



Board of Public Works & Safety and Stormwater Board

Regular Meeting Agenda

2:00 p.m., September 11, 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: August 14, 2023

Approval of Agenda

1) Police Department request: Approval to reduce the rank of Keith Miller from Captain to Patrol Officer, retroactive to Sept. 8, 2023

2) Police/Legal departments request: Approve Conditional Offer of Employment to Guadalupe Mendoza-Rivera

3) Police/Legal departments request: Approve Conditional Offer of Employment to Austin Ray Whitford

4) Fire/Legal departments request: Approve and authorize Mayor Leichty to execute an agreement with St. Vincent Health, Wellness & Prevention Care Institute, Inc., for Goshen Fire Department 2023-2025 physicals at a total cost of \$120,514

5) Wholesome Tortilla request: Approval of a Big Dipper W-350-IS mechanical grease interceptor for the property at 132 North Main Street, Goshen

6) Janus Motorcycles request: Approval to close the parking lot north of its building for its annual owners rally, starting at 5 p.m. on Friday, Sept. 15 through Sunday, Sept. 17 at noon

7) Planning & Zoning Department request: Approval and authorization for the Mayor to sign the CBDO and CBDG agreements for Planning, Public Service and Housing activities for Program Year 2023

8) Planning & Zoning Department request: Approve and authorize Mayor Leichty to sign the amended Homeownership Assistance Agreement for the Community Development Block Grant with Lacasa for Program Year 2022



9) Legal Department request: Approve and authorize the Mayor to execute the Leaf Storage Agreement with Ozinga Ready Mix Concrete, Inc.

10) Legal Department request: Approve/authorize Mayor Leichty to sign the agreement with Peterson Consulting Services Inc. to assist the City with its financial reporting related to its capital assets for the fixed fee of \$5,725, plus reimbursable expenses not to exceed \$250

11) Legal Department request: Approve settlement and release agreement, including participation agreements, with Central States, Southeast and Southwest Areas Health and Welfare Fund concerning employee health insurance coverage for certain City employees

12) Legal Department request: Approve agreement for the Completion of Construction Project with Greenwood Rentals, LLC relative to the construction of the Indiana Avenue Apartments

13) Legal Department request: Dedicate for public right-of-way purposes the real estate upon which Waterford Mills Parkway is constructed between Regent Street and Dierdorff Road

14) Legal Department request: Resolution 2023-25 - Interlocal Memorandum of Understanding for 2023 Edward Byrne Memorial Justice Grant Formula Program Award

15) Legal Department request: Resolution 2023-26 – Interlocal Agreement with the County of Elkhart for East College Avenue/C.R. 36 Reconstruction from Fairgrounds to C.R. 31

16) Legal Department request: Resolution 2023-27 – Approving the Termination of the Goshen Dam Pond Interlocal Agreement

17) Legal Department request: Resolution 2023-28 - Exchange of Real Property

18) Legal Department request: Resolution 2023-29 – Declaring Surplus and Authorizing the Disposal of Vehicles and Equipment

19) Legal Department request: Approve Consignment Agreement with Bright Star Realty and Auctions, LLC to sell the City's surplus property at Bright Star's consignment auction

20) Water & Sewer Office request: Move \$7,608.79 in uncollected finaled accounts from active to collection, sewer liens and write offs



21) Water Utility request: Approve the recommended 2023 allocation of the monthly sewer and water bill repair fee to 0 cents to the Water Maintenance Fund and \$1.10 cents to the Sewer Maintenance Fund for the remainder of the year

22) Engineering Department request: Approve the extended closure of Wilden Avenue, until Nov. 10, 2023, to address unexpected conflicts and issues requiring project work outside the original scope

23) Engineering Department request: Approve the lane restriction on College Avenue for two days, the week of Sept. 11, 2023, for the Goshen College Westlawn remodel project

24) Engineering Department request: Authorize Mayor Leichty to sign the agreement amendment with American StructurePoint for an environmental evaluation of the property at 2703 College Avenue for an additional fee of \$29,526.32

25) Engineering Department request: Approve Change Order No. 3 for the Geo-grid to bridge the poor soils for an increase of \$21,168 and add 19 additional days to the 2023 Paving Project schedule making the final completion date Sept. 29, 2023

Privilege of the Floor

CITY OF GOSHEN STORMWATER BOARD

Regular Meeting Agenda

2:00 p.m., September 11, 2023

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

Members: Mayor Leichty, Mike Landis and Mary Nichols

26) Accept the post-construction stormwater management plan for Dollar General Parke North as it has been found to meet the requirements of City Ordinance 4329

Approval of Civil City and Utility Claims

Adjournment



**BOARD OF PUBLIC WORKS & SAFETY & STORMWATER BOARD
MINUTES OF THE AUGUST 14, 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 and Barb Swartley

Absent: Mary Nichols

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 Aug. 7, 2023 Regular Meeting. Board Member Mike Landis moved to accept the minutes as presented and the motion was seconded by Board Member Barb Swartley. Motion passed 3-0.

REVIEW/APPROVE AGENDA: Mayor Leichty presented the meeting agenda as submitted by the Clerk-Treasurer. Board member Landis moved to approve the agenda as presented. Board member Swartley seconded the motion. Motion passed 3-0.

1) Opening of sealed bids: For the purchase of a new wheel loader for the Street Department with possible trade-in allowance for a 2001 New Holland wheel loader

On behalf of the City Street Department, the Board of Public Works & Safety was asked to open all sealed offers submitted to the City for the purchase of a 2023 or newer wheel loader. Offers are were solicited for the following optional item: **TRADE-IN – 2011 New Holland Model #LW170, Serial #ZEFOLW1700570187.**

All sealed quotes were due to be submitted to the Clerk-Treasurer's Office by 1:45 p.m. on Aug. 14, 2023.

Mayor Leichty announced offers from three companies were received:

Hardings Heavy Equipment, Inc. of Lowell, Indiana. Item 1 offer: 2024 Hyundai HL230AKT wheel loader, \$170,303.00. Option #1 (Trade-in): \$19,303.

West Side Tractor Sales Co. of Indianapolis, Indiana. Item 1 offer: 2023 John Dere Model #344P wheel loader, \$174,608.28. Option #1 (Trade-in): \$20,000.

Weaver Ag & Lawn Equipment, LCC, from South Bend, Indiana. Item 1 offer: 2023 JCB Model #TM320 wheel loader, \$149,942.67. Option #1 (Trade-in): \$15,000.

Weaver Ag & Lawn Equipment, LCC, from South Bend, Indiana. Item 1 offer: 2023 JCB Model #417 wheel loader, \$174,299.00. Option #1 (Trade-in): \$15,000.

Weaver Ag & Lawn Equipment, LCC, from South Bend, Indiana. Item 1 offer: 2023 JCB Model #427ZX wheel loader, \$183,764.28. Option #1 (Trade-in): \$15,000.

Landis/Swartley moved that the bids be referred to the City Legal Department for review. Motion passed 3-0.

2) Police Department: Approve the promotion of Captain Ryan Adams #125 to Division Chief of Patrol, retroactive to Aug. 11, 2023

Goshen Police Chief José Miller asked the Board to approve the promotion of **Ryan A. Adams** from the rank of Patrol Captain to the rank of Division Chief.



Chief Miller said Capt. Adams has been a Goshen Police Department officer for over 25 years. He has previously served as a Captain, Lieutenant, SWAT Team Commander, Detective, and Division Chief of Investigations. Capt. Adams returned to patrol for several years and now again wishes to be part of the administrative leadership at Goshen Police Department.

Chief Miller said Capt. Adams has served the community and the department, with the highest integrity. Chief Miller added that Capt. Adams "has demonstrated time and time again he will be a great asset to our department. I am requesting this promotion to be retroactive to Friday Aug. 11, 2023."

Landis/Swartley moved to approve the promotion of **Ryan A. Adams** from the rank of Patrol Captain to the rank of Division Chief, retroactive to Aug. 11, 2023. Motion passed 3-0.

After the approval of his promotion, Mayor Leichty swore Ryan A. Adams into office as Division Chief.

3) Police Department request: Approve the promotion of Officer Aaron D. Johnson from the position of Patrol Sergeant to the rank of Patrol Lieutenant, retroactive to Aug. 11, 2023

Goshen Police Chief José Miller asked the Board to approve the promotion of **Officer Aaron D. Johnson** from the position of Patrol Sergeant to the rank of Patrol Lieutenant.

Chief Miller said Officer Johnson has worked for the Police Department approximately six years "and has demonstrated he has great leadership qualities." Officer Johnson is a Sergeant on the midnight shift and is a field training officer for new recruits. Chief Miller asked that the promotion be retroactive to Friday Aug. 11, 2023.

Landis/Swartley moved to approve the promotion of **Aaron D. Johnson** from the position of Patrol Sergeant to the rank of Patrol Lieutenant, retroactive to Aug. 11, 2023. Motion passed 3-0.

After the approval of his promotion, Mayor Leichty swore Aaron D. Johnson into office as Patrol Lieutenant.

4) Police Department request: Approve the hiring of Diego Murillo for the position of probationary patrol officer, effective Aug. 14, 2023

Goshen Police Chief José Miller asked the Board to approve the hiring of **Diego Murillo** for the position of probationary patrol officer.

Chief Miller said Officer Murillo has passed all exams and has been approved by both the local and State pension boards. Chief Miller added, "We are thrilled to have Diego as a new police officer serving our community. I would like this hiring to be effective today, Monday Aug. 14, 2023.

Landis/Swartley moved to approve the hiring of **Diego Murillo** for the position of probationary patrol officer effective today, Aug. 14, 2023. Motion passed 3-0.

After the approval, Mayor Leichty swore Diego Murillo into office as a Probationary Patrol Officer.

5) Fire Department request: Approve the promotion of John M. Kauffman to the rank of Private First Class for the Goshen Fire Department, effective Aug. 15, 2023

Assistant Chief of Operations Anthony Powell told the Board that **John M. Kauffman** will complete his probationary year at the Goshen Fire Department on Aug. 15, 2023. Based on his performance and recommendations from his Battalion Chief and Training Officer, Chief Powell said "it is my pleasure to request that John be promoted to the rank of Private First Class for the Goshen Fire Department, effective Aug. 15, 2023."



Landis/Swartley moved to approve the promotion of John M. Kauffman to the rank of Private First Class for the Goshen Fire Department, effective Aug. 15, 2023. Motion passed 3-0.

After the approval of his promotion, Mayor Leichthy swore John M. Kauffman into office as Private First Class.

6) Fire Department request: Approve the promotion of Matthew W. Pilling to the rank of Private First Class for the Goshen Fire Department, effective Aug. 15, 2023

City Assistant Chief of Operations Anthony Powell told the Board that Matthew W. Pilling will complete his probationary year at the Goshen Fire Department on Aug. 15, 2023. Based on his performance and recommendations from his Battalion Chief and Training Officer, Chief Powell said "it is my pleasure to request that Matt be promoted to the rank of Private First Class for the Goshen Fire Department, effective Aug. 15, 2023."

Landis/Swartley moved to approve the promotion of Matthew W. Pilling to the rank of Private First Class for the Goshen Fire Department, effective Aug. 15, 2023. Motion passed 3-0.

After the approval, Mayor Leichthy swore Matthew W. Pilling into office as Private First Class.

7) Goshen High School Band Boosters request: Police presence, street closures, barricades and parking for the Goshen High School Marching Band Invitational, Sept. 9, 2023

On behalf of the Band Boosters of Goshen High School, Jason Kauffman of Goshen requested the closure of public streets around the school for the upcoming Marching Band Invitational at Goshen High School.

Kauffman requested the closure of East Purl Street, from 9th Street east to the school campus, and 10th Street, from the intersection of 10th and Madison streets to East Reynolds Street, from 10 a.m. until midnight.

In a letter to the Board, Kauffman wrote that he was making this request for the safety of the students attending this event. Since organizers utilize the entire campus for this Invitational, he wrote that students' movement across these streets is necessary. Organizers also requested for parking the use of the grassy knoll area between Douglas Street and Plymouth Avenue, which is the future site of the Ariel Cycleworks Apartments

The event will be held on Sept. 9, 2023, and will begin approximately at 5 p.m. Organizers hoped to have a police officer present before, during, and after the event.

Mayor Leichthy said it was a long day, but it's a fun day for people who live in the neighborhood and she encouraged people to attend the event.

Board member Landis asked if organizers would need any street barricades from the City. Kauffman responded that the school has some, but would need more. Mayor Leichthy asked if organizers have requested use of barricades from the Street Department. City Street Commissioner David Gibbs said he would handle it.

Landis/Swartley moved to approve the closure of East Purl Street, from 9th Street east to the school campus, and 10th Street, from the intersection of 10th and Madison streets to East Reynolds Street, from 10 a.m. until midnight on Sept. 9, 2023. Motion passed 3-0.

8) El Imperial Restaurant/Bar request: Request for retroactive approval of a Big Dipper 35 grease trap at 113 South Main Street in downtown Goshen

Mick Reese, Environmental Compliance Administrator for the City Wastewater Treatment Plant, appeared along with Erick Ponce, the owner of El Imperial Restaurant/Bar, 113 South Main Street. Reese said was under the impression a variance was granted for a mechanical interceptor, but determined it had not been approved.



Reese said Ponce asked him to appear at the Board meeting and seek retroactive permission for a 35-gallon per minute mechanical interceptor at the restaurant.

In response to a question from Board member Landis, Reese said a variance could be granted because there was no ability to place 1,000-gallon interceptor on site. He also confirmed other conditions Ponce has met.

In a letter to the Board, Ponce wrote that the restaurant will serve a variety of Mexican food dishes accompanied with special alcoholic beverages. He added: "Our mission is to attract 21 and up individuals who enjoy music, food, and drinks. This establishment will provide a unique quality experience. There will be several areas where pictures can be taken, and also a pool table. I plan to open from Thursday-Sunday. The keys to success will be focused in product quality, service, and atmosphere."

Mayor Leichthy said she looked forward to eating at the restaurant. Ponce said he was unsure of the opening date.

Landis/Swartley moved to approve a variance for a 35-gallon Big Dipper grease trap at 113 South Main Street, the El Imperial Restaurant & Bar. Motion passed 3-0.

9) Legal Department request: Accept the easement for Goshen City utility purposes from Villas Venecia 420, LLC, and authorize the Mayor to execute the acceptance

Shannon Marks, the Legal Compliance Administrator for the City Legal Department, recommended that the Board accept the easement from Villas Venecia 420, LLC, which was attached to the meeting packet. This easement is for Goshen City utility purposes at 420 Johnston Street.

Landis/Swartley moved to accept the easement for Goshen City utility purposes from Villas Venecia 420, LLC, 420 Johnston Street, and authorize the Mayor to execute the acceptance. Motion passed 3-0.

10) Legal Department request: Approve the AmeriCorps at Michiana Council of Governments (MACOG) Service Site Organization Agreement with MACOG providing four AmeriCorps Member Service Years for the 2023-2024 Service Year in the amount of \$44,000 and authorize Mayor Leichthy to execute the agreement
City Attorney Bodie Stegelmann said City staff asked for approval of an agreement with MACOG for the placement of four MSY (member service year) AmeriCorps Members for the 2023-24 Program year to work in the City of Goshen. The City will pay MACOG \$11,000 per MSY for the AmeriCorps members assigned to the City. Under the contract, AmeriCorps members will begin service on or after Sept. 1, 2023 and complete the required number of service and training hours no later than Aug. 31, 2024.

Landis/Swartley moved to approve the AmeriCorps at MACOG Service Site Organization Agreement with MACOG providing four AmeriCorps Member Service Years for the 2023-2024 Service Year in the amount of \$44,000 and authorize Mayor Leichthy to execute the agreement. Motion passed 3-0.

Mayor Leichthy said she understood that one of the AmeriCorps members was seeking housing. She said the Environmental Resilience Department would welcome recommendations for affordable rental housing.

11) Engineering Department request: Approve the Indiana Avenue closure of local traffic only for the full depth replacement and full depth reclamation pavement work, Aug. 21 thru Sept. 15, 2023

City Director of Public Works & Utilities Dustin Sailor told the Board that Niblock Excavating will be performing work on two sections of Indiana Avenue.



Sailor said the first section is from Wilden Avenue, north to the City limits and will consist of full depth pavement replacement and some shoulder work. This work will start Monday, August 21 and go through Wednesday, Aug. 30. He said the second section of work is on Indiana Avenue from Wilden Avenue south to the railroad paved with surface on Sept. 11 and 12. This section will be a hard closure at the tracks and open to local traffic coming off of Wilden Avenue. Niblock will maintain access for residents, the Wastewater Treatment Plant and the Recycle Center. **Landis/Swartley** moved to approve the Indiana Avenue closure of local traffic only for the full depth replacement and full depth reclamation pavement work from Aug. 21 thru Sept. 15, 2023. Motion passed 3-0.

Privilege of the Floor (opportunity for public comment for matters not on the agenda):
Mayor Leichy opened Privilege of the Floor at 2:30 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 Leichy/Board member Swartley moved to approve Civil City and Utility claims and adjourn the meeting. Motion passed 3-0.

Adjournment

Mayor Leichy adjourned the Board of Works meeting at 2:30 p.m.

