development. Board member Swartley moved to approve the agenda as amended. Board member Landis seconded the motion. Motion passed 4-0.

### 1) Fire Department: Affirm the retirement of Sergeant Jason Miller, effective Aug. 18

City Fire Chief Dan Sink told the Board that after 20 years of dedicated service to the Goshen community, Sgt. Jason Miller has submitted his letter of intent to retire, effective Aug. 18, 2023. He asked the Board to affirm Sgt. Miller's retirement from the Fire Department.

Chief Sink said Fire Department employees "have enjoyed our years of working together with Sgt. Miller at GFD and his contributions for our success are many. And we wish him and his family the very best in his new endeavors."

Mayor Leichty thanked Sgt. Miller for his service and wished him the best.

Swartley/Landis moved to affirm the retirement of Sgt. Jason Miller from the Goshen Fire Department, effective Aug. 18, 2023. Motion passed 4-0.

### 2) Police Department: Approve resignation of Officer Matthew Whelchel #224, effective July 12

City Police Chief José Miller requested that the Board approve the resignation of Officer Matthew Whelchel, effective July 12, 2023.

Chief Miller said that on the morning of July 12, Officer Whelchel asked to speak with the Chief and informed him that Whelchel wished to resign. Later in the morning, Whelchel provided the chief with his written resignation.

Whelchel indicated that he has been struggling with some stresses of the job for a while and has not been able to move past those issues. He decided at this time in life the profession of law enforcement is not right for him.

Chief Miller thanked Officer Whelchel for the time he did serve and wished him the best in his future endeavors.

Mayor Leichty thanked Officer Whelchel for his service.

Swartley/Landis moved to approve the resignation of Officer Matthew Whelchel, effective Wednesday, July 12, 2023. Motion passed 4-0.

### 3) Community-Pro Education request: Street closures, street barriers and other City services for the Hispanic Heritage Month celebration, 1 p.m.-11 p.m., on Sept. 16



**City Councilor Gilberto Pérez** asked the Board of Works to approve street closures, the use of street barricades and extra trash bins for the third annual Hispanic Heritage Month Celebration on Saturday, Sept. 16, 2023, from 1 p.m. to 11 p.m., in downtown Goshen.

Last year's event brought more than 9,000-plus individuals and families to downtown Goshen for the festival and more than 11,000 people are expected this year.

**Community Pro Education** requested, starting at 7 a.m. and until 11 p.m. on Sept. 16: the closure of Jefferson Street, from Third Street to the north/south alley on the west side of Main Street; the closure of Main Street, from Jefferson Street to Lincoln Avenue; the closure of Washington Street, east and west, which will serve as table space and performer practice area. Washington and Main Street will serve as the main stage event for the performance bands and folkloric dancers. The group also requested street barricades for Washington Street, Main Street, Lincoln Avenue, Jefferson Street and Third Street. The open area on the west side of Jefferson will serve as the parking for the horses and riders. The group also requested trash bins on Jefferson Street.

Community Pro-Education plans to provide private security officers and contract with three off-duty Goshen Police Department officers from 3 p.m. to 11 p.m.

In a memorandum in support of the request, **Manuel Cortez**, board president of Community Pro-Education, wrote that the Hispanic Heritage Festival is an opportunity to celebrate Hispanic American's contributions to the United States and having the festival in downtown Goshen is a wonderful venue to celebrate the month.

**Mayor Leichty** noted that the matter had been delayed by the Board to allow organizers to notify downtown businesses about the proposed street closures.

**Niomi Lara**, vendor coordinator for Community Pro-Education, said she sent emails to all businesses on the streets to be closed. She said three or four businesses have yet to respond, but everyone else was OK with the closures and a few asked to participate in the event.

After receiving advice from **City Attorney Bodie Stegelmann** about how detailed to make a motion, **Board member Swartley moved to approve the street closure described in Community Pro-Education's written request.**

**Board member Landis seconded the motion.**

**Before the vote, Mayor Leichty** asked **Police Chief José Miller** if he had reviewed the group's security plans for the festival and if the staffing was adequate. **Chief Miller** said the group planned to hire off-duty officers. **Councilor Pérez** said the group also planned to hire a private security company in addition to off-duty officers.

**Mayor Leichty** asked if the City required liability of insurance coverage. **City Attorney Stegelmann** said he was unaware of that. **Councilor Pérez** said organizers would provide a certificate of liability. **City Street Commissioner David Gibbs** said City staff would erect the street barricades and provide trash bins.

**Board members then passed the motion, 4-0.**

#### **4) Downtown Goshen Inc. request: Closure of East Washington Street, from Main Street to Fifth Street, for the Aug. 4 First Friday, in addition to the organization's original request**

**Amanda McMahan**, the director and event coordinator of First Fridays, asked the Board for additional street closure for the Aug. 4 First Friday in addition to the organization's original request. More specifically, McMahan asked for the closure of East Washington Street, from Main Street to Fifth Street from 8 a.m. to 10 p.m. on Aug. 4.

In a letter to the Board, **McMahan** wrote that the area will be used for food trucks and vendors. She added that businesses affected by the closure will be informed in case they have any concerns.

**Swartley/Landis moved to approve the closure of East Washington Street, from Main Street to Fifth Street for the Aug. 4 First Friday. Motion passed 4-0.**

#### **5) Rob and Rebekah Steury request: Placement of a dumpster in the 3.5 parking spaces in front of 106 South Main Street during a 10-day demolition project**



**Rob Steury** told the Board that he and his wife, Rebekah, recently purchased the building at 106 South Main Street for a new business. To make renovations, including the removal of much of the current furnishings (carpet, drop ceiling, etc.), he requested permission to place a large dumpster in the parking spaces directly in front of their building.

In a letter to the Board, Steury wrote that there is not an accessible alley to the side or back of the building, which is also why they are requesting the use of the parking spaces on the street in front. The dumpster in question will be 8 feet wide by 22 feet long.

Asked by **Board member Swartley** when the demolition would begin, **Steury** said Borden Waste-Away Service indicated it would take one or two weeks for a dumpster to be delivered. He said he could notify City staff of the date the dumpster was being delivered to begin the 10-day period. At the request of **Mayor Leichthy**, **Steury** agreed that it would not be until after the Aug. 4 First Friday.