APPROVED:

Mayor Gina Leichy

Mike Landis, Member



Mary Nichols, Member

Barb Swartley, Member

ATTEST:

Richard R. Aguirre, City of Goshen Clerk-Treasurer



Jose' D. Miller

Chief of Police

111 E Jefferson St
Goshen, Indiana 46528

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

Date: September 11th, 2023

From: Jose' Miller, Chief of Police

Reference: Voluntary Reduction in Rank of Captain Keith A. Miller

I am requesting the Goshen Board of Public Works and Safety **approve the request from Capt. Keith Miller for a reduction of rank retroactive to Friday, September 8th, 2023.**

Capt. Miller resigned from the position of Investigations Division Chief earlier this summer and voluntarily moved to his previous rank of Captain. Just recently the position of Division Chief was filled by Captain Ryan Adams which opened up a vacancy as Captain in patrol. According to the agreement between the City of Goshen and the Elkhart F.O.P. Lodge 52, Inc. Captain Keith Miller would have been required to take the vacancy as Captain or voluntarily reduce his rank to Patrol Officer.

On August 31st, 2023, Captain Keith Miller informed me, and provided an email, stating that he wished to decline the position of Captain and understood his rank would be reduced to Patrol Officer. Even though Captain Miller would enjoy being a mentor for younger officers, he felt it would be best for the department to have a younger officer fill the position because of his upcoming retirement.

I would like to thank Captain Miller for his continuous dedication to the Goshen Police Department in the various roles and ranks he has held and look forward to his experience in our evidence department.

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

Jose' Miller #116

Chief of Police

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

Telephone: (574) 533-8661

Hearing Impaired: (574) 533-1826

FAX: (574) 533-1826

Miller, Jose

From: Miller, Keith
Sent: Thursday, August 31, 2023 8:33 PM
To: Miller, Jose
Subject: Declination of Night Shift Captain Position

Follow Up Flag: Follow up
Flag Status: Flagged

Chief Miller,

Chief Miller,

Per the contract, I have been offered the open position of Night Shift Captain. I hereby decline the position and understand I will be reduced to the rank of Patrolman in the Evidence Unit, effective September 8th, 2023.

Keith A. Miller
Captain
Goshen Police Department



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

September 11, 2023

To: Goshen Board of Public Works and Safety

From: Shannon Marks, Legal Compliance Administrator

Subject: Goshen Police Department Conditional Offer of Employment to Guadalupe Mendoza-Rivera

On behalf of the Police Department, it is recommended that the Board extend a conditional offer of employment to Guadalupe Mendoza-Rivera, as well as approve the attached Conditional Offer of Employment Agreement and authorize the Mayor to execute the agreement on behalf of the City and the Board.

The agreement sets forth the conditions that the prospective employee must meet prior to beginning employment with the Police Department as a probationary patrol officer 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. Once employed, Guadalupe will be required to successfully complete all training requirements, including complete the Tier I basic training requirements and obtain certification with the Indiana Law Enforcement Training Board.

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

Suggested motions:

- (1) Move to extend a conditional offer of employment to Guadalupe Mendoza-Rivera as a probationary patrol officer.
- (2) Move to approve the Conditional Offer of Employment Agreement with Guadalupe Mendoza-Rivera, and authorize the Mayor to execute the agreement.

GOSHEN POLICE 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 **Guadalupe Mendoza-Rivera** ("Mendoza-Rivera") 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 Mendoza-Rivera agree as follows:

CONDITIONAL OFFER OF AND PREREQUISITES TO BEGINNING EMPLOYMENT

City conditionally offers Mendoza-Rivera employment as a probationary patrol officer of the Goshen Police Department. Mendoza-Rivera accepts City's conditional offer of employment. City does not have a current position available in the Goshen Police Department. City and Mendoza-Rivera understand and agree that the offer of employment is contingent upon the following:

- (1) A personnel vacancy in the Goshen Police Department rank and file must exist. Mendoza-Rivera understands that currently no vacancy exists in the rank and file of the Police Department. Although the Goshen Police Department is initiating the pension physical and psychological testing, Mendoza-Rivera 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 police officers.
- (2) Mendoza-Rivera 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). Mendoza-Rivera 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 Mendoza-Rivera 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 Mendoza-Rivera's expense. If additional reports and/or testing are required, Mendoza-Rivera may elect to terminate this agreement.
- (4) InPRS will determine whether Mendoza-Rivera has any Class 3 excludable conditions. Mendoza-Rivera understands that if InPRS finds that Mendoza-Rivera has any Class 3

excludable conditions, Mendoza-Rivera 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 Mendoza-Rivera'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 Mendoza-Rivera 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 Mendoza-Rivera 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 Police 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 Mendoza-Rivera accepts City's withdrawal and this agreement shall be terminated.

AGREE TO ENROLL AND COMPLETE ALL TRAINING REQUIREMENTS

- (1) As a condition of employment with City and Goshen Police Department, Mendoza-Rivera is required to successfully complete the pre-basic course required by Indiana Code § 5-2-1-9(e) in order to exercise police powers. Mendoza-Rivera agrees to attend the pre-basic course when instructed to do so, and successfully complete the pre-basic course within sixty (60) days of Mendoza-Rivera's first day of employment with Goshen Police Department.
- (2) As a further condition of employment, City and Goshen Police Department shall require and Mendoza-Rivera agrees to attend and successfully complete the basic training requirements established by the Indiana Law Enforcement Training Board at a certified law enforcement academy. Mendoza-Rivera agrees to maintain a physical condition in order to pass the physical entrance standards to the law enforcement academy as established by the Indianan Law Enforcement Training Board.
- (3) Mendoza-Rivera will be paid for the time Mendoza-Rivera spends in the pre-basic course under paragraph (1) and the basic training under paragraph (2). City will pay the cost of the pre-basic course and the basic training one (1) time.
- (4) If Mendoza-Rivera fails to successfully complete the pre-basic course, is unable to pass the physical entrance standards to the law enforcement academy, or fails to successfully complete the basic training requirements at any time within one (1) year of Mendoza-Rivera's first day of employment with Goshen Police Department, Mendoza-Rivera's employment with City and Goshen Police Department shall terminate.

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 set forth below.

Gina M. Leichty, Mayor
City of Goshen, Indiana

Guadalupe Mendoza-Rivera

Date: _____

Date: _____



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

September 11, 2023

To: Goshen Board of Public Works and Safety

From: Shannon Marks, Legal Compliance Administrator

Subject: Goshen Police Department Conditional Offer of Employment to Austin Ray Whitford

On behalf of the Police Department, it is recommended that the Board extend a conditional offer of employment to Austin Ray Whitford, as well as approve the attached Conditional Offer of Employment Agreement and authorize the Mayor to execute the agreement on behalf of the City and the Board.

The agreement sets forth the conditions that the prospective employee must meet prior to beginning employment with the Police Department as a probationary patrol officer 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. Once employed, Austin will be required to successfully complete all training requirements, including complete the Tier I basic training requirements and obtain certification with the Indiana Law Enforcement Training Board.

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

Suggested motions:

- (1) Move to extend a conditional offer of employment to Austin Ray Whitford as a probationary patrol officer.
- (2) Move to approve the Conditional Offer of Employment Agreement with Austin Ray Whitford, and authorize the Mayor to execute the agreement.

GOSHEN POLICE 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 **Austin Ray Whitford** ("Whitford") 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 Whitford agree as follows:

CONDITIONAL OFFER OF AND PREREQUISITES TO BEGINNING EMPLOYMENT

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

- (1) A personnel vacancy in the Goshen Police Department rank and file must exist. Whitford understands that currently no vacancy exists in the rank and file of the Police Department. Although the Goshen Police Department is initiating the pension physical and psychological testing, Whitford 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 police officers.
- (2) Whitford 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). Whitford 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 Whitford 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 Whitford's expense. If additional reports and/or testing are required, Whitford may elect to terminate this agreement.
- (4) InPRS will determine whether Whitford has any Class 3 excludable conditions. Whitford understands that if InPRS finds that Whitford has any Class 3 excludable conditions, Whitford 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 Whitford'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 Whitford 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 Whitford 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 Police 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 Whitford accepts City's withdrawal and this agreement shall be terminated.

AGREE TO ENROLL AND COMPLETE ALL TRAINING REQUIREMENTS

- (1) As a condition of employment with City and Goshen Police Department, Whitford is required to successfully complete the pre-basic course required by Indiana Code § 5-2-1-9(e) in order to exercise police powers. Whitford agrees to attend the pre-basic course when instructed to do so, and successfully complete the pre-basic course within sixty (60) days of Whitford's first day of employment with Goshen Police Department.
- (2) As a further condition of employment, City and Goshen Police Department shall require and Whitford agrees to attend and successfully complete the basic training requirements established by the Indiana Law Enforcement Training Board at a certified law enforcement academy. Whitford agrees to maintain a physical condition in order to pass the physical entrance standards to the law enforcement academy as established by the Indianan Law Enforcement Training Board.
- (3) Whitford will be paid for the time Whitford spends in the pre-basic course under paragraph (1) and the basic training under paragraph (2). City will pay the cost of the pre-basic course and the basic training one (1) time.
- (4) If Whitford fails to successfully complete the pre-basic course, is unable to pass the physical entrance standards to the law enforcement academy, or fails to successfully complete the basic training requirements at any time within one (1) year of Whitford's first day of employment with Goshen Police Department, Whitford's employment with City and Goshen Police Department shall terminate.

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.

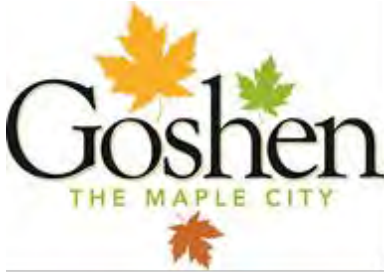
IN WITNESS WHEREOF, the parties have executed this agreement on the dates set forth below.

Gina M. Leichty, Mayor
City of Goshen, Indiana

Austin Ray Whitford

Date: _____

Date: _____



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

September 11, 2023

To: Board of Public Works and Safety

From: Brandy L. Toms

Subject: Agreement with St. Vincent Health, Wellness & Prevention Care Institute, Inc. dba Ascension St. Vincent Public Safety Medical (PSM) for Goshen Fire Department 2023-2025 physicals.

It is recommended that the Board approve authorize Mayor Leichty to execute the attached agreement with St. Vincent Health, Wellness & Prevention Care Institute, Inc. dba Ascension St. Vincent Public Safety Medical (PSM) for Goshen Fire Department 2023-2025 physicals. Payment for these services are as follows:

YEAR	COST
2023	\$ 38,988
2024	\$ 40,160
2025	\$ 41,366
TOTAL	\$120,514

Suggested Motion:

Approve and authorize Mayor Leichty to execute the attached agreement with St. Vincent Health, Wellness & Prevention Care Institute, Inc. dba Ascension St. Vincent Public Safety Medical (PSM) for Goshen Fire Department 2023-2025 physicals at a total cost of \$120,514 over the course of the three years.



Goshen Fire Department 2023-2025 Service Agreement

Delivery Location: Goshen Fire Department Public Safety Medical

The following when signed by **St. Vincent Health, Wellness & Preventative Care Institute, Inc. d/b/a Ascension St. Vincent Public Safety Medical (PSM)** at 6612 E. 75th Street, Suite 200, Indianapolis, IN 46250 and **Goshen Fire Department, 209 N. 3rd Street, Goshen, IN, 46526** will constitute our agreement for delivery of the services described below under the following terms and conditions.

Scope of Services for 2023

PSM agrees to provide the following services:

	DESCRIPTION	EMR Code	2023	All
Blood and Lab Work	Blood Panel (CMP, CBC, Lipid, Veni.)	3500		
	CMP (Comp. Metabolic Panel)	3522	\$6.00	X
	CBC (Comp. Blood Count)	3083	\$1.60	X
	Lipid Panel (total chol., HDL, LDL, ratio)	3523	\$4.60	X
	Insulin (blood)	3527	\$11.10	X
	Hemoglobin A1C (blood)	3112	\$3.43	X
	Venipuncture	3000	\$0.00	X
Medical Testing	Wellness Med. Testing:	12416		
	Vital Signs-ht, wt, BMI, BP, resp., pulse	6000	\$0.00	X
	Vision-Acuity	6050	\$1.00	X
	PFT – Pulmonary Function Test	6110	\$2.05	X
	Audiometry	6090	\$0.00	X
	EKG w/interp	6120	\$1.29	X
	Urinalysis – Dipstick	6020	\$0.40	X
Physical Exam (Staff Time Below)	Respirator/Medical Review	6304	\$0.00	X
	Comprehensive Physical Exam	12500	\$0.00	X
	Health Risk Appraisal (Medikeeper)	7000	\$0.00	X
Fitness Services (Testing, Plus Staff Time Below)	Treadmill – Max (Indirect VO2)	2082	\$100.00	X
	Body Fat Test – BIA	2019	\$0.00	X
Web-Based Services	OnMed Program	8135	\$0.00	X
Subtotal	Doesn't include age based testing			\$131.47

Other Fees and Testing	PSA-Prostate Specific Ag (men: ages 40+)	3115	\$6.98	X
	Rectal/hemoccult (men: ages 40+)	6130	\$0.00	X
	Urine Bladder Cancer Screen if indicated	6033	\$15.30	X

Scope of Staffing, Management, and Travel for 2023

PSM agrees to provide the following staffing and administration:

	DESCRIPTION	2023	All
Staff Time	Medical Assistant (Blood Draws) <ul style="list-style-type: none"> Staff: 1 MA for 3 days Function: Phlebotomy 	\$	\$774
	Medical Assistant (Evaluations) <ul style="list-style-type: none"> Staff: 1 MA for 5 days Function: Audio, Visual, Vision, Vitals, PFT, EKG, Audio Testing, Urinalysis 	\$	\$1,420
	Fitness Specialist <ul style="list-style-type: none"> Staff: 1 Fitness Specialist for 5 days Function: Treadmill evaluation, BIA testing, & HRA 	\$	\$1,496
	Nurse Practitioner (Evaluations & Review) <ul style="list-style-type: none"> Staff: 1 NP Function: Physical Exam, Respirator Review, Chart Review 	\$	\$7,161
	Site Leader <ul style="list-style-type: none"> Staff: 1 SL Function: Site Management 	\$	\$1,376
	MD Review <ul style="list-style-type: none"> Staff: 1 MD Function: Chart Review & Analysis 	\$	\$7,505
	Chart Preparation & Individual Data Management	\$	\$341
Management & Administration	Supplies, overhead & administrative services	\$	\$12,645
Travel Expense	travel expense for onsite deliverables	\$	\$6,270
Subtotal	Lump Fee for Staffing, Mgmt & Admin, Travel Expense		\$38,988

Scope of Services for 2024

PSM agrees to provide the following services:

	DESCRIPTION	EMR Code	2024	All
Blood and Lab Work	Blood Panel (CMP, CBC, Lipid, Veni.)	3500		
	CMP (Comp. Metabolic Panel)	3522	\$6.18	X
	CBC (Comp. Blood Count)	3083	\$1.65	X
	Lipid Panel (total chol., HDL, LDL, ratio)	3523	\$4.74	X
	Insulin (blood)	3527	\$11.43	X
	Hemoglobin A1C (blood)	3112	\$3.53	X
	Venipuncture	3000	\$0.00	X
Medical Testing	Wellness Med. Testing:	12416		
	Vital Signs-ht, wt, BMI, BP, resp., pulse	6000	\$0.00	X
	Vision-Acuity	6050	\$1.03	X
	PFT – Pulmonary Function Test	6110	\$2.11	X
	Audiometry	6090	\$0.00	X
	EKG w/interp	6120	\$1.33	X
	Urinalysis – Dipstick	6020	\$0.41	X
Physical Exam (Staff Time Below)	Respirator/Medical Review	6304	\$0.00	X
	Comprehensive Physical Exam	12500	\$0.00	X
	Health Risk Appraisal (Medikeeper)	7000	\$0.00	X
Fitness Services (Testing, Plus Staff Time Below)	Treadmill – Max (Indirect VO2)	2082	\$103.00	X
	Body Fat Test – BIA	2019	\$0.00	X
Web-Based Services	OnMed Program	8135	\$0.00	X
Subtotal	Doesn't include age based testing			\$135.41
Other Fees and Testing	PSA-Prostate Specific Ag (men: ages 40+)	3115	\$7.19	X
	Rectal/hemoccult (men: ages 40+)	6130	\$0.00	X
	Urine Bladder Cancer Screen if indicated	6033	\$15.76	X

Scope of Staffing, Management, and Travel for 2024

PSM agrees to provide the following staffing and administration:

	DESCRIPTION	2024	All
Staff Time	Medical Assistant (Blood Draws) <ul style="list-style-type: none"> Staff: 1 MA for 3 days Function: Phlebotomy 	\$	\$797
	Medical Assistant (Evaluations) <ul style="list-style-type: none"> Staff: 1 MA for 5 days Function: Audio, Visual, Vision, Vitals, PFT, EKG, Audio Testing, Urinalysis 	\$	\$1,463
	Fitness Specialist <ul style="list-style-type: none"> Staff: 1 Fitness Specialist for 5 days Function: Treadmill evaluation, BIA testing, & HRA 	\$	\$1,541
	Nurse Practitioner (Evaluations & Review) <ul style="list-style-type: none"> Staff: 1 NP Function: Physical Exam, Respirator Review, Chart Review 	\$	\$7,376
	Site Leader <ul style="list-style-type: none"> Staff: 1 SL Function: Site Management 	\$	\$1,418
	MD Review <ul style="list-style-type: none"> Staff: 1 MD Function: Chart Review & Analysis 	\$	\$7,730
	Chart Preparation & Individual Data Management	\$	\$352
Management & Administration	Supplies, overhead & administrative services	\$	\$13,025
Travel Expense	travel expense for onsite deliverables	\$	\$6,458
Subtotal	Lump Fee for Staffing, Mgmt & Admin, Travel Expense		\$40,160

Scope of Services for 2025

PSM agrees to provide the following services:

	DESCRIPTION	EMR Code	2025	All
Blood and Lab Work	Blood Panel (CMP, CBC, Lipid, Veni.)	3500		
	CMP (Comp. Metabolic Panel)	3522	\$6.37	X
	CBC (Comp. Blood Count)	3083	\$1.70	X
	Lipid Panel (total chol., HDL, LDL, ratio)	3523	\$4.88	X
	Insulin (blood)	3527	\$11.78	X
	Hemoglobin A1C (blood)	3112	\$3.64	X
	Venipuncture	3000	\$0.00	X
Medical Testing	Wellness Med. Testing:	12416		
	Vital Signs-ht, wt, BMI, BP, resp., pulse	6000	\$0.00	X
	Vision-Acuity	6050	\$1.06	X
	PFT – Pulmonary Function Test	6110	\$2.17	X
	Audiometry	6090	\$0.00	X
	EKG w/interp	6120	\$1.37	X
	Urinalysis – Dipstick	6020	\$0.42	X
Physical Exam (Staff Time Below)	Respirator/Medical Review	6304	\$0.00	X
	Comprehensive Physical Exam	12500	\$0.00	X
	Health Risk Appraisal (Medikeeper)	7000	\$0.00	X
Fitness Services (Testing, Plus Staff Time Below)	Treadmill – Max (Indirect VO2)	2082	\$106.09	X
	Body Fat Test – BIA	2019	\$0.00	X
Web-Based Services	OnMed Program	8135	\$0.00	X
Subtotal	Doesn't include age based testing			\$139.48
Other Fees and Testing	PSA-Prostate Specific Ag (men: ages 40+)	3115	\$7.41	X
	Rectal/hemoccult (men: ages 40+)	6130	\$0.00	X
	Urine Bladder Cancer Screen if indicated	6033	\$16.23	X

Scope of Staffing, Management, and Travel for 2025

PSM agrees to provide the following staffing and administration:

	DESCRIPTION	2025	All
Staff Time	Medical Assistant (Blood Draws) <ul style="list-style-type: none"> Staff: 1 MA for 3 days Function: Phlebotomy 	\$	\$821
	Medical Assistant (Evaluations) <ul style="list-style-type: none"> Staff: 1 MA for 5 days Function: Audio, Visual, Vision, Vitals, PFT, EKG, Audio Testing, Urinalysis 	\$	\$1,507
	Fitness Specialist <ul style="list-style-type: none"> Staff: 1 Fitness Specialist for 5 days Function: Treadmill evaluation, BIA testing, & HRA 	\$	\$1,587
	Nurse Practitioner (Evaluations & Review) <ul style="list-style-type: none"> Staff: 1 NP Function: Physical Exam, Respirator Review, Chart Review 	\$	\$7,597
	Site Leader <ul style="list-style-type: none"> Staff: 1 SL Function: Site Management 	\$	\$1,461
	MD Review <ul style="list-style-type: none"> Staff: 1 MD Function: Chart Review & Analysis 	\$	\$7,962
	Chart Preparation & Individual Data Management	\$	\$363
Management & Administration	Supplies, overhead & administrative services	\$	\$13,416
Travel Expense	travel expense for onsite deliverables	\$	\$6,652
Subtotal	Lump Fee for Staffing, Mgmt & Admin, Travel Expense		\$41,366

Billing

Invoices are generated monthly. **Payment terms are Net 30 days.**

Invoices sent to:	Kim Whitehead, Office Manager	KimWhitehead@GoshenCity.com
Accounts payable contact:	Kim Whitehead, Office Manager	(574)533-7878
Address:	Goshen Fire Department, 209 N. 3rd Street, Goshen, IN, 46526	

Billing:

Blood Draw: Pass through cost

Evaluations: Pass through cost + Staffing, Management, and Travel subtotal

Workers' Compensation Contact

Provider Name:

Provider Phone:

Assignability

This Agreement is not assignable.

Right to Receive Notice of Breach

As required by the Health Insurance Portability and Accountability Act (HIPAA), PSM will provide a written notice to all **Public Safety Medical Services** employees in the event we learn of any unauthorized acquisition, use or disclosure of your personal health information (PHI) as a result of not being properly secured as required by HIPAA. We will notify employees of the breach as soon as possible but no later than sixty (60) days after the breach has been discovered. PSM will incur all expenses for notification and actions necessary to correct breach.

Policy on Additional Testing

In the event that PSM finds it necessary to perform additional testing at **Goshen Fire Department expense** and at the request of the medical director, the **Goshen Fire Department** representative will be notified in advance.

Policy on Repeat Testing

In the event that PSM finds it necessary to retest a patient due to a positive test result or the recommendation of the PSM medical director, the cost incurred will be billed to **Goshen Fire Department** if the retest was not based upon an error on the original test. The **Goshen Fire Department** representative will be notified in advance. If the retest is due to an error by PSM or a contracted laboratory or other representative, PSM will absorb any additional retest costs. No recommended actions will be made to **Goshen Fire Department** until PSM has received accurate retest information.

Policy on Reporting Results

PSM will provide a medical/respirator clearance letter for every patient. The letter will state whether or not the employee is medically cleared for duty. No specific medical test results for any patient are provided to any representative without the written consent of the patient unless required by law (i.e. OSHA). If during the medical evaluation, findings are such that the patient cannot be medically-cleared for duty, the patient will be counseled as to the medical concerns and the need to limit duty assignment. The designated **Goshen Fire Department** representative will be notified, in general terms, of the need for duty restriction and any safety-sensitive responsibilities. It will also be recommended that the patient be re-evaluated by PSM, after appropriate medical treatment, to provide final clearance of return to full duty after a release is first made by the patient's treating physician. PSM will assist the employee with providing related medical information and their job requirements to the treating physician to assist in their care.

Dates and Location of Services

CLIENT INITIAL	SERVICE	DATES	LOCATION
•	Blood Draws	9/20 - 9/22	Goshen Fire Department, 209 N. 3rd St. Goshen, IN, 46526
•	Exams	10/16 - 10/20	First Baptist Church Building, 1011 S. Indiana, Goshen, IN, 46526

Departmental Information

Kit Castetter	Captain	(574)538-9718	kit.castetter@goshencity.com
---------------	---------	---------------	------------------------------

Address: 209 North 3rd Street, Goshen, Indiana, 46526

Number of Personnel: 62

Chief of Dept: Chief Dan Sink

Price Increases

Price increases for the following year will be made known by **end of April** of the current year. Pricing reflected above is valid through December 31, 2025.

Minimum number of personnel to be seen **62**.

Records and Accounts

PSM shall maintain accurate records and accounts of all transactions relating to the Services performed by it pursuant to this Agreement.

Exam Arrival Time

To optimize the service provided to **Goshen Fire Department** personnel, we request that you send your personnel 15 minutes prior to their appointment time.

When Running Late

If your personnel are running late for their appointment(s), please call your client manager whose name and number is listed on the signature page. This will ensure that appropriate arrangements may be made at PSM to accommodate your personnel or potential rescheduling.

Cancellations

Cancellations should be made **at least 3 days** (1 shift for fire departments) prior to the scheduled appointment. This enables PSM with enough notice to offer the appointments to another department and properly prepare.

Liability and Indemnification

PSM shall have no liability whatsoever to **Goshen Fire Department** for any error, act or omission in connection with the services to be rendered by PSM to **Goshen Fire Department** hereunder unless any such error, act or omission derives from willful misconduct or gross negligence.

Insurance

PSM maintains insurance to protect it and **Goshen Fire Department** from the claims set forth below which may arise out of or result from PSM operations under this Agreement, whether such operations be by PSM or by its subcontractors or by anyone directly or indirectly employed by any of them, or by anyone directly for whose acts any of them may be liable:

1. Claims under Workers' Compensation and Occupational Disease Acts, and any other employee benefits acts applicable to the performance of the work;
2. Claims for damages because of bodily injury and personal injury, including death, and;
3. Claims for damages to property

PSM insurance shall be not less than the acceptable industry standards for the performance of medical and occupational health-related services.

Confidentiality

PSM agrees to hold in strict confidence, and to use reasonable efforts to cause its employees and representatives to hold in strict confidence, all confidential information concerning **Goshen Fire Department** furnished to or obtained by PSM in the course of providing the agreed-upon services. PSM will not disclose or release any such confidential information to any person, except its employees, representatives and agents who have a need to know such information in connection with PSM performance under this Agreement or by the express written consent of a **Department Name** employee.

Proprietary Information

PSM asks that all information provided within this document be held confidentially and not shared with any related providers, those organizations who could be considered competition to PSM, other fire or law enforcement organizations, or unnecessary personnel within the **Goshen Fire Department**.

Termination for Convenience

Either PSM or **Goshen Fire Department** may terminate this Agreement at any time by giving thirty (30) days written notice. PSM shall be entitled to payment for deliverables in progress, to the extent the work has been performed satisfactorily.

Independent Contractor

PSM shall be deemed an independent contractor operating as a separate entity from the City of Goshen. The City shall not be responsible for injury, including death, to any persons or damage to any property arising out of the acts or omissions of the agents, employees, or subcontractors of PSM.

Non-Discrimination

PSM agrees that it will comply with all federal and Indiana civil rights laws, including, but not limited to Indiana Code 22-9-1-10. PSM agrees that PSM or any subcontractors, or any other person acting on behalf of PSM or their subcontractor, shall not discriminate against any employee or applicant for employment to be employed in the performance of a contract with respect to said 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.

Applicable Laws

Each party agrees to comply with all applicable federal, state and local laws, rules, regulations, or ordinances as the same shall be in full force and effect during the term of this Agreement.

Miscellaneous

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 requirements shall govern.

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 Hamilton County, Indiana.

In the event legal action is brought to enforce or interpret the terms and conditions of this Agreement, the non-prevailing party will pay all costs incurred by the prevailing party including reasonable attorney's fees.

Employment Eligibility Verification

PSM's parent company is enrolled in and verifies the work eligibility status of all PSM's newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3.

PSM shall not knowingly employ or contract with an unauthorized alien. PSM shall not retain an employee or continue to contract with a person that PSM subsequently learns is an unauthorized alien.

PSM shall require their subcontractors, who perform work under this contract, to certify to PSM 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. PSM agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

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

PSM affirms under the penalties of perjury that they do not knowingly employ an unauthorized alien.

Contracting with Relatives

Pursuant to IC 36-1-21, if PSM is wholly or partially owned by a relative of an elected official of the City of Goshen PSM certifies that PSM has notified in writing both the elected official of the City of Goshen and the City's legal department prior to entering into this contract that an elected official of the City of Goshen is a relative of an owner of PSM.

Term and Termination

The term of this Agreement will commence on the last date of signature below (the "Effective Date") and will terminate on December 31, 2025. Either PSM or Goshen Fire Department may terminate this Agreement at any time and for any reason by giving thirty (30) days' prior written notice. PSM shall be entitled to payment for deliverables in progress at the time that any notice of termination is given to the extent the work has been performed satisfactorily.

St. Vincent Health, Wellness & Preventative Care Institute, Inc. d/b/a Ascension St. Vincent Public Safety Medical	Goshen Fire Department
_____ Name Printed	_____ Name Printed
_____ Name Signed	_____ Name Signed
_____ Title	_____ Title
_____ Date	_____ Date

Your Client Manager:

Name: Catherine Wheeler

Mobile: (317)225-3191



September 1, 2023

Engineering Department City of Goshen
Attention: Tara Hetler
204 East Jefferson Street, Suite 1
Goshen, Indiana 46528

RE: City Tech Review of Wholesome Tortilla – Interior Remodel
(UN: 2022-2039)

Dear Tara,

Please forward this to this to whom it may concern at the Board of Public Works.

1. In regard to Item 8 from the Engineering Department, Technical Review dated August 10, 2023, we are requesting the following on behalf of the Owner.

Wholesome Tortilla restaurant has acquired the property at 132 N Main Street, Goshen, Indiana. Due to the location of the property, no adjacent land is available for a grease intercept.

Per Ordinance 4625, 4.07.B.1 we are requesting the use of a mechanical grease intercept. Specifications regarding device are as follows:

Big Dipper, W-350-IS, Floor mounted, 35 GPM peak flow rating, 85 lbs grease capacity, automatic grease removal system with digital controller user interface and grease collector. Corrosion resistant molded polyethylene interior, stainless steel exterior, 3” inlet and outlet. 115V/1PH/60 HZ, 1173 watts, 10.2 amps.

Thank you in advance for your consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jeff Anglemyer', is written over a horizontal line.

Jeff Anglemyer, AIA, NCARB
Senior Principal – Architect



211 S. Fifth St. | Goshen, IN 46528 | 574-538-1350

September 6, 2023

To the City of Goshen Board of Works & Safety:

Janus Motorcycles would like to close the parking lot North of our building for our annual owners rally, same as last year starting at 5pm on Friday September 15th through Sunday September 17th noon. It would be closed to the general public and used for our attendees motorcycles only (we're up to 60 now!) All businesses that use this parking lot will be notified by the end of the day tomorrow (9/7/2023) of my hopeful plan in writing and in person. On the night of Saturday the 16th there will be a free community party open to the public where folks might walk around in the parking lot to see all of these Janus Motorcycles in one spot.

I am aware that the utility section of the parking lot (4 marked spaces along with handicap parking spots) will need to stay open to be helpful for residents until the close of their regularly scheduled hours (5pm). I will request the full parking lot to be barricaded off until Sunday September 17th. The parking lot would be gated off, but the alley would not be blocked in any way.

I would like to request the use of 12 cones with 12 no parking signs delivered on or before September 13th. I would also like to request the use of 10 City of Goshen barricades delivered on or before September 14th. Due to this short amount of time between the Board of Works meeting and the possible dates I've requested for use of items, I would be more than happy to pick these items up myself on the 13th to help aid in time issues.

Sincerely,

Jamie Morrow
Operations Manager
Janus Motorcycles

PATIO

JANUS
BUILDING

PARKING LOT

ALLEY (NOT BLOCKED)

300



**COMMUNITY DEVELOPMENT BLOCK GRANT
CITY OF GOSHEN**

204 East Jefferson Street, Suite 4 • Goshen, IN 46528-3405

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

MEMORANDUM

TO: Board of Public Works and Safety
FROM: Theresa Cummings, Community Development Specialist
DATE: September 11, 2023
RE: Approval of 2023 Community Development Block Grant (CDBG) Agreements

Please approve and authorize the Mayor to sign the following CDBG agreements and CBDO (Community Based Development Organization) agreement for Program Year 2023:

Planning Grant (for neighborhood outreach):

Lacasa, Inc. \$7,000

Public Service Grants:

Boys and Girls Clubs of Elkhart County – Goshen Club	\$6,855
Council on Aging of Elkhart County	\$5,140
Elkhart County Clubhouse	\$4,160
Goshen Interfaith Hospitality Network	\$11,750
Maple City Health Care Center, Inc.	\$5,385
Walnut Hill Early Childhood Center	\$13,710

Housing Grants:

Owner Occupied Rehab - Lacasa, Inc.	\$58,010
Energy Conservation Multi Family Rehab – Lacasa, Inc. (CBDO)	\$190,000

Planning, Public Service, and Housing Grants Total \$302,010

The planning grant will be used for neighborhood outreach. The public service grants will be used to fund access to early childhood education, daily nutrition programs, mental health support, senior transportation, and primary healthcare. The housing grants will be used to fund the ongoing owner-occupied housing rehab program and a CBDO project for energy conservation for 38 affordable multi-family housing units.

A sample public service agreement is attached.

Suggested motion: To approve and authorize the Mayor to sign the CBDO and CDBG agreements for Planning, Public Services and Housing activities for Program Year 2023.

CITY OF GOSHEN - COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
Program Year 2023: July 1, 2023 – June 30, 2024
Public Service Sub-Recipient Agreement
Boys & Girls Clubs of Elkhart County – Goshen Club

This Agreement is entered into as of the 11th day of September, 2023 between the City of Goshen (herein called the “City”) and the Boys & Girls Clubs of Elkhart County – Goshen Club (herein called the “Sub-recipient”) an Indiana Not-For-Profit Corporation, for the contract period July 1, 2023 through June 30, 2024.

WHEREAS, the City has entered into an Agreement with the United States Department of Housing and Urban Development (HUD) for a Community Development Block Grant (CDBG) under Title I of the Housing and Community Development Act of 1974, as Amended, and;

WHEREAS, said Agreement with HUD provides for the grant of funds to the City for projects and activities principally benefiting persons of low and moderate income, and;

WHEREAS, Sub-recipient desires to carry out a project or program, described in the Scope of Services section of this document, principally for the benefit of low- and moderate-income residents of the City of Goshen and;

WHEREAS, Sub-recipient has requested the assistance of the City, through the Community Development Block Grant Program, in order to carry out the proposed program.

NOW, THEREFORE, Sub-recipient and the City agree as follows:

1. SCOPE OF SERVICES

- A. Sub-recipient agrees that CDBG funds will be used to fund the Daily Nutrition Program, providing nutritionally balanced food, available to all Club members, as outlined in the Public Services Grant Application. The project will be carried out as described in the proposed project details and budget from the application form, a copy of which is attached as Attachment A, which is hereby made a part of this Agreement.
- B. Sub-recipient certifies that the Daily Nutrition Program carried out under this Agreement will meet the LMC, Nature/Location (Low/Moderate Income Limited Clientele, Nature/Location) National Objective.
- C. Sub-recipient agrees that it shall comply with applicable laws and regulations including, but not limited to, those listed in Attachment B, which is hereby made a part of this Agreement.
- D. Sub-recipient agrees that it shall provide a written quarterly report within five days of the end of each quarter or with each payment request within a quarter, and a final written report with the request for final grant payment, or no later than the deadline for final claim submittal if unexpended funds remain. Using the form provided, the report shall detail how funds were used, matching funds used, number and details of project beneficiaries, and any other requested information. A sample form is provided in Attachment C, which is hereby made a part of this Agreement.
- E. The City agrees, on submission of proper reports, claims and verification of costs that it shall reimburse Sub-recipient for up to Six Thousand Eight Hundred and Fifty-five Dollars (\$6,855.00). The City shall have no obligation to reimburse Sub-recipient for any costs incurred in violation of any provision of this Agreement or any applicable law, ordinance or regulation. Claims will be processed per the City's weekly payment procedures for CDBG claims, provided in Attachment D, which is hereby made a part of this Agreement.
- F. All claims for reimbursement under this Agreement shall be submitted to the City no later than the day specified by the CDBG Administrator near the end of the contract period, approximately June 6, 2024, so that all claims can be paid within the contract year.