**After clarifying the motion with the City Attorney, Board member Swartley moved to approve the placement of a dumpster in 3.5 parking spaces in front of 106 South Main Street for a 10-day demolition project, the dates of which will be given to the City Street Department. Motion passed 4-0.**

**6) Lacasa request: Partial closure of 8th Street, July 20, for water service installation**

**Brad Hunsberger, vice president for real estate development for Lacasa**, asked the Board to approve a partial street closure to allow the installation of new water service at 214 South 8th St. on July 20, 2023.

**Hunsberger** apologized for the late request and said the partial closure would only be for one day. In response to a question from **Board member Landis**, **Hunsberger** said the closure would not affect traffic on Lincoln Avenue.

**Swartley/Landis moved to approve the partial street closure to 8<sup>th</sup> Street, near 214 South 8<sup>th</sup> St., on July 20, 2023 for the installation of water service. Motion passed 4-0.**

**7) Water & Sewer Office: Request to move \$2,196.06 in uncollected finaled accounts from active to collection, sewer liens and write offs**

**Kelly Saenz, Manager of the Goshen City Utilities Office**, said that the original amount of unpaid final Water/Sewer accounts for this period, through April 14, 2023, was \$5,541.74. Collection letters were sent out and payments of \$3,345.68 were collected. The uncollected amount was \$2,196.06. So, Saenz asked the Board to move the office's uncollected final accounts from active to Collection, Sewer Liens and Write offs.

**Swartley/Nichols made a motion to move the Goshen Water and Sewer Office's uncollected finaled accounts from active to Collection, Sewer Liens and Write offs. Motion passed 4-0.**

**8) Engineering Department: Approve agreement with Abonmarche Consulting for surveying and design services for the installation of a drywell at 1327-1329 E. Reynolds Street**

**City Director of Public Works & Utilities Dustin Sailor** told the Board that attached to the Board's agenda packet was an agreement with Abonmarche Consultants for surveying and design services for a drywell at 1327 & 1329 East Reynolds Street in the amount of \$4,650.00. Sailor said when the City reconstructed East Reynolds Street, the roadwork impacted the onsite drainage at 1327 & 1329 E. Reynolds Street. It was then agreed upon the City would design and install improvements to drainage.

**Board member Landis** asked how extensive this work would be. **Sailor** said it's not very extensive, but the Engineering Department is down two engineers and cannot do the work itself.

**Swartley/Landis moved to approve the agreement with Abonmarche Consulting in the amount of \$4,650.00 for surveying and design services for the installation of a drywell at 1327-1329 East Reynolds Street. Motion passed 4-0.**



**9) Engineering Department: Approve Change Order No. 1 for the College Avenue Bridge 410 Reconstruction and Utility Relocation in the amount of \$16,666.25**

**City Director of Public Works & Utilities Dustin Sailor** told the Board existing utility alignments prevented the connection of the proposed 12-inch water main to the existing water main as planned, and pipe diameters for existing water services did not match those on the project plans.

**Sailor** said Change Order No. 1 includes pricing for fittings and water main necessary to make connections to the existing water main and existing services. Change Order No. 1 also includes upsizing of storm structures and adding a heavier-duty pavement section expanded to include all of College Avenue in anticipation of a longer period under traffic before the County bridge project begins. Limestone aggregate was also needed to restore shoulder areas impacted by construction.

**Sailor** added that the change order also extends the substantial completion date from April 4, 2023 until May 3, 2024, as the final lift station equipment installation will occur sometime in April 2024.

In response to a question from **Board member Landis**, **Sailor** said more base material was being added in case the road has to last a longer period.

**Swartley/Landis** moved to approve Change Order No. 1 for the College Avenue Bridge 410 Reconstruction and Utility Relocation in the amount of \$16,666.25, bringing the total Contract to \$1,701,943.75, an increase of .99%. Motion passed 4-0.

**10) Fire Department request: Traffic pattern for change for the Elkhart County 4H Fair**

On behalf of the Elkhart County Sheriff's Department, **City Fire Chief Dan Sink** asked the Board to approve a traffic pattern change nightly during the Elkhart County 4H Fair, July 21-29, 2023.

**Chief Sink** said the pattern change will occur nightly beginning at 9 p.m. and ending at 11 pm. The pattern change will allow law enforcement to change Blackport Road to one-way traffic going north to Lincoln Avenue, allowing officers to better off-load traffic and relieve traffic congestion as patrons leave the fair.

In response to a question from **Board member Landis**, **Chief Sink** clarified the change and its impact.

**Swartley/Landis** moved to approve a nightly change in the traffic pattern during the Elkhart County Fair as described. Motion passed 4-0.

**11) Redevelopment Department request: Approve Economic Development Agreement with Cherry Creek, LLC for the Southeast Housing TIF development**

**City Redevelopment Director Becky Hutsell** told the Board that attached to the Board agenda packet was a development agreement with Cherry Creek, LLC, which was approved June 26, 2023 by the Common Council.

**BACKGROUND:**

Before the Board of Works on July 17 2023 was an Economic Development Agreement with Cherry Creek, LLC for the acquisition, financing and development of approximately 170 acres of real estate, located west of Dierdorff Road along Waterford Mills Parkway and Regent Street.

The agreement pertained to the Southeast Housing TIF (Tax Increment Financing) district that was established by the Common Council earlier in 2023 for the development of a multi-family project in the City of Goshen that would include approximately 1,400 housing units, consisting of a mix of single-family homes, single-family attached homes, condos and apartments, with approximately 80,000 square feet of commercial space on approximately 170 acres of real property.



**A copy of the Economic Development Agreement in substantially final form was attached to this agreement and included in the Board's meeting packet.**

**The agreement would establish the terms and conditions of the Economic Development Agreement with Cherry Creek, LLC and would authorize Mayor Gina M. Leichty to execute the Economic Development Agreement along with the Board, the Goshen Common Council and the City of Goshen.**

**In advance of the meeting, Hutsell provided this summary of the terms of the agreement:**

**1. Only the public infrastructure will be funded by the Bond.** While the Developer had originally included all construction "at grade and below" similar to Ariel Cycleworks and Indiana Avenue Apartments, that number exceeded \$50 million and was nearly double the available capacity for the bond. To allow for this to be a "tax exempt" bond, the City will limit the covered work to only the infrastructure that is deemed public and will be dedicated back to the City.