2. AUDIT COMPLIANCE

The Sub-recipient shall provide the amount of federal funds expended in the Sub-recipient's fiscal year, as requested by the City. If the Sub-recipient expends \$750,000 or more of federal funds in a fiscal year, an audit following 2 CFR 200.514 must be conducted and a copy of the audit submitted to the City for review, within 30 days after receipt of the auditor's report(s) or nine months after the end of the audit period, whichever is earlier. Any findings related to CDBG must be cleared by the City.

3. TERMINATION FOR CONVENIENCE

Sub-recipient may terminate this Agreement as to any funds not disbursed by providing notice to the City, however, Sub-recipient's service and reporting requirements shall continue. The notice of termination shall specify the reason for the termination of Agreement and the date when the Agreement shall be terminated. If the Sub-recipient chooses to terminate this Agreement after part of the funds have been drawn, the Sub-recipient must continue to comply with all other parts of this Agreement.

4. TERMINATION FOR NONCOMPLIANCE

If the City determines Sub-recipient is in noncompliance with this Agreement the City may take the following corrective actions: temporarily withhold cash payments, disallow all or part of the activity or action in noncompliance, wholly or partly suspend or terminate the current award, withhold further awards, or take other remedies that may be legally available. If Sub-recipient is found to be in noncompliance the City will provide a time and place for a hearing with the Sub-recipient at which time the Sub-recipient may appeal its suspension. The Sub-recipient must request in writing a hearing for noncompliance. Costs incurred by the Sub-recipient during suspension or following termination of an award are not allowable unless the City expressly authorizes them in the notice of suspension or termination. Other Sub-recipient costs during suspension or following termination which are necessary and not reasonably avoidable are allowed if, and, in the case of a termination, are non-cancelable, the costs result from obligations which were properly incurred by the Sub-recipient before the effective date of suspension or termination, are not in anticipation of it, and, in the case of a termination, are non-cancelable, and, the costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect. Notice of suspension or termination shall be given by the City to the Sub-recipient in writing. The Sub-recipient shall have the right to appeal the suspension or termination in writing and must do so within 15 days of notice from the City.

5. EQUIPMENT

In the event that any funds provided under this Agreement are used for the purchase of equipment, Sub-recipient shall comply with applicable federal regulations with regard to the disposition of such equipment when it is no longer needed for the program per 2 CFR Part 200. Unless federal rules require otherwise, it is hereby agreed that the City's percentage interest in equipment shall be the amount of funds provided by the City divided by the total cost of the equipment incurred over the term of this Agreement.

6. PROVISIONS IN CASE OF DEFAULT

Sub-recipient's obligations under this Agreement shall be extended for an additional year in the event Sub-recipient fails to provide evidence in reports provided for in paragraph 1.D that the Sub-recipient's programs are of benefit principally to low- and moderate-income residents of the City of Goshen. In the event that the Sub-recipient fails to provide such evidence for a period of two years, Sub-recipient shall be in default of this Agreement. The Sub-recipient shall reimburse the City in an amount equal to the funds provided.

7. RECORDS

Sub-recipient shall maintain records adequate to identify and account for all costs pertaining to this Agreement and such other records as may be required by statute, rule or regulation. These records shall be maintained for a period of four (4) years after project completion and shall be made available to the City and authorized federal agencies.

8. NOTICES

Notices will be considered sufficient if sent by certified mail or delivered in person to:

City:
CDBG Administrator
City of Goshen
204 E Jefferson, Suite 4
Goshen, IN 46528

Sub-recipient:
Tami Hicks, President & CEO
Boys and Girls Clubs of Elkhart County
306 Crescent St, PO Box 614
Goshen, IN 46527-0614

Executed as of the date first written above.

CITY OF GOSHEN

by: _____
Gina Leichty, Mayor

by: _____
Tami Hicks, President & CEO

ATTACHMENT A: GRANT APPLICATION PROJECT DETAILS

1. Briefly describe the proposed project to receive CDBG funds. Include the need or problem to be addressed, the population (or area) to be served, a description of the work, including who will carry it out, and the proposed schedule of work, including the proposed timing of requests for CDBG funds.

The Boys & Girls Club is a full-service youth development agency providing programs in 5 core areas:

- Health & Life Skills
- Education & Career Development
- Character & Leadership Development
- The Arts
- Sports, Fitness, & Recreation

In addition to these five core areas, a variety of activities for children 6 – 18 years old are provided daily. The Club provides a fun atmosphere in which to learn and grow and gives members, most of whom come from low-income families, the opportunity to enjoy field trips and activities their families might not otherwise be able to afford. The kitchen has the capacity to serve 130 members at a time. During the summer months and on school recesses it is used for breakfast, snack, and lunch service while during the school year only dinner and snack, as needed, are served. The space has allowed for learning opportunities in the culinary arts as well as opening the space during non-mealtime for other program activities. The education wing includes a library, computer lab, STEAM room, and space for homework assistance and tutoring. After school attendance during 2019 averaged over 300 members per day with a building capacity to support 400 members. During 2022 the average daily attendance for the afterschool program climbed to 198, a 50% increase over the previous year as we continue to exit the limited capacity necessitated by the COVID-19 pandemic.

The Club's academic assistance programs are among the most important, as academic success is often a deciding factor for whether children are able to complete and further their education and successfully enter the workforce as adults. Studies show, and our organization has come to experience first-hand, that children are better able to concentrate on their studies when not dealing with the issue of hunger. Each snack and meal consists of whole grains, protein, vegetables and/or fruits, and dairy products as are appropriate. On days when dinner is served, the meal is available for all youth in the building during the 90 minute – 2 hour serving time. The same is true when snacks are served. The goal of the meal program is to make sure that all children and youth attending Boys & Girls Club have access to healthy snacks and meals. These snacks and meals are always provided to Club members at no cost. The purchase of the food, the preparation, and the serving is done by Boys & Girl Club staff who are trained and certified by the Indiana Department of Education and the Elkhart County Health Department. The majority of Club members benefiting from the Daily Nutrition Program reside in low/moderate income households. The snacks and meals made available often provide a significant portion of the child's total daily nutrition.

2. Complete the line item budget for the proposed project and provide details on how reimbursed costs will be calculated.

Item Description	Total Amount	CDBG Funds	Other Funds
a. Food	\$120,000	\$7,500	\$112,500
b. non-food	\$8,400		\$8,400
c. Operational Labor	\$37,345		\$37,345
d. Program Administration	\$16,902		\$16,902
e. General Overhead	\$11,000		\$11,000
f.			
TOTALS	\$193,647	\$7,500	\$186,147

Food – cost is estimated from a historical average of food purchases over the last few years. Adjustments have been made to account for rising food prices, anticipated attendance as we continue to recover from the pandemic, as well as the addition of daily dinner service.

b. non-food (serving supplies) – same as above.

c. Operational Labor –

1. Food Program Manager – 30hrs/wk x 48 wks x \$19.25/hr = \$27,720
2. Food Program Assistant (1) 25 hrs/wk x 35 wks x \$11/hr = \$9,625

d. Program Administration

1. Food Program Manager – 10 hour/week x 48 weeks x \$19.25/hr = \$9,240
 2. Grant Program Supervisor – 1 hour/wk x 48 weeks x \$21.50/hr = \$1,032
 3. Program Manager – 6.5hrs/wk x 48 weeks x 21.25/hr = \$6,630
- e. General Overhead – cost based estimate including custodial, utilities, and insurance based on the size of the café/kitchen in relation to the building as a whole.

3. List the source and amount of other sources of funding, including matching funds and in-kind contributions, expected to be used to support this project. For in-kind contributions, such as volunteer labor, please include the number of hours and dollar value (\$10 per hour) of the volunteer hours.

Other revenue sources include:

- Indiana Department of Education's Child and Adult Care Food Program (CACFP) and Summer Food Service Program (SFSP). Support is anticipated to be \$160,000 in 2023.
- Goshen Noon Kiwanis \$5,000
- If additional funds are needed the Boys & Girls Clubs will draw from their Annual Fundraising campaign and special events income.

4. Describe how the project will meet one or more of the following objectives: Suitable Living Environment; Decent Affordable Housing; or Creating Economic Opportunities (see attached Outcome Performance Measurement information sheet).

The Daily Nutrition Program comes under the objective: Suitable Living Environment, by addressing the issue of hunger and nutrition in the daily living environment of boys and girls who are members of the Boys & Girls Clubs of Elkhart County – Goshen Unit. We have long known that for some of our members the food provided by the club is the only nourishment they receive outside their daily school lunch. Even when food is offered in the homes of these members, it is often the processed of pre-packed food typically found in neighborhood convenience stores. When children are not distracted by hunger issues, they are more able to concentrate on their academic efforts and other life-enhancing programs offered by the Club.

ATTACHMENT B

Standard Contract Attachments

I. Administrative Requirements

II. Personnel and Participant Conditions

III. Environmental Conditions

I. Administrative Requirements

A. Financial Management

1. Accounting Standards

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

2. Cost Principles

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

B. Documentation and Record Keeping

1. Records to be Maintained

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

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

2. Retention

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

3. Client Data

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

4. Disclosure

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

5. Close-Outs

The Sub-recipient's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), final close-out reports and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Sub-recipient has control over CDBG funds, including program income.

6. Audits and Inspections

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

C. Reporting and Payment Procedures

1. Program Income

The Sub-recipient shall report on a monthly basis all program income as defined at 24 CFR 570.500(a) generated by activities carried out with CDBG funds made available under this contract. The use of program income by the Sub-recipient shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitations, the Sub-recipient may use such income during the contract period for activities permitted under this contract and shall reduce requests for additional funds by the amount of any such program income balances on hand. All unused program income shall be returned to the City at the end of the contract period. Any interest earned on cash advances from the US Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the City.

2. Indirect Costs

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

3. Payment Procedures

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

D. Procurement

1. Compliance

The Sub-recipient shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provide herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this Agreement.

2. OMB Standards

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

3. Travel

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

II. Personnel and Participant Conditions

A. Civil Rights

1. Compliance

The Sub-recipient agrees to comply with all local and State of Indiana civil rights ordinances and with

Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act (HCDA) of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

2. Nondiscrimination

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

3. Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (PL 88-352) and 24 CFR 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Sub-recipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Sub-recipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

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

B. Equal Opportunity

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

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

2. Access to Records

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

3. Notifications

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

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

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

5. Subcontract Provisions

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

C. Employment Restrictions

1. Prohibited Activity

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

2. Labor Standards

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

The Sub-recipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Sub-recipient of its obligation, if any, to require payment of the higher wage. The Sub-recipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

3. "Section 3" Clause

a) Compliance

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

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

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

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

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

b) Notifications

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

c) Subcontracts

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

D. Conduct

1. Assignability

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

2. Subcontracts

a) Approvals

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

b) Monitoring

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

c) Content

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

d) Selection Process

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

3. Hatch Act

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

4. Conflict of Interest

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

- a) The Sub-recipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.
- b) No employee, officer or agent of the Sub-recipient shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.
- c) No covered person who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or Agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Sub-recipient, the City, or any designated public agency.

5. Lobbying

The Sub-recipient hereby certifies that:

- a) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative Agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative Agreement;
- b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative Agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
- c) It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative Agreements) and that all subrecipients shall certify and disclose accordingly:
- d) Lobbying Certification:
This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, USC. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more

than \$100,000 for each such failure.

6. Copyright

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

7. Religious Activities

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

III. Environmental Conditions

A. Air and Water

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

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

B. Flood Disaster Protection

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

C. Lead-Based Paint

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

D. Historic Preservation

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

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



QUARTERLY / FINAL REPORT

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
Program Year 2023: July 1, 2023 through June 30, 2024
Report Due with Each Claim Submitted or a Minimum of
October 5, 2023, January 4, 2024, April 4, 2024, and June 6, 2024
Final Report Due with Claim for final payment

ORGANIZATION:

DATE OF REPORT:

FOR TIME PERIOD:

SUBMITTED BY (PRINT NAME WITH TITLE):

SIGNATURE:

CDBG CLAIM AMOUNT: \$

ACCOMPLISHMENTS

BRIEFLY DESCRIBE PROJECT ACTIVITIES AND ACCOMPLISHMENTS IN REPORTING PERIOD:

MATCHING FUNDS AND IN-KIND CONTRIBUTIONS USED WITH CDBG GRANT (AMOUNT & SOURCE):

TOTAL NUMBER OF BENEFICIARIES:

BREAKDOWN NUMBER OF BENEFICIARIES BY RACE:

- WHITE:
BLACK/AFRICAN AMERICAN:
ASIAN:
AMERICAN INDIAN:
MULTI-RACIAL:
OTHER (PLEASE SPECIFY):
HISPANIC ORIGIN:

NATURE/LOCATION ACTIVITIES REPORT BENEFICIARIES IN THE 51-80% CATEGORY, UNLESS SPECIFIC INFORMATION HAS BEEN OBTAINED (PER IDIS CDBG MANUAL, CHAPTER 11):

- INDIVIDUALS WITH INCOME <=30% OF MEDIAN:
INDIVIDUALS WITH INCOME BETWEEN 31% AND 50% OF MEDIAN:
INDIVIDUALS WITH INCOME BETWEEN 51% AND 80% OF MEDIAN:
INDIVIDUALS WITH INCOME MORE THAN 80% OF MEDIAN:

ATTACHMENT D

City of Goshen Weekly Payment Procedures for CDBG Claims
Updated/Effective December 8, 2014
Changes in Bold

Thursday NOON	Deadline to submit claims to CDBG Administrator for processing the following week
Friday	CDBG Administrator Review of Claim: Incomplete claims will be held until all required information is received
Monday (Week 1)	CDBG Administrator Reporting in HUD's online system for each claim (required before a claim may be processed)
Tuesday AM Tuesday PM	First drawdown authorization by CDBG Administrator Voucher submitted by CDBG Administrator to Clerk Treasurer's Office
Wednesday Wednesday, 5pm	Second drawdown authorization by Clerk Treasurer's Office Deadline for claim to be processed by Clerk Treasurer's Office for Board of Works
Monday (Week 2)	Claim approved and signed by Board of Works – all CDBG vouchers must be hand-signed by BOW members
Tuesday	Check written by Clerk Treasurer's Office



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

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

TO: Board of Public Works and Safety

FROM: Theresa Cummings, Community Development Specialist

DATE: September 11, 2023

RE: Amended Homeownership Assistance Agreement for CDBG

The Program Year 2022 Homeownership Assistance Agreement for the Community Development Block Grant has been amended and needs approval. The amendment adds an additional method to provide payment for the grant assistance. The sections being amended are as follows:

2. Scope of Services.

(e) Claims will be limited to the sum of Sixty Thousand Dollars (\$60,000.00) for the homeownership assistance project. The maximum CDBG contribution per household/property shall generally not exceed Fifteen Thousand Dollars (\$15,000.00). **Payment will be made by one of the following methods.** The Sub-Recipient will **either** be reimbursed by the City after closing for the direct homeownership assistance funding **provided by Sub-Recipient on behalf of the homebuyer household only or funds will be paid directly by the City at closing on behalf of the homebuyer household.**

3. Release of Funds. The City agrees to release funds from the CDBG program for direct homeownership assistance costs, to **either** be **provided to the title company at closing on behalf of the homebuyer household, as outlined in the HUD-1 form provided by the Sub-Recipient, or to be** reimbursed to the Sub-Recipient after closing, in accordance with City claim procedures as outlined in Exhibit C.

Attached is a copy of the amended agreement with the specified changes.

Suggested motion: To approve and authorize Mayor Leichty to sign the amended Homeownership Assistance Agreement with Lacasa for Program Year 2022.

Attachment

CITY OF GOSHEN
COMMUNITY DEVELOPMENT BLOCK GRANT
SUBRECIPIENT AMENDED AGREEMENT FOR HOMEOWNERSHIP ASSISTANCE
Program Year 2022: July 1, 2022-June 30, 2023

This Homeownership Assistance Agreement (the “Agreement”) is entered into by and between the City of Goshen, Indiana (the “City”) and LaCasa, Inc. (the “Sub-Recipient”), an Indiana not-for-profit corporation, as of this 11th day of September 2023.

WITNESSETH:

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

WHEREAS, City has requested the assistance of the Sub-Recipient to jointly administer the Homeownership Assistance portion of the CDBG program with the City in order to carry out the proposed program;

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

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

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

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

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

1. Sub-recipient Designation and Administration of Grant. City hereby designates and Sub-Recipient hereby agrees to serve as a sub-recipient for the Homeownership Assistance portion of the CDBG program and to administer such portion in accordance with this Agreement and the Act.

2. Scope of Services. Sub-Recipient agrees to perform the services under this Agreement as specified in the attached Exhibit A that are hereby incorporated by reference. In performing such services, Sub-Recipient agrees:

(a) To obtain all federal, state, and local government approvals, permits, licenses, and review required by law to be obtained for the performance of the homeownership assistance services under this Agreement.

(b) To comply with all applicable, federal, state, and local laws and regulations pertaining to the performance of the homeownership assistance services under this Agreement.

(c) To submit to the City any and all documents demonstrating compliance with all federal and state rules and regulations. Such demonstrations will be provided at the request of the City. City's failure to request any supporting documentation, however, shall not excuse any failure on the part of Sub-Recipient to have complied with the applicable federal and state rules and regulations.

(d) To file claims on a timely basis with the City for the release of funds from the grant for payment of the direct homeownership assistance costs as outlined in the HUD-1/Closing Disclosure. All claims will be accompanied by verification of all costs incurred. Copies of the following documents must be on file with the City in order to process a claim: homebuyer application, household income verification, HUD-1/Closing Disclosure with itemized claim invoice, and homeownership assistance report with all required attachments.

(e) Claims will be limited to the sum of Sixty Thousand Dollars (\$60,000.00) for the homeownership assistance project. The maximum CDBG contribution per household/property shall generally not exceed Fifteen Thousand Dollars (\$15,000.00). Payment will be made by one of the following methods. The Sub-Recipient will either be reimbursed by the City after closing for the direct homeownership assistance funding provided by Sub-Recipient on behalf of the homebuyer household or funds will be paid directly by the City at closing on behalf of the homebuyer household.

(f) That all contracts and services shall be carried out in compliance with applicable laws and regulations, including, but not limited to, those listed in Exhibit B.

(g) That all federal fair housing and other requirements stated in the CDBG program shall be met when performing the homeownership assistance services under this Agreement.

(h) That City and Federal officials and representatives will have access to all books, accounts, records, reports, files, and other papers, things or property pertaining to the project in order to make audits, examinations, excerpts, and transcripts.

(i) To assist any or all of the City's personnel or agencies, designated by the City by contract or resolution or other written document, regarding the implementation of this Agreement, and such designated personnel and agencies shall provide information and cooperation to the Sub-Recipient to the extent provided in this Agreement and other contracts, resolutions, or written agreements.

(j) To provide any and all information as requested by the City to fulfill the requirements of the Federal Subaward Reporting System (FSRS). This includes having a UEI (Unique Entity Identifier) and maintaining a current and accurate SAM.gov (System for Award Management) account.

3. Release of Funds. The City agrees to release funds from the CDBG program for direct homeownership assistance costs, to either be provided to the title company at closing on behalf of the homebuyer household, as outlined in the HUD-1 form provided by the Sub-Recipient, or to be reimbursed to the Sub-Recipient after closing, in accordance with City claim procedures as outlined in Exhibit C.

4. City Responsibilities. City agrees:

(a) To retain all environmental responsibilities and the responsibility for initiating any applicable inter-governmental review process. However, nothing in this Agreement shall be construed to create environmental responsibilities that do not otherwise exist.

(b) To file required paperwork and documents with the U.S. Department of Housing and Urban Development and any other necessary agencies on a timely basis with respect to the CDBG program and to pay properly submitted and documented claims of the Sub-Recipient on a timely basis.

5. Designation of Project Coordinators. For purposes of this Agreement, the Project Coordinator for the City shall be Rhonda Yoder, CDBG Director, City of Goshen. The Project Coordinator for the Sub-Recipient shall be Jeremy Stutsman, President, LaCasa, Inc. Communications pertaining to this Agreement shall be through the respective Project Coordinators for the City and Sub-Recipient.

6. Term of Agreement.

(a) The term of this Agreement shall run from and including the 1st day of July 2022 through and including the 30th day of June 2023. All of Sub-Recipient's claims to release funds from the CDBG program shall be submitted to the City no later than the day specified by the CDBG Director near the end of the contract period, approximately June 8, 2023, so that all claims can be paid within the contract year, except as needed to complete projects, including the associated reporting and paperwork, generally extending the term of the contract no longer than the end of calendar year 2024. The final claim deadline and homeownership activity may be extended based on specific circumstances with a decision by the CDBG Administrator.

(b) When the CDBG Director is notified that CDBG funds are no longer available due to funding changes or lack of funding by the U.S. Department of Housing and Urban Development to support continuation of performance of the Agreement, the Agreement shall be canceled with not less than 30 days' notice to the Sub-Recipient from the City.

7. Audit Compliance. The Sub-recipient shall provide the amount of federal funds expended in the Sub-recipient's fiscal year, as requested by the City. If the Sub-recipient expends \$750,000 or more of federal funds in a fiscal year, an audit following 2 CFR 200.514 must be conducted and a copy of the audit submitted to the City for review, within 30 days after receipt of the auditor's report(s) or nine months after the end of the audit period, whichever is earlier. Any findings related to CDBG must be cleared by the City.

8. CDBG Assets. Upon the expiration or termination of this Agreement, all CDBG-funded assets shall revert to the City to be disposed of in accordance with applicable federal rules, laws, and regulations governing the disposition of property, assets, and equipment purchased with federal funds.

9. Program Income. Sub-Recipient agrees that any Program Income as defined by the Act generated pursuant to this Agreement in the administration of the CDBG program shall be administered and handled as required by the Act and may be expended only upon the prior approval of the City.

10. Uniform Administrative Requirements. Sub-Recipient agrees to comply with applicable uniform administrative requirements, as described in 2 CFR Part 200.

11. Notice. All notices required or permitted under this Agreement shall be submitted in writing to the other party to this Agreement, and delivered personally or sent by regular first-class mail:

City of Goshen, Indiana
Attn: Rhonda Yoder, CDBG
204 E. Jefferson Street, Suite 4
Goshen, Indiana 46528

LaCasa, Inc.
Attn: Amy Call
202 N. Cottage Avenue
Goshen, Indiana 46528

Or at such other place as the parties may designate in writing from time to time.

12. Conflict of Interest. The Sub-Recipient represents that none of its employees, officers, or directors presently have any interest, either direct or indirect, which would conflict in any manner with Sub-Recipient's performance or procurement under this Agreement, and that no person having such interest shall be appointed or employed by Sub-Recipient; except that which is disclosed in writing by the Sub-Recipient to the City.

13. Tax Exempt Status. Attached hereto as Exhibit D by this reference made a part hereof is a copy of correspondence from the Internal Revenue Service dated the 28th day of January 2003 confirming the 501(c)(3) tax exempt status of the Sub-Recipient.

14. Default.

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

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

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

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

SUB-RECIPIENT:

LACASA, INC.

By: _____
Amy Call
Chief Financial Officer

ATTESTED:

By: _____

Printed: Theresa Cummings

Title: Community Development Specialist

CITY:

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

By: _____
Gina Leichty, Mayor

Exhibit A
HOMEOWNERSHIP ASSISTANCE PROGRAM
CITY OF GOSHEN, INDIANA

SCOPE OF SERVICES

- a) To prepare and secure execution of agreements between LaCasa and the homebuyer household specifying the responsibilities of each party with regard to the project including the work to be performed and commitments made by LaCasa under this Agreement.
- b) To provide all required documents to the City, including homebuyer application, income verification, homeownership assistance report form, HUD-1/Closing Disclosure with itemized invoice, housing education/counseling verification, and recorded deed and recorded affordability liens after closing, including all supporting documentation for each.
- c) To maintain records adequate to identify and account for all costs pertaining to this Agreement; to establish the eligibility of the homebuyer household assisted under the program and such other records as may be required by statute, rule or regulations. These records shall be maintained for a period of four (4) years after project completion and shall be available to the City and authorized federal agencies. CDBG project completion occurs when the CDBG lien is released.
- d) Prepare homeownership assistance reports on the form provided by the City, detailing the property location, legal description of property, determination of household income, number of household members, the race and ethnicity of household members, and other required information.
- e) Provide proof of complying with all rules and regulations involving Lead Based Paint requirements.
- f) The maximum CDBG grant per household/property will typically be Ten Thousand (\$10,000.00). A Lien and Restrictive Covenant Agreement will be required to be executed and recorded for each individual property receiving CDBG assistance. All proceeds from lien repayment are considered program income and shall be returned to the City's CDBG program.

Exhibit B

I. Administrative Requirements

A. Financial Management

1. Accounting Standards

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

2. Cost Principles

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

B. Documentation and Record Keeping

1. Records to be Maintained

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

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

2. Retention

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

3. Client Data

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

4. Disclosure

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

5. Close-Outs

The Sub-recipient's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), final close-out reports and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Sub-recipient has control over CDBG funds, including program income.

6. Audits and Inspections

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

C. Reporting and Payment Procedures

1. Program Income

The Sub-recipient shall report on a monthly basis all program income as defined at 24 CFR 570.500(a) generated by activities carried out with CDBG funds made available under this contract. The use of program income by the Sub-recipient shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitations, the Sub-recipient may use such income during the contract period for activities permitted under this contract and shall reduce requests for additional funds by the amount of any such program income balances on hand. All unused program income shall be returned to the City at the end of the contract period. Any interest earned on cash advances from the US Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the City.

2. Indirect Costs

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

3. Payment Procedures

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

D. Procurement

1. Compliance

The Sub-recipient shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provide herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this Agreement.

2. OMB Standards

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

3. Travel

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

II. Personnel and Participant Conditions

A. Civil Rights

1. Compliance

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

2. Nondiscrimination

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

3. Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (PL 88-352) and 24 CFR 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Sub-recipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Sub-recipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

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

B. Equal Opportunity

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

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

2. Access to Records

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

3. Notifications

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

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

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

5. Subcontract Provisions

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

C. Employment Restrictions

1. Prohibited Activity

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

2. Labor Standards

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

The Sub-recipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Sub-recipient of its obligation, if any, to require payment of the higher wage. The Sub-recipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

3. "Section 3" Clause

a) Compliance

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

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

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

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

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

b) Notifications

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

c) Subcontracts

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

D. Conduct

1. Assignability

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

2. Subcontracts

a) Approvals

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

b) Monitoring

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

c) Content

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

d) Selection Process

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

3. Hatch Act

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

4. Conflict of Interest

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

- a) The Sub-recipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.
- b) No employee, officer or agent of the Sub-recipient shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.
- c) No covered person who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or Agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a “covered person” includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Sub-recipient, the City, or any designated public agency.

5. Lobbying

The Sub-recipient hereby certifies that:

- a) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative Agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative Agreement;
- b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative Agreement, it will complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions; and
- c) It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative Agreements) and that all subrecipients shall certify and disclose accordingly:
- d) Lobbying Certification:
This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, USC. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

6. Copyright

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

7. Religious Activities

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

III. Environmental Conditions

A. Air and Water

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

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

B. Flood Disaster Protection

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

C. Lead-Based Paint

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

D. Historic Preservation

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

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

IV. General Conditions

A. Responsibilities

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

Exhibit C

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

Thursday NOON	Deadline to submit claims to CDBG Administrator for processing the following week
Friday	CDBG Administrator Review of Claim: Incomplete claims will be held until all required information is received
Monday (Week 1)	CDBG Administrator Reporting in HUD's online system for each claim (required before a claim may be processed)
Tuesday AM Tuesday PM	First drawdown authorization by CDBG Administrator Voucher submitted by CDBG Administrator to Clerk Treasurer's Office
Wednesday Wednesday, 5pm	Second drawdown authorization by Clerk Treasurer's Office Deadline for claim to be processed by Clerk Treasurer's Office for Board of Works
Monday (Week 2)	Claim approved and signed by Board of Works – all CDBG vouchers must be hand-signed by BOW members
Tuesday	Check written by Clerk Treasurer's Office

Exhibit D
Tax Exempt Status

Internal Revenue Service
Director, Exempt Organizations
Rulings and Agreements

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

Date: **JAN 28 2003**

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

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

Dear Sir or Madam:

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

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

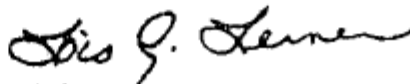
Your exempt status under section 501(a) of the Internal Revenue Code, as an organization described in section 501(c)(3) remains in effect.

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

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

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

Sincerely,



Lois G. Lerner
Director, Exempt Organizations
Rulings and Agreements

cc: Randall M. Jacobs



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

September 11, 2023

To: Board of Public Works and Safety
From: Brandy L. Toms
Subject: Leaf Storage Agreement with Ozinga Ready Mix Concrete, Inc.

Attached is an agreement with Ozinga Ready Mix Concrete, Inc. for the City to lease space at 1700 Egbert Avenue to store leaves for the 2023 leaf pick up season. The rental is \$10.00 per month.

Suggested Motion:

Move to approve and authorize the Mayor to execute the Leaf Storage Agreement with Ozinga Ready Mix Concrete, Inc.

LEAF STORAGE AGREEMENT

COMMENCEMENT DATE: October 1, 2023

LOCATION OF PREMISES: 1700 EGBERT AVENUE, GOSHEN, INDIANA 46528 AS MORE SPECIFICALLY INDICATED ON EXHIBIT A ATTACHED HERETO (THE "PREMISES")

PURPOSE: OUTDOOR LEAF STORAGE

LESSEE: CITY OF GOSHEN

LESSEE ADDRESS: 202 SOUTH 5TH STREET,
GOSHEN, INDIANA 46528

LESSOR: OZINGA READY MIX CONCRETE, INC.

LESSOR ADDRESS: 19001 OLD LAGRANGE ROAD, SUITE 300
MOKENA, ILLINOIS 60448

In consideration of the mutual covenants and agreements herein stated, Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, together with the appurtenances thereto, for the above term.

1. RENT. Lessee shall pay to Lessor as rent for the Premises the sum of \$10.00 per month, payable in advance on the first day of each month, until termination of this Lease, at 19001 Old LaGrange Road, Suite 300, Mokena, Illinois 60448 or such other address as Lessor may designate in writing. Rent payments for any partial month shall be pro-rated.

2. TERM OF LEASE. The Lease shall commence on the Commencement Date listed above and shall terminate upon the earlier of: (i) January 1, 2024; or (ii) until Lessor or Lessee gives the other party at least 30 calendar days, advance written notice of the date of termination of the Lease.

3. USE OF PREMISES. Lessee shall store leaves in the empty bin located on the Premises; Lessee shall not use the Premises for any other purpose, except such reasonable purposes which are ancillary to that described above. Lessee shall have no right to store or park any to other items (for example, tools, equipment, personal vehicles, etc.) at the Premises. Lessee shall not place, store or spill any waste or refuse at the Premises.

4. SUBLET / ASSIGNMENT. Lessee shall not be allowed to sublet the Premises in whole or in part and shall not be allowed to assign this Lease.

5. NO LIENS. Lessee will not permit any mechanic's lien or liens to be placed upon the Premises during the term hereof, and in case of the filing of such lien, Lessee will promptly pay or defend the same.

6. KEEP PREMISES IN REPAIR. Lessee shall keep the Premises in repair; Lessor shall not incur any expense for repairing any improvements upon said Premises.

7. ACCESS TO PREMISES. Lessee shall be allowed access to the Premises 24 hours per day, 7 days per week. Lessor shall have the right to make reasonable changes to the hours of access.

8. HOLDING OVER. Lessee will, at the termination of this Lease by lapse of time or otherwise, yield up immediately possession to Lessor, and failing so to do, will pay as liquidated damages, for the whole time such possession is withheld, the sum of \$300.00 per day; but the provisions of this clause shall not be held as a waiver by Lessor of any right or re-entry as hereinafter set forth; nor shall the receipt of said rent of any part thereof, or any other act in apparent affirmance of tenancy, operate as a waiver of the right to forfeit this Lease and the term hereby granted for the period still unexpired, or for a breach of any of the covenants herein.

9. EXTRA FIRE HAZARD. Lessee shall not keep or use on the Premises any hazardous, flammable or explosive liquids or materials.

10. DEFAULT BY LESSEE. If a default occurs in payment of the above rent, or any part thereof, or in any of the covenants herein contained to be kept by the Lessee, upon 30 days' notice to Lessee, Lessor may at any time thereafter at its election declare said term ended and reenter the Premises or any part thereof to the extent permitted by law and remove Lessee or any persons or property occupying the same, without prejudice to any remedies which might otherwise be used for arrears of rent. In the event that the Lessee is found to be in default by a court of competent jurisdiction and liable to Lessor by reason of any breach of any of the provisions of this Lease, Lessor shall be entitled to recover from the Lessee all costs and expenses of the action or suit, including reasonable attorney's fees.

11. FIRE AND CASUALTY. In case the Premises shall be rendered untenable during the term of this Lease by fire, condemnation, or other casualty, the Lease shall be terminated, with an abatement of rent for the period in which the Premises are not habitable.

12. LESSEE'S PERSONAL PROPERTY. Lessee agrees that Lessor shall not be responsible for any damage to, or loss of, Lessee's equipment, or any of Lessee's personal property due to any cause, including, but not limited to, theft, vandalism or Lessor's failure to keep the Premises in repair. Lessee shall be solely responsible to lock and secure all of its equipment.

13. INDEMNIFICATION. Lessee shall indemnify and hold harmless Lessor from and against any and all claims arising from Lessee's use of the Premises, or from the conduct of Lessee's business or from any activity, work or things done, permitted or suffered by Lessee in or about the Premises and shall further indemnify and hold harmless Lessor from and against any and all claims arising from any breach or default in the performance of any obligation on Lessee's part to be performed under the terms of this Lease, or from any act or omission of Lessee, or any of Lessee's agents, contractors, employees or invitees, and from and against all costs, attorneys' fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon, and in case of any action or proceeding be brought against Lessor by reason of any such claim. Lessee hereby assumes all risk of damage of property of Lessee or injury to persons in, upon or about the Premises arising from any cause, except Lessor's gross negligence or intentional conduct, and Lessee hereby waives all claims in respect thereof against Lessor.