**2. Legislation changed in May and residential TIF's now expire 20 years** from the date of the first debt obligation. When originally approved, this TIF had a 25-year lifespan, but because the city had not issued any debt, the new legislation overrules and this TIF will now expire after 20 years. This legislation change has created a significant reduction in the available bond capacity as the last five years of the project would be when the project is likely fully built out and generating the most revenue for repayment.

**3. Most recent public infrastructure estimates for Phase I only are roughly \$31 million.** Baker Tilly's analysis shows that with a 20-year term at 5% interest, the pledge options are as follows: — 75% reimbursement – \$18,125,000 project capacity / \$27,448,520 total repayment — 90% reimbursement – \$21,785,000 project capacity / \$32,955,220 total repayment — 100% reimbursement – \$24,230,000 project capacity / \$36,626,360 total repayment  
\*\* The interest will not be "revenue" to the developer but will carry (most) of their carrying cost with their lender.

**4. With these scenarios, the Developers will be looking to cover between \$7-13 million of the public infrastructure costs alone.** Because of this, the developers requested a 100% TIF reimbursement. They also asked that, in the event it develops quicker than planned and the bond can be repaid early, that the TIF pledge continue until either 1) all public infrastructure costs are repaid or 2) the TIF expires. Ultimately, they are taking the risk because if the project doesn't build out as projected, the bond will not be able to be fully repaid.

**5. For Phase II, with the recent legislation changes, the state is now establishing a Revolving Loan Fund program through the Indiana Finance Authority** to assist governmental entities with borrowing funds at a low interest rate to assist with residential developments. The goal is to pursue this funding for Phase II of the project's public infrastructure. The City will likely need to carve Phase II out of the existing residential TIF and establish it again as its own but the City is holding off in hopes the residential TIF lifespan may go back to 25 years. The Commission can then pledge that future TIF revenue as a repayment source for the loan. The developer's goal is to purchase the Phase II land by 2025 and the city would begin that process after becoming the owner of the land.

**6. To assist in covering the "gap" between what the bond can fund and the total public infrastructure cost for Phase I, the City Redevelopment commission will commit to funding an additional \$1.5 million toward infrastructure costs** within the residential TIF area. Identified projects are as follows: a. Cherry Creek Trailway Construction – estimated at approximately \$600,000 but will know more once plans are finalized. b. Entranceway into the subdivision from Waterford Mills Parkway c. Entranceway into the subdivision from Regent Street \* All 3 of these projects will have a benefit to the other two TIF's (through trailway connections and traffic improvements) so the work is eligible with RR and Southeast TIF funds.

**7. The Redevelopment Commission will contract for construction inspection to oversee the public infrastructure being installed** within the development as we do not have adequate staffing for a project of this scale (similar to East College).



**8. Cherry Creek will maintain all retention/detention ponds** (including those on City-owned property) and a stormwater/maintenance agreement will be completed prior to construction.

**9. The Redevelopment Commission will commit to connecting the Cherry Creek trailway to the trail adjacent to Bethany Christian School.**

**10. The City commits to proceeding with planned projects for CR 40 and Dierdorff Road.**

**11. Cherry Creek desires 7.18 acres of land that's currently part of the existing trailway.** The City will be requesting that the Parks Board transfer that land to the Redevelopment Commission and the city will go through the statutory RFP process. If Cherry Creek is selected to acquire the land, they will be responsible for relocating the existing trailway (with plans to be approved by Parks Board) and will also take on snow removal for the trailway that currently is in place.

#### **BOARD DISCUSSION & APPROVAL OF THE ECONOMIC DEVELOPMENT AGREEMENT ON JULY 17, 2023:**

**Mayor Leichty** invited comments from **City Redevelopment Director Becky Hutsell**

**Hutsell** discussed the terms of the agreement as outlined in her memorandum to the Board of Works (and summarized above). She asked the Board to approve the economic development agreement, noting it has already been approved by the Redevelopment Commission and the City Council.

**Board member Landis** asked if the commission and Council approved the agreement when the project was still proposed as a 25-year bond. **Hutsell** said that the approval came when the project would have a 20-year bond.

**Mayor Leichty** clarified that the Council approved the agreement with a 20-year bond. She added that there was extensive deliberation at the last Council meeting.

**Board member Landis** asked if residents would pay higher taxes for police and other City services since there would be no taxes paid for 20 years. **Hutsell** explained how the City would benefit from the project and added that the Redevelopment Commission is exploring ways to fill the funding gap. She also noted that residents would pay for water and sewer services.

**Mayor Leichty** added that revenue should be available through other Tax Increment Financing (TIF) districts. **City Attorney Bodie Stegelmann** said state law was changed this year to allow TIF funds to pay for public safety.

**Swartley/Landis** moved to approve the Economic Development Agreement with Cherry Creek, LLC for the Southeast Housing TIF Development. Motion passed 4-0.

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

**Mayor Leichty** opened Privilege of the Floor at 2:32 p.m. There was no comments from the public.

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

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

#### **Adjournment**

**Mayor Leichty** adjourned the Board of Works meeting at 2:32 p.m.



**APPROVED:**

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**Mayor Gina Leichy**

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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 Gina Leichty  
Member Mary Nichols  
Member Mike Landis  
Member Barb Swartley

Date: July 24<sup>th</sup>, 2023

From: Jose' Miller, Chief of Police

Reference: The hiring of Donald "Don" C. Cramer as a Special Police Officer.

I am requesting that the Board of Public Works and Safety approve the hiring of Donald "Don" Cramer for the position of Special Police Officer. I am requesting Cramer have full police authority in Elkhart County, or any other Indiana county where he is fulfilling his specific job description or duties assigned to him by the Goshen Police Department. I am requesting police authority be granted to him during the times when he is considered to be in approved on-duty status with the Goshen Police Department, while wearing an official designated uniform, or while in a police vehicle. Don Cramer will be considered to be on approved on-duty status when responding to known emergencies whether uniformed or not. Don Cramer will be assigned primarily to the position of School Resource Officer (SRO). However, Cramer will be eligible for secondary employment as a police officer and may be assigned to patrol duties, if needed, both according to Department Policies, Directives, and Agreements.

Don has worked at the Elkhart County Sheriffs Office since 1985. Prior to his employment with the Sheriffs Office Don served in the U.S. Navy. Don has successfully completed the certification at the Indiana Law Enforcement Academy and remains in good status. He has attended many other trainings and has received numerous certifications throughout his years in this profession. I believe Don Cramer will be a great addition to the Goshen Police Department as a Full-time Special Police Officer serving our community. I would like this hiring to be effective today Monday July 24<sup>th</sup>, 2023.

Jose' Miller #116

Chief of Police

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

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

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## CITY OF GOSHEN LEGAL DEPARTMENT

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July 24, 2023

To: Goshen Board of Public Works and Safety  
From: Shannon Marks, Legal Compliance Administrator  
Subject: Goshen Fire Department Conditional Offer of Employment to Dakoda "Kody" Miller

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

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

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

### Suggested motions:

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

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

THIS AGREEMENT is entered into on \_\_\_\_\_, 2023, which is the date of the last signature set forth below, by and between **Dakoda "Kody" Miller** ("Miller") and **City of Goshen, Indiana**, acting through the Goshen Board of Public Works and Safety ("City").

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

**CONDITIONAL OFFER OF AND PREREQUISITES TO BEGINNING EMPLOYMENT**

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

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

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

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

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

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

paramedic class, or fails to obtain an Indiana paramedic license within one (1) year after completion of the paramedic training program, Miller's employment with City and the Goshen Fire Department will be terminated for cause.

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

which make it impractical for Miller to obtain an Indiana paramedic license and/or to continue to serve as a paramedic in the foreseeable future, or due to death.

**AMENDMENT**

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

**SEVERABILITY**

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

**INDIANA LAW**

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

**BINDING EFFECT**

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

**ENTIRE AGREEMENT**

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

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

City of Goshen, Indiana

\_\_\_\_\_  
Gina M. Leichty, Mayor

\_\_\_\_\_  
Dakoda "Kody" Miller

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

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

**Chamberlain Neighborhood**

**July 18, 2023**

**To: Goshen Board of Public Works**

**Re: Function to celebrate my 11 year old son beating cancer**

**Date: July 30,2023**

**I am requesting permission to hold a neighborhood block party on the 100 block of North 9th Street between Bridge Street and Mercer Ave on July 30,2023 between the hours of 2:00 PM and 10:00 PM. We are celebrating my 11 year old son beating cancer after 3 ½ long years of battling it. It will be an open house type of event. I request this one block be closed during this time. We definitely don't want cars flying through or using our driveway as a turn around during the celebration like they usually do.**

**I would appreciate the barricades dropped off at 9th Street and Bridge Street and at 9th Street and Mercer Avenue.**

**We are privileged to have Rodney Dale, assistant fire chief at the Central Station in Elkhart as an attendee as he has been Kyshawn's mentor since Kindergarten.**

**Thank you for considering my request.**

**Onniesha Harris**

**102 N. 9th St, unit A**

**Goshen, IN 46528**

**[niesha2483@gmail.com](mailto:niesha2483@gmail.com)**

**Mobile phone # (574)320-2679**

July 19, 2023

City of Goshen Board of Works  
202 South 5<sup>th</sup> Street  
Goshen, IN 46528

RE: **REQUEST FOR WAIVER FROM DESIGN STANDARDS AND SPECIFICATIONS  
FOR PARKING AND DRIVEWAY SURFACES**

**Hydra Holdings, LLC – Existing Building**  
2515 Lombardy Drive

Dear Board of Works:

On behalf of the property owner, Hydra Holdings, LLC, we are requesting the following waiver to the Design Standards and Specifications for Parking and Driveway Surfaces for the above referenced project for a new tenant in need to access the west side of the existing building.

1. Install a temporary drive to the west side of the existing building with roller compacted asphalt millings to a thickness of 6 inches. The proposed drive is shown on the attached site plan and will be used by vehicles.

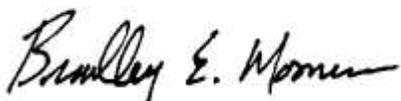
The new tenant signed a short-term lease to use the existing building while they construct a new permanent facility in Goshen. The proposed use is to construct side walls for RV units. Once the lease is up, the drive will likely need removed as the property owner would like to expand the existing building to attract future tenant(s).

Providing the millings are acceptable to the Board, the owner would like to install the drive so the tenant can start using the building. The owner has hired Abonmarche to prepare the detailed site plans showing this drive and associated drainage for submittal to the City's Technical Review Committee on September 6<sup>th</sup>. The owner is committed to bringing the exterior site improvements in compliance with City requirements.

We respectfully request Hydra Holdings LLC to be placed on the next Board of Works agenda on July 24, 2023 if possible to discuss this matter. If you have any questions regarding this request, please contact me at (574) 314-1024 or by email at [bmosness@abonmarche.com](mailto:bmosness@abonmarche.com).

Thank you for your time and consideration.

Sincerely,  
ABONMARCHE CONSULTANTS, INC.



Bradley E. Mosness, PE  
Vice President / Goshen Office Director



CARAGANA COURT

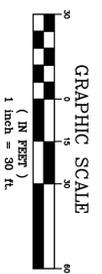
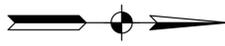
EXISTING BUILDING

EXISTING BUILDING

LOMBARDY DRIVE

RELOCATED RETENTION BASIN  
(DESIGN TO BE SUBMITTED WITH  
TECH REVIEW SUBMISSION)

PROPOSED DRIVE TO  
BE CONSTRUCTED OF  
ASPHALT MILLINGS



NO.	REVISION DESCRIPTION	BY	DATE

SIGNATURE: \_\_\_\_\_  
 DATE: \_\_\_\_\_  
 SCALE: HORIZ. 1" = 30'  
 VERT: \_\_\_\_\_  
 AC JOB # 23-1182  
 SHEET NO. C1.0

SHEET TITLE: \_\_\_\_\_  
 DRAWN BY: **BBM**  
 FIELD BOOK: \_\_\_\_\_  
 PAI REVIEW: **BBM**  
 QA/QC REVIEW: \_\_\_\_\_  
 DATE: **07-19-2023**  
 SEAL: \_\_\_\_\_

**CONCEPT SITE PLAN**

PROJECT: **HYDRA HOLDINGS, LLC  
 LOMBARDY DRIVE**  
 2515 LOMBARDY DRIVE, GOSHEN, INDIANA

**ABONMARCHE**  
 303 River Race Drive, Unit 206  
 Goshen, IN 46526  
 T 574.533.9913  
 F 574.533.9911  
 abonmarcche.com

Fort Wayne  
 Benton Harbor  
 Lafayette  
 South Bend  
 Kalamazoo

Goshen  
 Hobart  
 Grand Rapids  
 Valparaiso  
 Grand Haven



**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)

July 24, 2023

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

**From:** Brandy L. Toms

**Subject:** Agreement with Rain Guard Seamless Guttering, LLC to furnish and install gutters on the 20x20 shed at Reith Interpretative Center

Attached for the Board's approval and to authorize Mayor Leichthy to execute is an agreement with Rain Guard Seamless Guttering, LLC to furnish and install gutters, downspouts and leaf guards on the 20x20 shed at Reith Interpretative Center. The Rain Guard Seamless Guttering, LLC will be paid \$970 for this work.