14. INSURANCE. At all times during the term of this Lease, Lessee shall insure itself and Lessor, as their interests may appear, by maintaining, at Lessee's expense, commercial general liability insurance, auto liability insurance, and workmen's compensation insurance against claims for personal or bodily injury, death or property damage resulting from Lessee's use of the Premises. At all times during the term of this Lease, Lessor shall maintain insurance for general property and casualty insurance losses against the Premises. Lessor shall be shown as an additional insured on all such insurance policies which shall also provide that the insurance shall be non-cancelable except upon at least 30 days prior written notice to the

Lessor. Lessee shall provide Lessor with a certificate of insurance indicating the above coverages.

15. PLURALS / SUCCESSOR. The words "Lessor" and "Lessee" wherever herein occurring and used shall be construed to mean "Lessors" and "Lessees" in case more than one person constitutes either party to this Lease; and all the covenants and agreements contained shall be binding upon, and inure to, their respective successors, heirs, executors, administrators and assigns and may be exercised by his or their attorney or agent.

16. ENVIRONMENTAL. Lessees shall not use nor permit the Premises to be used for the storage or disposal of any hazardous waste, toxic substances or related materials (hereinafter collectively referred to as "Hazardous Materials") nor for any purpose involving the use of Hazardous Materials contrary to the terms and conditions of any and all permits for same. For the purposes of this Section, Hazardous Materials shall include, but shall not be limited to, substances defined as "hazardous substances" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended 42 U.S.C. Sec. 9061 et seq., Hazardous Materials Transportation Act, 49 U.S.C. Sec 1802, The Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6901 et seq., the Superfund Amendments and Reauthorization Act of 1986, PL 99-499, regulations adopted and publications promulgated pursuant to said laws. Lessees shall indemnify and hold Lessor harmless from and against all liability, directly or indirectly arising out of the use, generation, storage or disposal of Hazardous Materials, including, without limitation, the cost of any required or necessary repair, clean-up or detoxification and the preparation of any closure or other required plans, to the full extent that such action is attributable, directly or indirectly, to the use, generation, storage or disposal of Hazardous Materials on the Premises by Lessees or any of its affiliates or any person or entity occupying or otherwise using the Premises under, through or with the consent of Lessees but specifically excluding any violations which may have occurred prior to the Term of this Lease.

Lessor shall indemnify, defend and save harmless Lessees from and against any legal or administrative proceedings brought against Lessees and all demands, claims, liabilities, fines, penalties, or costs occasioned by the negligent or intentional activities of Lessor, before, during or after Lessor's ownership of the Premises; or any loss to Lessees occasioned by the existence of Hazardous Substances on or in the property, breaches of the warranties contained herein, or any inaccurate representations in this agreement, excepting therefrom any such proceedings, demands, claims, liabilities, fines, penalties or costs occasioned by the negligent or intentional activities of Lessees occurring during Lessees occupation of the Premises.

The indemnities described above specifically include but are not limited to the direct obligation of the indemnitor to promptly perform any remedial or other activities required, ordered or recommended by any administrative agency, government official, or third party, or otherwise necessary to avoid injury or liability to any person or property, to prevent the spread of pollution, or to permit continued safe operation of the Premises by Lessees.

17. SEVERABILITY. Wherever possible each provision of this Lease shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Lease shall be prohibited by or invalid under applicable law, such provisions shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Lease.

18. GOVERNING LAW. This Lease shall be construed and enforced according to the laws of the State of Indiana, without reference to the conflict of law principles of Indiana. Jurisdiction and venue of any dispute or legal action by either party relating to this Lease shall be exclusively in the courts of Elkhart County.

19. INTEGRATION. This Lease shall constitute the final, complete, and exclusive expression of intentions of the parties hereto with respect to the subject matter hereof and shall supersede all previous communications, representations, agreements, promises or statements, either oral or written, by or between the parties.

20. COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

21. WAIVER. The failure of a party to insist on the strict performance of any provision of this Agreement or to exercise any remedy for any default shall not be construed as a waiver. The waiver of any noncompliance with this Agreement shall not prevent subsequent similar noncompliance from being a default. No waiver under this Agreement shall be effective unless it is in writing and signed by an authorized representative of the party making the waiver. Any waiver authorized on one occasion shall be effective only in that instance and only for the purpose stated, and shall not operate as a waiver on any future occasion. None of the following constitutes a waiver or estoppel of any right, remedy, power, privilege, or condition arising from this Agreement: (a) any failure or delay in exercising any right, remedy, power, or privilege or in enforcing any condition under this Agreement; or (b) any act, omission, or course of dealing between the parties.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date last written below.

LESSEE:

City of Goshen

By _____

Printed _____

Title _____

Date _____

LESSOR:

Ozinga Ready Mix Concrete, Inc.

Edward Houin
By _____

EDWARD HOUIN
Printed _____

HR/ENUIRD
Title _____

8/14/2023
Date _____

EXHIBIT A
THE PREMISES





**Legal Department
CITY OF GOSHEN**

204 East Jefferson Street, Suite 2 • Goshen, IN 46528-3405

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

September 11, 2023

To: Board of Public Works and Safety
From: Brandy L. Toms
Subject: Agreement with Peterson Consulting Services Inc.

The City wishes to contract with Peterson Consulting Services Inc. to assist the City with its financial reporting related to its capital assets as required by Government Accounting Standards Board Statement No. 34.

The agreement is for a fixed fee of \$5,725.00 plus reimbursable expenses not to exceed \$250.00.

All work is to be completed within 90 days from receipt of a notice to proceed.

It is recommended that the Board approve and authorize Mayor Leichty to execute this agreement with Peterson Consulting Services, Inc.

Suggested Motion: Move to approve and authorize Mayor Leichty to sign the agreement with Peterson Consulting Services Inc. to assist the City with its financial reporting related to its capital assets as required by Government Accounting Standards Board Statement No. 34 for the fixed fee of \$5,725.00 plus reimbursable expenses not to exceed \$250.00.

AGREEMENT

To Provide Assistance with the Reporting Requirements of GASB Statement No. 34

THIS AGREEMENT is entered into on _____, 2023, between Peterson Consulting Services, Inc., hereinafter referred to as "Consultant", and the City of Goshen by its Board of Public Works and Safety, hereinafter referred to as "City".

WHEREAS, the Board of Public Works and Safety determines it is expedient and in the best public interest to employ professional accounting services for the financing reporting relating to capital assets for fiscal year ending December 31, 2023.

WHEREAS, the City desires to contract with Consultant, and Consultant agrees to assist the City to meet the financial reporting standards related to capital assets as delineated in Government Accounting Standards Board (GASB) Statement No. 34.

NOW THEREFORE, in consideration of the terms, conditions and mutual covenants contained, the parties agree as follows:

CITY'S RESPONSIBILITIES

City shall be responsible for providing complete and accurate information to Consultant. City shall prepare the actual capital assets report.

SCOPE OF SERVICES

Consultant's services under this agreement shall be to provide the following assistance to ensure the City's process of meeting the retroactive financial reporting standards related to capital assets and general infrastructure for the fiscal year ending December 31, 2023 as delineated in GASB Statement No. 34. Consultant shall:

1. Review the necessary policy requirements related to capital assets as to capitalization of assets and potentially enhancing the City's existing Capital Asset Policy;
2. Provide input as to the reporting of capital asset additions;
3. Provide input as to the reporting of capital asset retirements;
4. Assist the preparation of the capital asset worksheets for fiscal year end 2023 for the following asset accounts and functional classifications:
 - Land and rights-of-way
 - Buildings and land improvements
 - Equipment and vehicles
 - Computer software
 - General infrastructure: streets, alleys, bridges, sidewalks, traffic signals and storm sewers.
5. Assist the preparation of the construction-in-progress account for the fiscal year ending December 31, 2023 relating to buildings and general infrastructure.

AGREEMENT

To Provide Assistance with the Reporting Requirements of GASB Statement No. 34

6. Assist in the preparation for fiscal year ending December 31, 2023, a capital asset summary and compilation indicating assets not being depreciated, assets being depreciated, total capital assets net of depreciation, and total net capital assets.

Consultant shall transmit the necessary data and information to City via e-mail and with telephone conversations and shall provide updated capital asset worksheets for 2023 via email.

Consultant shall obtain and maintain all required permits, licenses, registrations and approvals, as well as comply with all health, safety and environmental statutes, rules or regulations in the performance of the services for the City.

TERM OF THE AGREEMENT

This Agreement shall become effective on the date of execution and approval by both parties. Consultant acknowledges that time is of the essence and that the timely performance of its services is an important element of this Agreement. Consultant shall perform all services as expeditiously as is consistent with professional skill and care in the orderly progress of the project.

Consultant's services shall begin as soon as practical after receiving a notice to proceed from the City and shall be completed within ninety (90) calendar days from receipt of a notice to proceed.

COMPENSATION

The City agrees to compensate Consultant for the above services a fixed rate fee of five thousand seven hundred twenty five dollars (**\$5,725**), plus reimbursable expenses such as postage, shipping, Long distance telephone calls and faxes, or travel expenses such as mileage (at standard IRS mileage rate) and tolls in an amount not to exceed Two Hundred Fifty Dollars (\$250.00).

Payment(s) to Consultant for services rendered under this agreement shall be made by the City upon receipt of a detailed invoice from Consultant for services completed provided satisfactory performance of Consultant has been attained. Consultant is required to have a current W-9 Form on file with the City before the City will issue any payment. Payment will be made within forty-five (45) days following City's receipt of the detailed invoice from Consultant. Payment is deemed to be made on the date of mailing the check.

INDEPENDENT CONTRACTOR

Consultant shall be deemed an independent contractor operating as a separate entity from the City of Goshen. The City shall not be responsible for injury, including death, to any persons or damage to any property arising out of the acts or omissions of the agents, employees, or subcontractors of Consultant.

NON-DISCRIMINATION

Consultant agrees that it will comply with all federal and Indiana civil rights laws, including, but not limited to Indiana Code 22-9-1-10. Consultant agrees that Consultant or any subcontractors, or any other person acting on behalf of Consultant or their subcontractor, shall not discriminate against any employee or applicant for employment to be employed in the performance of a contract with respect to said employee's hire, tenure, terms, conditions, or privileges of employment or any other matter directly or

AGREEMENT

To Provide Assistance with the Reporting Requirements of GASB Statement No. 34

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.

INDEMNIFICATION

Consultant agrees to indemnify, defend, and hold harmless the City, its agents, officers, and employees from any and all liability, obligations, claims actions, causes of action, judgments, liens, damages, penalties or injuries arising out of any act or omission by Consultant or any of their officers, agents, officials, and employees, during the performance of services under this Agreement with the City of Goshen. Such indemnity shall include attorney's fees and all costs and other expenses incurred by the City, and shall not be limited to insurance required under the provisions of this Agreement.

FORCE MAJEURE

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 such as natural disaster or decrees of governmental bodies not the fault of the affected parties.

If either party is delayed by force majeure, the party affected shall provide written notification to the other party immediately, but shall do everything possible to resume performance. The notification shall provide evidence of the force majeure event to the satisfaction of the other party. If the period of non-performance exceeds fourteen (14) calendar days, the party whose ability to perform has not been so affected may by giving written notice, terminate the contract and the other party shall have no recourse.

BREACH

It shall be mutually agreed that if Consultant fails to perform, provide services or comply with the provisions of this Agreement and Consultant is not able to correct the breach within ten (10) calendar days after the City provides written notice to Consultant of such breach, the City may provide or have provided alternative provisions to correct and/or complete the project. If such provisions are made by the City, Consultant shall be responsible for any and all costs that may be incurred for such services, and such amounts shall be deducted from amounts owed to Consultant. If the costs for such services exceed the amounts owed to Consultant, Consultant is liable to reimburse the City for such costs.

Any legal action against Consultant relating to this Agreement, or the breach thereof, shall be commenced within one (1) year from the time the defect should have been discovered.

TERMINATION

This Agreement may be terminated, in whole or in part, for a material breach of this contract by either party at the election of the non-breaching party after giving written notice of the breach to the breaching party. If the breach is not cured within ten (10) calendar days after receipt of written notice of such breach, the non-breaching party may terminate the contract. This Agreement may also be terminated at any time by mutual consent of both parties.

AGREEMENT

To Provide Assistance with the Reporting Requirements of GASB Statement No. 34

Upon termination for any reason, the City shall be entitled to the use of all plans, drawings, specifications and other documents pertaining to the project prepared by Consultant under this Agreement.

OWNERSHIP OF DOCUMENTS

The City acknowledges Consultant's documents, plans, drawings, specifications, including electronic files, as instruments of professional service. Nevertheless, the final documents prepared under this Agreement shall become the property of the City upon completion of the services and payment in full of all monies due to Consultant.

ASSIGNMENT

Neither the City nor Consultant shall subcontract or assign any right or interest under the Agreement, including the right to payment, without having prior written approval from the other. Any attempt by either party to subcontract or assign any portion of the Agreement shall not be construed to relieve that party from any responsibility to fulfill all contractual obligations.

MODIFICATIONS

It is mutually understood and agreed that no alteration or variation of the terms in this Agreement including the scope of services, completion of services and compensation, and that no alteration or variation of the conditions of this Agreement shall be binding unless specifically agreed to in writing by the Board of Public Works and Safety. 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.

STATEMENT OF LIMITING CONDITIONS

- Our services are intended to assist your government in reporting its capital assets for financial reporting purposes.
- Consultant's services also include facilitating and establishing and maintaining necessary capital asset information.
- Consultant's services do not constitute an appraisal, opinion, or other attestation. Information provided by you is presumed reliable, reasonably accurate, and complete. We will not undertake an audit or other verification of the information and will not attest to its accuracy or completeness. We assume no responsibility for errors and omissions contained in data we are given.
- Consultant does not generally maintain copies of invoices or other client records that support asset costs paid by client to outside contractors/vendors. The client retains responsibility for maintaining these types of records. We do, however, retain records for asset costs that we develop as part of our engagement work.
- Consultant offers no opinion regarding technical matters including, but not limited to, accounting, appraisal, insurance, engineering, or regulatory issues is offered with this service.

AGREEMENT
To Provide Assistance with the
Reporting Requirements of GASB Statement No. 34

Clients are advised to seek the advice of competent specialized professionals regarding these matters.

- The client retains responsibility for filing its capital assets information with various regulatory agencies.
- When Consultant's work is complete, its work papers and files developed during this service will be retained for a period of three years.

NOTICES

All written notices, properly addressed and sent by U.S. mail or delivered personally to the address provided below shall constitute sufficient notice whenever written notice is required for any purpose in the Agreement. Notice will be considered given three (3) days after the notice is deposited in the U.S. mail or when received at the appropriate address.

Address for notices to the City

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

Address for notices to the Consultant

Peterson Consulting Services, Inc.
Attention: Jon Peterson
Please Note New Address:
512 West Burlington Avenue, Suite 1A
La Grange, Illinois 60525-2284
jon.peterson@pcsi-consulting.com

APPLICABLE LAWS

Consultant agrees to comply with all applicable federal, state and local laws, rules, regulations, or ordinances as the same shall be in full force and effect during the term of this Agreement.

AGREEMENT

To Provide Assistance with the Reporting Requirements of GASB Statement No. 34

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 requirements 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 non-prevailing party will pay all costs incurred by the prevailing party including reasonable attorney's fees.

EMPLOYMENT ELIGIBILITY VERIFICATION

Consultant shall enroll in and verify the work eligibility status of all their newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3.

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

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

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

Consultant affirms under the penalties of perjury that they do not knowingly employ an unauthorized alien.

CONTRACTING WITH RELATIVES

Pursuant to IC 36-1-21 if Consultant is wholly or partially owned by a relative of an elected official of the City of Goshen Consultant certifies that Consultant has notified in writing both the elected official of the City of Goshen and the City's legal department prior to entering into this contract that an elected official of the City of Goshen is a relative of an owner of Consultant.

SEVERABILITY

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

AGREEMENT
To Provide Assistance with the
Reporting Requirements of GASB Statement No. 34

BINDING EFFECT

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

ENTIRE AGREEMENT

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

IN WITNESS WHEREOF, the parties have executed this Agreement as follows:

City of Goshen
Board of Public Works and Safety

Peterson Consulting Services, Inc.

Mayor

Margaret R. Peterson, President

Jon C. Peterson, Director

Date: _____

Date: _____



CITY OF GOSHEN LEGAL DEPARTMENT

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

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

September 11, 2023

To: Goshen Board of Public Works and Safety

From: Shannon Marks, Legal Compliance Administrator

Subject: Settlement and Release Agreement, including the Participation Agreements, with Central States, Southeast and Southwest Areas Health and Welfare Fund

It is recommended that the Board approve and ratify Mayor Leichty's execution of attached Settlement and Release Agreement, including the Participation Agreements, with Central States, Southeast and Southwest Areas Health and Welfare Fund ("Central States") concerning employee health insurance coverage for certain City employees.

As a result of a 2019 audit, it was revealed that the City did not pay weekly contributions to Central States for four part-time employees. To settle this matter, the City paid Central States the sum of \$1,604.52 in October 2021, and the City agrees to pay Central States an additional \$221.26 for delinquent interest. In addition, the City agrees to indemnify and hold Central States harmless for any damages awarded against or expenses incurred by Central States in connection with any claim asserted by the four part-time employees at issue, along with any other non-bargaining unit employee employed as a part-time, seasonal, casual, or temporary employee that asserted the employee was entitled to, but excluded from, health insurance coverage between October 22, 2012 and January 1, 2022. Central States agrees to release the City from any claim for contributions for the year 2019 and for any claim for contributions on any individuals excluded from coverage from October 22, 2012 through January 1, 2022. As part of the agreement, the City will execute new Participation Agreements in which the City agrees to pay Central States a weekly contribution rate as set forth below for each eligible employee effective retroactive to January 2, 2022. There are separate agreements for each group of employees represented by each of the three unions, and an agreement for those employees that are not represented by a union that are employed on a full-time basis and reasonably expected to have on average 30 or more hours of compensation each week.