**Suggested Motion:**

Approve and authorize Mayor Leichthy to execute the agreement with Rain Guard Seamless Guttering, LLC to furnish and install gutters on the 20x20 shed at Reith Interpretative Center at a cost of \$970.

**AGREEMENT  
WITH RAIN GUARD SEAMLESS GUTTERING, INC. FOR PURCHASING AND  
INSTALLATION OF GUTTERS ON REITH CENTER SHED**

THIS AGREEMENT is entered into on \_\_\_\_\_, 2023, which is the last signature date set forth below, by and between **Rain Guard Seamless Guttering, Inc.** (“Contractor”), whose mailing address is 2204 Dierdorff Road, Goshen, Indiana 46526, 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 following work which shall include the provision of all labor, supplies, materials, tools, equipment, supervision, insurance and all other items necessary to install seamless gutters and RT Leaf Shields on newly built 20’ x 20’ shed at Reith Center located at 410 W. Plymouth Avenue, Goshen, Indiana (hereinafter referred to as “Duties”). Contractor’s Duties under this agreement include:

- (A) Furnish and install 5” seamless aluminum gutters with hidden brackets and ice hangers
- (B) Furnish and install two (2) 2”x 3” aluminum downspouts
- (C) Furnish and install RT Leaf Shields on gutters
- (D) Gutter and downspouts shall all be in the color ‘Desert Tan’

**Section 2. Effective Date; Term**

- (A) The agreement shall become effective on the day of execution and approval by both parties.
- (B) Contractor acknowledges that time is of the essence and that the timely performance of its Duties is an important element of this agreement. Contractor shall perform all Duties as expeditiously as is consistent with professional skill and care in the orderly progress of the Duties.
- (C) Contractor shall commence the Duties within 2-3 weeks after receiving a notice to proceed from City.

**Section 3. Compensation**

- (A) City agrees to compensate Contractor the sum of Nine Hundred Seventy Dollars (\$970) for performing all Duties.

**Section 4. Payment**

- (A) City shall pay Contractor for Duties satisfactorily completed under this agreement.

- (B) Payment shall be upon City's receipt of a detailed invoice from Contractor. The invoice shall be sent to the following address, or at such other address as City may designate in writing.

City of Goshen  
c/o Goshen Environmental Resilience  
410 W. Plymouth Avenue  
Goshen, IN 46526

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

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

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

### **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 work performed by Contractor pursuant to this agreement.

### **Section 7. Warranty**

- (A) One (1) year warranty on the quality of workmanship of the guttering system installation. If any seams or joints leak, or any portion of the gutters fall down because of poor installation, Contractor will repair and/or replace any faulty product at Contractor's expense. This does not include acts of nature or vandalism.
- (B) Five (5) year warranty on all corners against leakage. If any corners leak due to any reason other than an act of nature or vandalism, Contractor will re-caulk the corners at no cost to City.
- (C) Twenty (20) year warranty on all materials used, backed by the manufacturer. If any of the gutters or downspouts cracks, break or chip due to any reason other than an act of nature or vandalism. Contractor will replace damaged materials at no cost to City.

### **Section 8. 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.
- (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 9. 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 10. Employment Eligibility Verification**

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

### **Section 11. 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 12. 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 13. 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 work 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 14. Insurance**

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

### **Section 15. 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 16. Default**

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

## **Section 17. 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 work completed 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 18. 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	Contractor:	Rain Guard Seamless Guttering, Inc.
	Attention: Goshen Legal Department		2204 Dierdorff Road
	204 East Jefferson St., Suite 2		Goshen, IN 46526
	Goshen, IN 46528		

**Section 19. 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 20. 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 21. 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 22. 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 work. Failure to do so may be deemed a material breach of agreement.

**Section 23. Miscellaneous**

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

- (B) This agreement shall be construed in accordance with and governed by the laws of the State of Indiana and any suit must be brought in a court of competent jurisdiction in Elkhart County, Indiana.
- (C) In the event legal action is brought to enforce or interpret the terms and conditions of this agreement, the prevailing party of such action shall be entitled to recover all costs of that action, including reasonable attorneys' fees.

**Section 24. 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 25. 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 26. Entire Agreement**

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

**Section 27. 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

**Rain Guard Seamless Guttering, Inc.**

\_\_\_\_\_  
Gina Leichty, Mayor

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

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

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

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



**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 Works and Safety and Stormwater Board

FROM: Dustin Sailor, P.E., Director of Public Works

RE: **ON-CALL PROFESSIONAL SERVICES CONTRACT  
(JN: 2023-0038)**

DATE: July 21, 2023

---

Goshen Engineering has lost key professional staff in the last ten months that is causing strain on the department and its ability to development, manage, complete public works projects and support private development improvements. In an effort to cover the workload until the positions can be filled, the Goshen Engineering Department would like to retain the services of Jones Petrie Rafinski Corporation (JPR).

The required professional services will be identified on a task order basis by Goshen Engineering staff. Each task order will define the scope of the needed work, a price will be established by the consultant, and the final work and pricing will be approved by the Mayor.

The initial term of the contract is for one (1) year and has a maximum value of \$100,000.

Anticipated work items include site plan review, right-of-way permit review, development of request for proposals, and development of project plans and specifications for public works and utility maintenance projects.

**Requested Motion:** Move to approve an on-call professional services contract with Jones Petrie Rafinski in the amount of \$100,000, and authorize the Mayor to sign task orders as they are developed.

**GENERAL (PROFESSIONAL) SERVICES AGREEMENT**  
**FOR**  
**THE CITY OF GOSHEN**  
**&**  
**JONES PETRIE RAFINSKI CORP.**

This General Services Agreement (the "Agreement"), dated as of the \_\_\_\_ day of \_\_\_\_\_, 2023, is executed by and between the **CITY OF GOSHEN** and **JONES PETRIE RAFINSKI CORP. (JPR)**

**PREAMBLE**

**WHEREAS**, the **CITY OF GOSHEN** desires to have at its disposal the full services of a multi-disciplined Professional Services firm; to provide consultation and services on an as-needed basis and as described in **Exhibit 'A'**; and

**WHEREAS**, **JPR** is appropriately qualified and geographically located to provide such services; and

**WHEREAS**, the **CITY OF GOSHEN** desires to secure these services for a predetermined period of time while retaining the rights to terminate such an arrangement as it sees fit; and

**WHEREAS**, **JPR** is willing, ready and able to provide such services under such an arrangement; and

**WHEREAS**, the **CITY OF GOSHEN** and **JPR** therefore wish to enter into this Agreement setting forth their respective rights, duties, privileges, and responsibilities pursuant to such an arrangement; and

**NOW, THEREFORE**, and in consideration of the mutual promises and commitments hereinafter described, the **CITY OF GOSHEN** and **JPR** agree as follows:

## ARTICLE I - RESPONSIBILITIES OF JPR

1.01 Commencing on \_\_\_\_\_, **JPR** agrees to provide without interruption those services as discussed and described in the attached **Exhibit 'A'**.

1.02 **JPR Insurance Coverage Requirements:** **JPR** will provide and maintain at all times during the term of this Agreement the following minimum insurance coverages:

- (a) Workers Compensations Insurance in compliance with the statutes of the State of Indiana which has jurisdiction over **JPR** employees engaged in the performance of services hereunder with a limit of FIVE HUNDRED THOUSAND DOLLARS (\$500,000);
- (b) General Liability Insurance with a minimum combined single limit of ONE MILLION DOLLARS (\$1,000,000), including the broad form property damage endorsement; and
- (c) Automobile Liability Insurance (owned, non-owned, or hired units) with a minimum combined single coverage limit of ONE MILLION DOLLARS (\$1,000,000).

**JPR** will furnish the **CITY OF GOSHEN** with Certificates of Insurance as evidence that policies providing the required coverages and limits are in full force and effect, and will name the **CITY OF GOSHEN** as an additional insured to the above policies. Such policies shall provide no less than thirty (30) days advance notice of cancellation, termination, or alteration, and any such notice shall be sent directly to **JPR** and the **CITY OF GOSHEN**.

## ARTICLE II - RESPONSIBILITIES OF THE CITY OF GOSHEN

2.01 **Basic Responsibilities:** As part of this Agreement, the **CITY OF GOSHEN** agrees to perform all functions and retain all responsibilities and obligations related to the services described herein that are not expressly assigned to **JPR**.

- (a) The **CITY OF GOSHEN** shall designate an appointed **CITY OF GOSHEN** official to act as liaison(s) with **JPR** in connection with the performance of services by **JPR** under this Agreement. This person shall remain in this position until such time as a change is made by the **CITY OF GOSHEN**, and **JPR** shall be notified of any such change as soon as its' effective date is determined.

2.02 The **CITY OF GOSHEN**'s Insurance Coverage Requirements: The shall maintain and keep in full force and effect during the term of this Agreement, all existing policies of applicable insurance as would be typically carried by an incorporated municipality in the State of Indiana. The **CITY OF GOSHEN** shall furnish **JPR** with Certificates of Insurance as evidence that such policies are in full force and effect if requested. **JPR** shall be named as additional insured on any maintained policies that are applicable to its' activities furnished under this agreement. Such policies shall provide that no less than thirty (30) days advance notice of cancellation, termination, or alteration be sent directly to **JPR** and the **CITY OF GOSHEN**.

2.03 Mutual Indemnification: To the fullest extent permitted by law, the **CITY OF GOSHEN** and **JPR** agree to defend, protect, indemnify and hold harmless one another and/or their employees and agents from all claims, actions, charges or demands for any damages, liabilities, losses, costs, including attorney's fees, and expenses as may arise from or are due to the negligent acts or omissions of one another, their agents or employees.

2.04 Representations and Warranties of **CITY OF GOSHEN**: The **CITY OF GOSHEN** represents and warrants to **JPR** that:

- (a) The execution and delivery of this Agreement was duly authorized by all necessary governmental action, none of which action has been rescinded or otherwise modified. This Agreement is a legal, valid and binding obligation of the **CITY OF GOSHEN**, enforceable against the **CITY OF GOSHEN** in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium, liquidation, or other similar laws affecting creditors' rights and remedies and subject to the exercise of judicial discretion in accordance with general principles of equity.

- (b) The execution and delivery of this Agreement and any other related document to which the **CITY OF GOSHEN** is a party, the consummation of the transactions contemplated herein, and the fulfillment of the terms and conditions hereof do not and will not: (i) conflict with or result in a breach of any of the terms or conditions of any restriction, agreement or instrument to which the **CITY OF GOSHEN** is a party or by which it is bound; or (ii) constitute a default under any of the foregoing, or to the best of the knowledge of the **CITY OF GOSHEN**, cause it to be in violation of any order, decree, statute, rule or regulation of any court or State or Federal regulatory body having jurisdiction over the **CITY OF GOSHEN** or its properties.
  
- (c) The **CITY OF GOSHEN** is not in default under, and no condition exists that with notice or lapse of time or both would constitute a default under any mortgage, loan agreement, lease, lease purchase, indenture or evidence of indebtedness for borrowed money to which the **CITY OF GOSHEN** is a party that would materially affect the **CITY OF GOSHEN**'s entering into, or performance of, this Agreement.
  
- (d) The facts and representations stated and made by the **CITY OF GOSHEN** in the information and data provided by it and all other information and documentation submitted to **JPR** by the **CITY OF GOSHEN** were true and accurate as of the date they were made or submitted and are true and accurate as of the date of this Agreement.

2.05 Survival of Obligations: The obligations set forth under this Article II shall survive the expiration or termination of this Agreement.