- Effective January 2, 2022, \$453.86 per week
- Effective January 1, 2023, \$473.86 per week
- Effective December 31, 2023, \$507.08 per week
- Effective December 29, 2024, \$532.40 per week
- Effective January 4, 2026, not to exceed \$564.30 per week

Suggested Motion:

Move to approve and ratify Mayor Leichty's execution of the Settlement and Release Agreement, including the Participation Agreements, with Central States, Southeast and Southwest Areas Health and Welfare Fund concerning employee health insurance coverage for certain City employees.

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Agreement”) is made between the Central States, Southeast and Southwest Areas Health and Welfare Fund (the “Health Fund”) and the City of Goshen (“the City”) each intending to be legally bound and agree as follows:

A. The Health Fund is a multiemployer welfare plan within the meaning of 29 U.S.C. §§ 1002(1) and (37).

B. The City is a municipality organized under the laws of the State of Indiana.

C. During all relevant times, the City has been signatory to three separate collective bargaining agreements (the “CBAs”) that require the City to contribute to the Health Fund on behalf of certain of its employees represented by the following three separate unions: a) Local Union No. 364 of the International Brotherhood of Teamsters (“Local 364”) b) Goshen Firefighters Association Local No. 1443 of the International Association of Firefighters and c) Elkhart FOP Lodge 52, Inc. (formerly Fraternal Order of Police Labor Council, Inc., Representing the Goshen Lodge No. 81).

D. The City is also signatory to a Non-Bargaining Unit Participation Agreement that requires the City to pay health and welfare contributions to the Health Fund on behalf of certain employees who are not covered by any of the three CBAs.

E. The Health Fund has alleged that its audit of the City’s records for the year of 2019 (the “Audited Period”) revealed that the City failed to pay all required contributions and related interest owed to the Health Fund for the Audited Period.

F. The Health Fund and the City wish to settle the Health Fund’s claims for contributions (and related interest) for the Audited Period and any claim for contributions on behalf

of any part-time, seasonal, casual, or temporary employees of the City under the Non-Bargaining Unit Participation Agreement for the period from October 22, 2012 through January 1, 2022.

NOW THEREFORE, in consideration of the mutual promises and agreements contained herein, the parties agree as follow:

1. The Fund shall retain the \$1,604.52 Goshen previously paid on October 29, 2021.
2. The City shall pay \$221.26 in delinquent interest it owes to the Health Fund (the “Interest Payment”), which must be received by the Health Fund on or before March 4, 2022.
3. The payment must be sent to the Health Fund at the following address:

Central States Funds
Attn: Andrew Sprau
8647 West Higgins Road, 5th Floor
Chicago, IL 60631

Or by wire transfer to the following account:

BNY Mellon, N.A.
American Bank Association No. 043-000-261
Account No. 000093-2246
Beneficiary: Central States Health & Welfare Fund

4. The City agrees to indemnify and hold the Health Fund harmless from any damages awarded against or expenses incurred by the Health Fund (including attorney’s fees and costs awarded against or incurred by the Health Fund) in connection with any claim asserted by any of the employees listed on Exhibit A or any other non-bargaining unit employee who was employed as a part-time, seasonal, casual, or temporary employee of the City (collectively referred to as the “Excluded Individuals”) or an Excluded Individual’s dependent, a successor or assign of any Excluded Individual or his/her dependent, or Medicare or any other entity that paid claims on an Excluded Individual or his/her dependent, that is based upon the assertion that the Excluded Individual and/or his/her dependents were entitled to coverage and benefits from the Health Fund

because of the Excluded Individual's employment by the City during all or any portion of the period of October 22, 2012 through January 1, 2022 during which the City did not remit contributions on the Excluded Individual's behalf pursuant to the Non-Bargaining Unit Participation Agreement to the Health Fund due to the Excluded Individual's part-time, seasonal, casual and/or temporary status (including any claim that coverage should have been available to the Excluded Individual or his/her dependent under the Affordable Care Act or continuation coverage under the Consolidated Omnibus Reconciliation Act). The indemnification and hold harmless agreement set forth in this paragraph applies to the individuals listed on Exhibit A and any non-bargaining unit employee who was employed on a part-time, seasonal, casual, or temporary basis at any time from the date the City began participation in the Health Fund on October 22, 2012 through January 1, 2022.

5. The City will sign a new Non-Bargaining Unit Employee Participation Agreement in the form attached as Exhibit B with respect to its non-bargaining unit employees. In addition, the City will sign a Bargaining Unit Participation Agreement with Goshen Firefighters Association Local No. 1443 of the International Association of Firefighters in the form attached as Exhibit C, a Bargaining Unit Participation Agreement with Elkhart FOP Lodge 52, Inc. in the form attached as Exhibit D and a Bargaining Unit Participation Agreement with Local 364 in the form attached as Exhibit E.

6. The City recognizes that no employee who is eligible for coverage under the four Participation Agreements (as required under paragraph 5) is permitted to opt out of Health Fund coverage under any of these Participation Agreements.

7. In consideration of the promises made by the City in paragraphs 1 through 4, the Health Fund agrees to release and forever discharge the City from: a) any claim for contributions

(including associated interest) to the Health Fund for the Audited Period and b) any claim for contributions (including associated interest) to the Health Fund on any Excluded Individual for the period of October 22, 2012 through January 1, 2022.

8. Notwithstanding anything else in this Agreement, including the limited release set forth in paragraph 7, this Agreement does not release or discharge the City from any claim or obligation not explicitly identified by paragraph 7, including, but not limited to:

- a. the obligation to pay contributions (including interest or liquidated damages thereon) to the Health Fund for any period other than the Audited Period (except for the claim for contributions on any Excluded Individual for the period of October 22, 2012 through January 1, 2022, which claim is being released by this Agreement);
- b. the obligation to pay contributions (including interest thereon) on any Excluded Individual for any weeks outside of the Audited Period that the Excluded Individual was employed as a full-time regular employee; and
- c. any obligation to pay retroactive contributions for all or part of the eight-week period as referenced further in the agreements attached as Exhibit B, Exhibit C, and Exhibit D.

9. This Agreement is being entered into and performed within Cook County in the State of Illinois and shall be construed and interpreted in accordance with federal law and the laws of the State of Illinois. Any and all actions brought that relate in any way to this Agreement shall be filed and litigated in courts located in Cook County, Illinois, and all of the parties to this Agreement consent to personal jurisdiction in any federal or state court located in Cook County, Illinois.

10. This Agreement has been drafted and edited by both parties. Therefore, this Agreement shall not be construed against either party on the basis that one or more of the parties was the principal drafter of the Agreement. Both of the parties to this Agreement certify that they have read the terms of this Agreement, that they have had the opportunity to discuss it with their attorneys, and that they understand its terms and effects.

11. Each person signing this Agreement represents that he/she has the capacity and the authority to execute this Agreement on behalf of the party on whose behalf he/she signs this Agreement, and that he/she also has the authority to bind this party on whose behalf he/she signs this Agreement.

12. This Agreement represents the entire understanding between the parties and cannot be changed or amended except by written agreement, signed by all the parties, and attached to this Agreement.

13. The Recitals set forth in paragraphs A through F are incorporated into and made a part of this Agreement.

(this Agreement continues on the following page)

IN WITNESS WHEREOF, the parties have executed this Agreement on the indicated dates.

**CENTRAL STATES, SOUTHEAST AND
SOUTHWEST AREAS HEALTH AND WELFARE FUND**

By: _____
Peter Priede
Senior Director of Employer Services and Finance

Date: _____

CITY OF GOSHEN

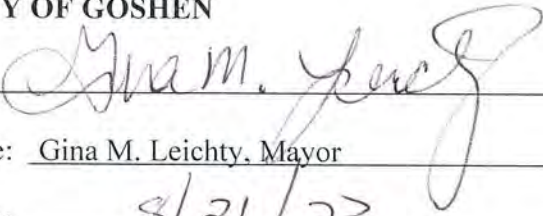
By:  _____
Title: Gina M. Leichty, Mayor
Date: 8/21/23 _____

EXHIBIT A

MAYNARD HARTSOUGH

JENNIFER OKLAK

GARY W PENLAND

DALE SCHROCK



PARTICIPATION AGREEMENT

CENTRAL STATES, SOUTHEAST AND SOUTHWEST AREAS
HEALTH AND WELFARE FUND
8647 WEST HIGGINS ROAD
CHICAGO, ILLINOIS 60631-2803
PHONE: (847) 518-9800

NON-BARGAINING UNIT EMPLOYEES (EXHIBIT B)

EMPLOYER NAME: City of Goshen Indiana
ACCOUNT NUMBER: 3209700-0100

1. City of Goshen Indiana (“Goshen”) is currently bound by separate collective bargaining agreements with: a) Local Union No. 364 of the International Brotherhood of Teamsters, b) Goshen Firefighters Association Local No. 1443 of the International Association of Firefighters and c) Elkhart FOP Lodge No. 52, Inc. (collectively, the “Unions”). In addition, Goshen has or will be signing a bargaining unit Participation Agreement for each of the Unions. Under these collective bargaining agreements and bargaining unit participation agreements, Goshen has agreed to contribute to the Central States, Southeast and Southwest Areas Health and Welfare Fund (the “Health and Welfare Fund”) on behalf of covered employees. Goshen also desires to continue its participation in the Health and Welfare Fund with respect to its employees who are not covered by the collective bargaining agreements or bargaining unit Participation Agreements and this Agreement sets forth the terms under which Goshen will participate in the Health and Welfare Fund with respect to such employees. This Participation Agreement is effective January 2, 2022, and as of that date, supersedes the Non-Bargaining Unit Employees Participation Agreement executed by Goshen on August 3, 2020. For clarity’s sake, as of the effective date of this Participation Agreement, the Non-Bargaining Unit Employees Participation Agreement referenced in the previous sentence shall be null and void for the period after January 1, 2022.

2. Goshen agrees to be bound by the terms of the Health and Welfare Fund Trust Agreement and all policies, rules and regulations that have been adopted or that are adopted in the future by the Trustees pursuant to the Trust Agreement.



PARTICIPATION AGREEMENT

CENTRAL STATES, SOUTHEAST AND SOUTHWEST AREAS
HEALTH AND WELFARE FUND
8647 WEST HIGGINS ROAD
CHICAGO, ILLINOIS 60631-2803
PHONE: (847) 518-9800

3. For the duration of this Participation Agreement, Goshen shall contribute to the Health and Welfare Fund on behalf of each Eligible Non-Unit Employee for each week during which the Eligible Non-Unit Employee works or receives compensation (including, but not limited to, paid vacations, holidays, paid leave, back pay awards and actual time worked) at the same rate for that week at which Goshen is required to contribute, or has contributed, on its employees covered by the collective bargaining agreements between the Unions and Goshen (as modified by any renewals, extensions or successor collective bargaining agreements). At the present time the agreed rates are as follows:

Effective Date:	<u>01/02/2022</u>	Rate:	<u>\$453.86</u>
Effective Date:	<u>01/01/2023</u>	Rate:	<u>\$473.86</u>
Effective Date:	<u>12/31/2023</u>	Rate:	<u>\$507.08</u>
Effective Date:	<u>12/29/2024</u>	Rate:	<u>\$532.40</u>
Effective Date:	<u>01/04/2026</u>	Rate:	<u>\$564.30*</u>

*Not to exceed

The contribution rate beginning twelve months after the last Effective Date set forth in this paragraph shall be changed annually effective the first week of each calendar year to the rate determined by the Trustees to maintain the existing benefit plan and such rate changes shall be incorporated into this Agreement.

4. Goshen will pay the contributions owed for each month on or before the 15th day after the end of the month. If Goshen fails to pay its contributions on time, it shall pay interest at the rate set forth in the Health and Welfare Fund Trust Agreement.

5. Goshen shall report all changes in its Eligible Non-Unit Employee workforce (for example, new hires, layoffs, terminations) that occur during any month on or before



PARTICIPATION AGREEMENT

CENTRAL STATES, SOUTHEAST AND SOUTHWEST AREAS
HEALTH AND WELFARE FUND
8647 WEST HIGGINS ROAD
CHICAGO, ILLINOIS 60631-2803
PHONE: (847) 518-9800

the 15th day after the end of the month during which the change occurred. If Goshen fails to timely report in writing the changes in the employment status of the Eligible Non-Unit Employees included in the Health and Welfare Fund's monthly bill, it shall be liable for the amount billed regardless of actual changes in the employment relationship. The Illinois ten-year written contract statute of limitations, which shall apply to any claim for unpaid contributions, shall not accrue with respect to contributions owed by Goshen on any Eligible Non-Unit Employee until the Health and Welfare Fund receives written notice of the liability.

6. For purposes of this Participation Agreement, the term "Eligible Non-Unit Employee" shall mean the following:

a. The term "Eligible Non-Unit Employee" means each and every individual employed by Goshen on a full-time basis who is not covered by a collective bargaining agreement. An employee is employed on a full-time basis if the employee is reasonably expected to have on average 30 or more hours of compensation per week. A newly hired full-time employee who is not covered by a collective bargaining agreement will become an Eligible Non-Unit Employee on whose behalf contributions are due beginning on the employee's first day on Goshen's payroll, with a lump sum payment of eight (8) weeks then made to cover the Fund's establishing period.

b. Any employee who is not covered by a collective bargaining agreement and who is not a full-time employee because the employee is not reasonably expected to receive on average 30 or more hours of compensation per week (known as a variable hour, part-time, temporary, extra, casual and/or seasonal employee) shall not be an Eligible Non-Unit Employee and contributions shall not be due on the employee's behalf, except as provided in this subparagraph or paragraph 8. Goshen agrees to use the look-back measurement method described at 26 CFR



PARTICIPATION AGREEMENT

CENTRAL STATES, SOUTHEAST AND SOUTHWEST AREAS
HEALTH AND WELFARE FUND
8647 WEST HIGGINS ROAD
CHICAGO, ILLINOIS 60631-2803
PHONE: (847) 518-9800

§ 54.4980H-3(d) for determining full-time status under the Affordable Care Act. Goshen agrees that any employee who was not reasonably expected to be a full-time employee will become an Eligible Non-Unit Employee (so contributions will be due on his/her behalf) if the employee averages 30 hours of compensation per week during the initial measurement period or during any standard measurement period. Further, if the Eligible Non-Unit Employee averages 30 or more hours of compensation per week during the initial measurement period or during a standard measurement period, Goshen must make contributions not only for the applicable stability period but also for the eight weeks immediately before the beginning of the stability period (less any weeks of contributions Goshen has paid on the employee during the 52-week period ending on the last day of the applicable standard measurement period or the last day of the applicable initial measurement period). For a newly hired employee who is not reasonably expected to receive 30 or more hours of compensation at the time of hire, the initial measurement period shall be the 12-month period from the first day compensated and the initial stability period shall be the subsequent 12-month period. The standard measurement period shall be from January 1 through December 31 followed by a standard stability period from January 1 through December 31. Goshen shall be required to contribute for each week of the stability period (regardless of whether the employee receives compensation for the week); the only exception is that contributions will not be due if the employment relationship is terminated during an initial stability period or a standard stability period, in which case Goshen shall not be required to contribute for the weeks after the week of the termination (unless the employee is rehired within 13 weeks, in that instance contributions will be due for the remainder of the stability period). The initial measurement period calculation shall apply to any employee hired after January 1, 2021 and the standard measurement period calculation shall begin with calendar year 2021 (so any employee who averaged 30 or more hours of compensation per week between



PARTICIPATION AGREEMENT

CENTRAL STATES, SOUTHEAST AND SOUTHWEST AREAS
HEALTH AND WELFARE FUND
8647 WEST HIGGINS ROAD
CHICAGO, ILLINOIS 60631-2803
PHONE: (847) 518-9800

January 1, 2021 and December 31, 2021 will be considered a full-time employee as of January 1, 2022).

c. An example of Goshen's obligation under subparagraph (b) would be a newly hired employee who is not covered by a collective bargaining agreement and who is not expected to average more than 30 hours of compensation per week begins work on March 7, 2021 but actually averages 30 hours per week (1,560 total hours) or more of compensation for the initial measurement period from March 7, 2021 through March 6, 2022. Such employee will become an Eligible Non-Unit Employee and Goshen will pay contributions on the employee for the eight weeks from January 9, 2022 through March 6, 2022 and for the initial stability period from March 7, 2022 through March 6, 2023. However, if the employment relationship is terminated during the initial stability period, Goshen will not be required to contribute for the weeks after the week of the termination. If this employee does not average 30 hours of compensation per week (1,560 total hours) or more for the initial measurement period but does average 30 hours per week or more for the standard measurement period from January 1, 2021 through December 31, 2021, then the employee will become an Eligible Non-Unit Employee and Goshen will pay contributions for the eight week period from November 5, 2021 through December 31, 2021 and for the standard stability period from January 1, 2022 through December 31, 2022; but if the employment relationship is terminated during the standard stability period, Goshen will not be required to contribute for the weeks after the termination (unless the employee is rehired within 13 weeks, in that instance contributions will be due for the remainder of the stability period).

d. It is understood that an employee's expected number of hours can change during the employment relationship. If it happens that the status of a full-time employee changes due to a permanent reduction in the number of hours of compensation below 30 hours, Goshen contribution obligation with respect to the

PARTICIPATION AGREEMENT

CENTRAL STATES, SOUTHEAST AND SOUTHWEST AREAS
HEALTH AND WELFARE FUND
8647 WEST HIGGINS ROAD
CHICAGO, ILLINOIS 60631-2803
PHONE: (847) 518-9800

employee will thereafter be covered by paragraph 6(b) and (c) of this Agreement. If it happens that the status of an employee who is not a full-time employee changes due to a permanent increase in the expected number of hours of compensation to 30 or more hours per week, the employee will become an Eligible Non-Unit Employee and contributions will be due on the employee's behalf immediately.

e. Any Eligible Non-Unit Employee who is eligible to have contributions paid on his/her behalf under this Participation Agreement may not waive coverage.

f. The common law master-servant test shall be utilized to determine whether an employment relationship exists. The term Eligible Non-Unit Employee shall not include: i) independent contractors, ii) any person covered by a collective bargaining agreement between Goshen and a union not affiliated with the International Brotherhood of Teamsters, International Association of Firefighters, or Fraternal Order of Police that requires Goshen to contribute to some other health and welfare fund, or iii) any person employed for the principal purpose of obtaining or continuing coverage under the Health and Welfare Fund.