### **ARTICLE III - COMPENSATION**

3.01 Details regarding compensation are provided within the attached **Exhibit A**.

## ARTICLE IV - TERM OF AGREEMENT

4.01 Term: This Agreement shall remain in full force and effect for 1 year from the Effective Date, or the allocated amount of \$100,000.00 is reached unless sooner terminated pursuant to Article V.

At such time that 1 year has passed, this agreement will automatically be extended in one-year increments unless or until it has been Terminated pursuant to Article V.

Upon the one-year anniversary of this Agreement, and on every annual anniversary thereafter, **JPR** reserves the right to adjust the hourly rates to be charged pursuant to this agreement commensurate with the most recent annual consumer price index, or 'inflation rate,' as determined and published by the US Department of Labor's Bureau of Labor Statistics. When such an adjustment has taken place, an updated schedule of hourly rates will be provided to the **CITY OF GOSHEN** for reference purposes.

## ARTICLE V - TERMINATION

5.01 Termination by the CITY OF GOSHEN: This Agreement may be terminated with or without cause by the **CITY OF GOSHEN** at such time as the **CITY OF GOSHEN** believes it is in the best interest of the **CITY OF GOSHEN** to do so.

5.02 Termination by JPR: This Agreement may be terminated upon ninety (90) days prior written notice given by **JPR** to the **CITY OF GOSHEN** for cause.

"For Cause" shall be defined as a default by the **CITY OF GOSHEN** under this Agreement. In the event of a default by the **CITY OF GOSHEN**, this Agreement shall not be terminated if the **CITY OF GOSHEN** cures the default within such ninety (90) day period. The occurrence of three or more events of default by the **CITY OF GOSHEN** in any calendar year, whether cured or not, shall be a basis for termination of the Agreement by **JPR** upon thirty (30) days prior written notice to the **CITY OF GOSHEN**.

**JPR** may also terminate this Agreement in the event that **JPR** feels, from a Professional and/or Ethical perspective, that it is unable to provide the level of services commensurate with this Agreement and/or the **CITY OF GOSHEN**'s needs, due to reasons associated with staffing, workload, or other related issues. In the unlikely event of such a scenario, the ninety (90) day period discussed in the preceding paragraph shall be observed.

5.03 Prorated Compensation: Compensation shall be prorated to the Effective Date of Termination.

## **ARTICLE VI - MISCELLANEOUS**

6.01 Assignment: This Agreement may not be assigned by **JPR** without obtaining the prior written consent from the **CITY OF GOSHEN**.

6.02 Entire Agreement: This Agreement represents the entire agreement of the parties and may only be modified or amended in writing & pursuant to the mutual agreement of the **CITY OF GOSHEN** and **JPR**.

6.03 Notices: Written notices required to be given under this Agreement shall be deemed given when hand delivered or mailed by first class, certified mail to **JPR** at:

Jones Petrie Rafinski Corp.  
325 S. Lafayette Blvd.  
South Bend, IN 46601

and to the **CITY OF GOSHEN** at:

The City of Goshen – Mayor's Office  
202 S. 5<sup>th</sup> Street  
Goshen, IN 46528

- 6.04 Claims and Rights: No waiver, discharge, or renunciation of any claim or right arising out of breach of this Agreement by either party shall be effective unless in writing signed by either party and supported by separate consideration.
- 6.05 Captions: The captions or headings of the various Articles and Sections of this Agreement are for convenience only and they shall be ignored in interpreting this Agreement.
- 6.06 Governing Law: This Agreement shall be deemed to have been made in Marshall County, Indiana, and shall be governed by, and construed in accordance with the laws of the State of Indiana.
- 6.07 Mediation: Prior to the filing of a complaint with any Court, the parties agree that any dispute arising pursuant to this Agreement shall first be submitted to mediation in accordance with the Indiana Rules of Alternative Dispute Resolution.
- 6.08 Attorney's Fees: In the event of a default under this Agreement, the non-defaulting party shall recover from the defaulting party the reasonable attorney's fees incurred in enforcing this Agreement.
- 6.09 Authority to Contract: Each party warrants and represents that it has authority to enter into this Agreement.
- 6.10 Modifications: This Agreement may not be modified or amended except in writing, signed by both parties and which expressly states that it is intended to modify or amend this Agreement.

IN WITNESS WHEREOF, JPR, by its duly authorized Officer, and the CITY OF GOSHEN, by its duly authorized Officer, have executed this Agreement as of the date and year first above written.

The City of Goshen

Jones Petrie Rafinski Corp

X \_\_\_\_\_

Print Name \_\_\_\_\_

Title \_\_\_\_\_

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

X \_\_\_\_\_

Kenneth Jones, Jr., PS

Chief Financial Officer – JPR Corp.

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

X \_\_\_\_\_

Attest (optional)

Print Name \_\_\_\_\_

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

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



## EXHIBIT 'A'

*Consisting of three (3) pages*

Under this agreement, **JPR** will be providing the **CITY OF GOSHEN** with as needed "on-call" Professional Services on a continuous basis, for the period of 1 calendar year from the effective date of said agreement.

**Scope of Services:** The Consultants' professional services under this agreement shall be on an on-call basis to assist with general engineering and professional consulting services. The following items have been initially identified as the key priorities. The on-call service shall be initiated by city via email or phone call and the consultant shall utilize the task order form included as Exhibit-B to define the scope, schedule, fees and approval.

1. **Site Plan Review** – assisting the Department with review of site plans submitted pursuant to existing **CITY OF GOSHEN** ordinances, policies, and other regulations.
  - a. General Conformity
  - b. Determine Availability of Sanitary Sewer and/or Potable Water utility infrastructure
  - c. Confirm correct sizing for water service(s) and/or water meter(s)
2. **Right of Way Permit Review** – assisting the Department with review of right of way permit applications and/or submittals (for private work being proposed within those public rights of way within the City's municipal boundary)
3. **Project Initiatives** – Current identified tasks/projects, such as:
  - a. Bridge Maintenance Plan & Standard Specifications preparation
  - b. Roadway Paving – Package #2023-2
  - c. Sidewalk 50/50 program and 2023 Sidewalk and ADA Curb Ramp Inventory
  - d. Sanitary Sewer utility slip lining project(s)
4. Assist with Preparation of "**Request(s) for Proposals**" for several projects that are part of the **CITY OF GOSHEN's** current priorities, commensurate with the effective date of this agreement, such as:
  - a. Five (5) Redevelopment Road Reconstruction Projects
  - b. ADA Transition plan update
    - i. Sidewalk & curb ramp evaluations throughout the City of Goshen

**Fees, Budgets, Task Order(s), Etc.:** The **CITY OF GOSHEN** is allocating \$100,000 in local funding resources in order to be able to compensate JPR for services provided pursuant to this agreement, on an assignment by assignment, or task by task, basis.

For each assignment, or task, an approximate "hourly to a max" budget will be estimated by JPR, based upon the service fee schedule provided herein, and provided to the **CITY OF GOSHEN** so that a 'Task Order' document can be drafted for review and execution. The **CITY OF GOSHEN** will assign a number to each 'Task Order,' and JPR will reference the name of the task along with the assigned number on any resulting invoices, as well as any other deliverables that are generated as part of the work.

Tasks/Assignments will be individually invoiced monthly for any tasks that take more than one calendar month to complete and upon completion for any tasks that are completed in less than one calendar month.



## JPR Corp. - Service Fee Schedule

Effective January 1, 2023

	Standard Hourly Rate	Municipal "General Services" Rate <sup>1</sup>	Adjustment	Activity Code
FIRM Officer	\$242	\$0	(\$212.00)	OFF
Principal Staff	\$185	\$160	(\$25.00)	PPS
Management Staff	\$160	\$140	(\$20.00)	MS
Professional Engineer	\$148	\$133	(\$15.00)	PE
Professional Architect	\$148	\$133	(\$15.00)	RA
Professional Landscape Architect	\$148	\$133	(\$15.00)	PLA
Professional Surveyor	\$148	\$133	(\$15.00)	PS
Professional Geologist	\$148	\$133	(\$15.00)	PG
Certified Planning Professional	\$148	\$133	(\$15.00)	PP
Certified GIS Professional	\$148	\$133	(\$15.00)	GISP
Environmental Professional	\$148	\$133	(\$15.00)	EP
Utility Management I	\$125	\$120	(\$5.00)	UMI
Graduate Staff	\$112	\$100	(\$12.00)	GS
Utility Management II	\$85	\$85	N/A <sup>2</sup>	UMII
Engineering Dept. Support Staff	\$90	\$85	(\$5.00)	EDS
Architecture Dept. Support Staff	\$90	\$85	(\$5.00)	ADS
Landscape Arch. Support Staff	\$90	\$85	(\$5.00)	LDS
Clerical & Account Staff	\$85	\$80	(\$5.00)	CAS
Survey Dept. Support Staff	\$80	\$80	\$0.00	SDS
Environmental Dept. Support Staff	\$65	\$60	N/A <sup>2</sup>	ENS
2-Person Survey Crew	\$148	\$140	N/A <sup>2</sup>	2PC
Field Geologist	\$135	\$125	N/A <sup>2</sup>	FG
1-Person Survey Crew	\$112	\$105	N/A <sup>2</sup>	1PC
Environmental Field Technician	\$90	\$85	N/A <sup>2</sup>	EFT
Resident Project Representative	\$90	\$85	N/A <sup>2</sup>	RPR
Utility Operations Field Technician	\$85	\$80	N/A <sup>2</sup>	UFT

Direct expenses such as printing/copies, messenger/delivery services, shipping expenses, permit application fees, sub-consultants, or sub-contractors, etc., that are paid for by JPR Corp. on behalf of client will be passed on with a 10% markup in most cases, and is defined and stipulated within project specific agreements and/or contracts.

<sup>1</sup> Utilized for JPR's general municipal services and apply to JPR's multiple contracted roles as "Town Engineer" or "District Engineer" for local municipalities and other local gov't entities & special districts. Also applies to special district administrative services, several of which JPR serves as "District Engineer."

<sup>2</sup> Due to the significant overhead expenses associated with field work, reductions to these rates are not possible. Discounted rates for this type of activity are still provided from time to time, but it is done so on a case by case basis and is quantified within specific written agreements relative to specific projects and/or assignments.

For inquiries regarding this information, please contact us via phone at any of the numbers provided below or you may do so via email at [accounting@jpr1source.com](mailto:accounting@jpr1source.com).

## Exhibit B

### Task Order No. Click or tap here to enter text.

For Professional Engineering On-Call Consulting Services issued by City of Goshen (City) to Jones Petrie Rafinski Corp. (Consultant) as per General Professional Services Agreement dated this day of ; 2023.

#### ORDER NAME/DESCRIPTION OF TASK:

Click or tap here to enter text.

#### SCOPE OF SERVICES FOR TASK:

- A. Click or tap here to enter text.
  - 1. Click or tap here to enter text..
  - 2. Click or tap here to enter text.
  - 3. Click or tap here to enter text.
  - 4. Click or tap here to enter text.
- B. Click or tap here to enter text.
  - 1. Click or tap here to enter text..
  - 2. Click or tap here to enter text.
  - 3. Click or tap here to enter text.
  - 4. Click or tap here to enter text.
- C. Click or tap here to enter text.
  - 1. Click or tap here to enter text..
  - 2. Click or tap here to enter text.
  - 3. Click or tap here to enter text.
  - 4. Click or tap here to enter text.

**CITY RESPONSIBILITIES**

Specific City responsibilities to support the project are as follows:

- Click or tap here to enter text.
- Click or tap here to enter text..
- Click or tap here to enter text.
- Click or tap here to enter text.
- Click or tap here to enter text.

**SCHEDULE FOR TASK:**

Start date: Click or tap here to enter text.  
 Completion date: Click or tap here to enter text.

**COMPENSATION FOR TASK:**

Compensation for the work as defined in the Scope of Services of this Task Order shall be in accordance with JPR's charge out rates as set forth in the City of Goshen Wastewater Collection and Treatment System On-Call Consulting Services Agreement. Routine expenses will be billed at cost.

The total cost for these basic Services will not exceed \$Click or tap here to enter text. without prior written approval from City.

**APPROVALS:**

**CITY OF GOSHEN**

**JONES PETRIE RAFINSKI CORP.**

Task requested by:

Task approved by:

\_\_\_\_\_

\_\_\_\_\_

Task approved by:

Signature

\_\_\_\_\_

\_\_\_\_\_

Mayor

Title

\_\_\_\_\_

\_\_\_\_\_

Date

Date