7. This Participation Agreement and Goshen's obligation to remit contributions on Eligible Non-Unit Employees shall continue in effect until the earlier of: a) 30 days after service of a written notice served by either the Health and Welfare Fund or Goshen upon the other of their intent to terminate this Participation Agreement, or b) the date of the termination of Goshen's contractual and statutory duty to contribute to the Health and Welfare Fund on behalf of employees represented by Teamsters Local Union No. 364. A written notice of intent to terminate can be served by personal delivery, facsimile or certified mail (return receipt requested) and, if service is by mail, service will be deemed accomplished on the date of mailing.

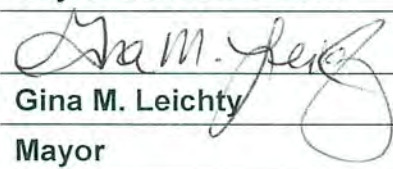


PARTICIPATION AGREEMENT

CENTRAL STATES, SOUTHEAST AND SOUTHWEST AREAS
HEALTH AND WELFARE FUND
8647 WEST HIGGINS ROAD
CHICAGO, ILLINOIS 60631-2803
PHONE: (847) 518-9800

8. Notwithstanding any provision of this Agreement to the contrary, contributions shall be owed by Goshen for any week for which the Health and Welfare Fund must provide coverage to an employee who is not covered by any of the collective bargaining agreements (or the employee's dependent) under any provision of law (including, without limitation, the Patient Protection and Affordable Care Act). Such contributions shall be due and owing to the Health and Welfare Fund at the same time and at the same rate set forth in this Agreement for Goshen's contributions.

9. This Participation Agreement may not be modified except through a written agreement signed by both Goshen and the Health and Welfare Fund.

Employer: **City of Goshen Indiana**
Signature: 
Printed Name: **Gina M. Leichty**
Printed Title: **Mayor**

**Central States, Southeast and Southwest Areas
Health and Welfare Fund**
Signature: _____
Printed Name: **Peter Priede**
Printed Title: **Senior Director of Employer Services and Finance**
Date: _____



PARTICIPATION AGREEMENT

CENTRAL STATES, SOUTHEAST AND SOUTHWEST AREAS
HEALTH AND WELFARE FUND
8647 WEST HIGGINS ROAD
CHICAGO, ILLINOIS 60631-2803
PHONE: (847) 518-9800



PARTICIPATION AGREEMENT

CENTRAL STATES, SOUTHEAST AND SOUTHWEST AREAS
HEALTH AND WELFARE FUND
8647 WEST HIGGINS ROAD
CHICAGO, ILLINOIS 60631-2803
PHONE: (847) 518-9800

HEALTH AND WELFARE ONLY EMPLOYER (Exhibit C)

EMPLOYER NAME: City of Goshen
ACCOUNT NUMBER: 3209700-0100-71443A

THIS AGREEMENT sets forth the terms under which the Employer will participate in the Central States, Southeast and Southwest Areas Health and Welfare Fund ("Health and Welfare Fund") in accordance with its collective bargaining agreement with the Union covering the following job classification(s): Paramedics and Firefighters

and any other job classification covered by the collective bargaining agreement.

1. The Union and Employer agree to be bound by the Trust Agreement(s) of the Health and Welfare Fund and all amendments subsequently adopted as well as all rules and regulations presently in effect or subsequently adopted by the Trustees of the Health & Welfare Fund and accept the respective Employer and Employee Trustees and their successors.
2. The Employer shall contribute to the Health and Welfare Fund for each Covered Employee at the following rates:

Effective Date:	<u>01/02/2022</u>	Rate:	<u>\$453.86</u>
Effective Date:	<u>01/01/2023</u>	Rate:	<u>\$473.86</u>
Effective Date:	<u>12/31/2023</u>	Rate:	<u>\$507.08</u>
Effective Date:	<u>12/29/2024</u>	Rate:	<u>\$532.40</u>
Effective Date:	<u>01/04/2026</u>	Rate:	<u>\$564.30*</u>

*Not to exceed

Contributions are due on a newly hired Covered Employee from the first day the Covered Employee works for the Employer, with a lump sum payment of eight (8) weeks then made to cover the Fund's establishing period.

3. The contribution rate beginning twelve months after the last Effective Date set forth in paragraph 2 shall be changed annually effective the first week of each calendar year to the rate determined by the Trustees to maintain the existing benefit plan and such rate changes shall be incorporated into this Agreement.

4. This Agreement and the obligation to pay contributions to the Health & Welfare Fund will continue after the termination of a collective bargaining agreement except no contributions shall be due during a strike unless the Union and the Employer mutually agree in writing otherwise. This Agreement and the Employer's obligation to pay contributions shall not terminate until a) the Trustees decide to terminate the participation of the Employer and provide written notice of their decision to the Employer specifying the date of termination of participation or b) the Employer is no longer obligated by a contract or statute to contribute to the Health & Welfare Fund and the Health & Welfare Fund has received a written notice directed to the Health & Welfare Fund's Contracts Department at the address specified above sent by certified mail with return receipt requested which describes the reason why the Employer is no longer obligated to contribute or c) the date the NLRB or state agency certifies the result of an election that terminates the representative status of Teamsters Local Union No. 364 as representative of Goshen's teamster employees or d) the date Teamsters Local Union No. 364's representative status terminates through a valid disclaimer of interest or lawful withdrawal of recognition by the Employer. In the event an election or disclaimer of interest referred to in c) or d) relates to only part of the Teamsters Local Union No. 364 bargaining unit, this Agreement shall remain in effect. In the event the status of the Goshen Firefighters Association Local No. 1443 of the International Association of Firefighters as representative of the employees covered by this Agreement ceases, this Participation Agreement will terminate. However, the obligation to contribute to the Health & Welfare Fund will continue if there is a non-bargaining unit Participation Agreement in effect in accordance with the terms of the non-bargaining unit Participation Agreement.

5. When a new collective bargaining agreement is signed or the Employer and the Union agree to change the collective bargaining agreement, the Employer shall promptly submit the entire agreement or modification to the Health & Welfare Fund's Contracts Department by certified mail (return receipt requested) at the address specified above. Any agreement or understanding which affects the Employer's contribution obligation which has not been submitted to the Health & Welfare Fund as required by this paragraph, shall not be binding on the Trustees and this Agreement and the written agreement(s) that has been submitted to the Health & Welfare Fund shall alone remain enforceable. An agreement that purports to retroactively eliminate or reduce the Employer's statutory or contractual duty to contribute to the Health & Welfare Fund shall not be valid.

6. For purposes of this Agreement, the term "Covered Employee" shall mean any full-time employee covered by a collective bargaining agreement requiring contributions to the Health & Welfare Fund. Covered Employee shall not include any person employed in a managerial or supervisory capacity or any person employed for the principal purpose of obtaining benefits from the Health & Welfare Fund.

7. The Employer agrees to remit contributions on behalf of each Covered Employee for any period he/she receives, or is entitled to receive, compensation (regardless of whether the employment relationship is terminated), including show up time pay, overtime pay, holiday pay, disability or illness pay, layoff/severance pay, vacation pay or the payment of wages which are the result of any National Labor Relations Board proceeding, grievance/arbitration proceeding or other legal proceeding or settlement. If required by the applicable collective bargaining agreement, contributions shall also be made to the Health & Welfare Fund on behalf of any Covered Employee who is not working due to illness or injury even if the Covered Employee is not entitled to compensation.

8. On or before the 15th day of each month, the Employer must report to the Health & Welfare Fund any change in the Covered Employee workforce (including, but not limited to new hires, layoffs or terminations) which occurred during the prior month and must pay all contributions owed for the prior month. In the event of a delinquency, a) the Employer shall be obligated to pay interest on the monies due to the Health & Welfare Fund from the date when payment was due to the date when the payment is made, together with all expenses of collection incurred by the Health & Welfare Fund, including, but not limited to, attorneys' fees and costs and b) at the option of the Trustees or their delegated representative, the payment of contributions that accrue after the Employer has become delinquent shall be accelerated so that the contributions owed for each calendar week (Sunday through Saturday) shall be due on the following Monday. If the Employer fails to report changes in the covered workforce on time, the Employer must pay the contributions billed by the Health and Welfare Fund regardless of actual terminations, leaves of absence, layoffs, or other changes in the workforce. The Trustees reserve the right to terminate the participation of any Employer that fails to timely pay required contributions.

9. The Employer shall provide the Trustees with access to its payroll records and other pertinent records when requested by the Health & Welfare Fund. If litigation is required to either obtain access to the Employer's records or to collect additional billings that result from the review of the records, all costs incurred by the Health & Welfare Fund in conducting the review shall be paid by the Employer and the Employer shall pay any attorneys' fees and costs incurred by the Health & Welfare Fund.

10. The Trustees shall not be required to submit any dispute concerning the Employer's obligation to pay contributions to any grievance/arbitration procedure set forth in any collective bargaining agreement.

11. The Employer acknowledges that it is aware of the Health & Welfare Fund' adverse selection rule and agrees that while this Agreement remains in effect, it will not enter into any agreement or engage in any practice that violates the adverse selection rule.

12. This Agreement shall in all respects be construed according to the laws of the United States. In all actions taken by the Trustees to enforce the terms of this Agreement, including actions to collect delinquent contributions or to conduct audits, the Illinois ten-year written contract statute of limitations shall apply. The Employer agrees that the statute of limitations shall not begin to accrue with respect to any unpaid contributions until such time as the Health & Welfare Fund receives actual written notice of the existence of the Employer's liability.

13. This Agreement may not be modified or terminated without the written consent of the Health & Welfare Fund. To the extent there exists any conflict between any provisions of this Participation Agreement and any provisions of the collective bargaining agreement, this Participation Agreement shall control.

IN WITNESS WHEREOF, said Employer and Union have caused this Instrument to be executed by their duly authorized representatives, the day and year first above written.

City of Goshen

Employer Name

Representative Signature

Gina M. Leichty, Mayor

Printed Name and Title

Date

c/o Mayor's Office, City Hall, 202 South Fifth Street

Goshen, IN 46528

Complete Address of Employer

574-533-9322

Telephone Number

574-533-9740

Fax Number

35-6001045

Federal Employer Identification Number

If the Employer is signatory to a National or Group Contract, indicate the name of such Contract:

Agreement between City of Goshen, Indiana and Goshen Firefighters Association Local No. 1443,
International Association of Firefighters

Is the Employer an itinerant construction company working on a project or on a seasonal basis? Yes _____ No x

Local Union No. **Goshen Firefighters Association Local
No. 1443 of the International
Association of Firefighters**

Representative Signature

Printed Name and Title

Date



PARTICIPATION AGREEMENT

CENTRAL STATES, SOUTHEAST AND SOUTHWEST AREAS
HEALTH AND WELFARE FUND
8647 WEST HIGGINS ROAD
CHICAGO, ILLINOIS 60631-2803
PHONE: (847) 518-9800

HEALTH AND WELFARE ONLY EMPLOYER (Exhibit D)

EMPLOYER NAME: City of Goshen
ACCOUNT NUMBER: 3209700-0100-70052A (formerly 70081A)

THIS AGREEMENT sets forth the terms under which the Employer will participate in the Central States, Southeast and Southwest Areas Health and Welfare Fund ("Health and Welfare Fund") in accordance with its collective bargaining agreement with the Union covering the following job classification(s): Commissioned Police Officers

and any other job classification covered by the collective bargaining agreement.

1. The Union and Employer agree to be bound by the Trust Agreement(s) of the Health and Welfare Fund and all amendments subsequently adopted as well as all rules and regulations presently in effect or subsequently adopted by the Trustees of the Health & Welfare Fund and accept the respective Employer and Employee Trustees and their successors.
2. The Employer shall contribute to the Health and Welfare Fund for each Covered Employee at the following rates:

Effective Date:	<u>01/02/2022</u>	Rate:	<u>\$453.86</u>
Effective Date:	<u>01/01/2023</u>	Rate:	<u>\$473.86</u>
Effective Date:	<u>12/31/2023</u>	Rate:	<u>\$507.08</u>
Effective Date:	<u>12/29/2024</u>	Rate:	<u>\$532.40</u>
Effective Date:	<u>01/04/2026</u>	Rate:	<u>\$564.30*</u>

*Not to exceed

Contributions are due on a newly hired Covered Employee from the first day the Covered Employee works for the Employer, with a lump sum payment of eight (8) weeks then made to cover the Fund's establishing period.

3. The contribution rate beginning twelve months after the last Effective Date set forth in paragraph 2 shall be changed annually effective the first week of each calendar year to the rate determined by the Trustees to maintain the existing benefit plan and such rate changes shall be incorporated into this Agreement.

4. This Agreement and the obligation to pay contributions to the Health & Welfare Fund will continue after the termination of a collective bargaining agreement except no contributions shall be due during a strike unless the Union and the Employer mutually agree in writing otherwise. This Agreement and the Employer's obligation to pay contributions shall not terminate until: a) the Trustees decide to terminate the participation of the Employer and provide written notice of their decision to the Employer specifying the date of termination of participation or b) the Employer is no longer obligated by a contract or statute to contribute to the Health & Welfare Fund and the Health & Welfare Fund has received a written notice directed to the Health & Welfare Fund's Contracts Department at the address specified above sent by certified mail with return receipt requested which describes the reason why the Employer is no longer obligated to contribute or c) the date the NLRB or state agency certifies the result of an election that terminates the representative status of Teamsters Local Union No. 364 as representative of the Employer's teamster employees or d) the date Teamsters Local 364's representative status terminates through a valid disclaimer of interest or lawful withdrawal or recognition by the Employer. In the event an election or disclaimer of interest referred to in c) or d) relates to only part of the Teamsters Local Union No. 364 bargaining unit, this Agreement shall remain in effect. In the event the status of the Elkhart FOP Lodge 52, Inc. as representative of the employees covered by this Agreement ceases, this Participation Agreement will terminate. However, the obligation to contribute to the Health & Welfare Fund will continue if there is a non-bargaining unit Participation Agreement in effect in accordance with the terms of the non-bargaining unit Participation Agreement.

5. When a new collective bargaining agreement is signed or the Employer and the Union agree to change the collective bargaining agreement, the Employer shall promptly submit the entire agreement or modification to the Health & Welfare Fund's Contracts Department by certified mail (return receipt requested) at the address specified above. Any agreement or understanding which affects the Employer's contribution obligation which has not been submitted to the Health & Welfare Fund as required by this paragraph, shall not be binding on the Trustees and this Agreement and the written agreement(s) that has been submitted to the Health & Welfare Fund shall alone remain enforceable. An agreement that purports to retroactively eliminate or reduce the Employer's statutory or contractual duty to contribute to the Health & Welfare Fund shall not be valid.

6. For purposes of this Agreement, the term "Covered Employee" shall mean any full-time employee covered by a collective bargaining agreement requiring contributions to the Health & Welfare Fund. Covered Employee shall not include any person employed in a managerial or supervisory capacity or any person employed for the principal purpose of obtaining benefits from the Health & Welfare Fund.

7. The Employer agrees to remit contributions on behalf of each Covered Employee for any period he/she receives, or is entitled to receive, compensation (regardless of whether the employment relationship is terminated), including show up time pay, overtime pay, holiday pay, disability or illness pay, layoff/severance pay, vacation pay or the payment of wages which are the result of any National Labor Relations Board proceeding, grievance/arbitration proceeding or other legal proceeding or settlement. If required by the applicable collective bargaining agreement, contributions shall also be made to the Health & Welfare Fund on behalf of any Covered Employee who is not working due to illness or injury even if the Covered Employee is not entitled to compensation.

8. On or before the 15th day of each month, the Employer must report to the Health & Welfare Fund any change in the Covered Employee workforce (including, but not limited to new hires, layoffs or terminations) which occurred during the prior month and must pay all contributions owed for the prior month. In the event of a delinquency, a) the Employer shall be obligated to pay interest on the monies due to the Health & Welfare Fund from the date when payment was due to the date when the payment is made, together with all expenses of collection incurred by the Health & Welfare Fund, including, but not limited to, attorneys' fees and costs and b) at the option of the Trustees or their delegated representative, the payment of contributions that accrue after the Employer has become delinquent shall be accelerated so that the contributions owed for each calendar week (Sunday through Saturday) shall be due on the following Monday. If the Employer fails to report changes in the covered workforce on time, the Employer must pay the contributions billed by the Health and Welfare Fund regardless of actual terminations, leaves of absence, layoffs, or other changes in the workforce. The Trustees reserve the right to terminate the participation of any Employer that fails to timely pay required contributions.

9. The Employer shall provide the Trustees with access to its payroll records and other pertinent records when requested by the Health & Welfare Fund. If litigation is required to either obtain access to the Employer's records or to collect additional billings that result from the review of the records, all costs incurred by the Health & Welfare Fund in conducting the review shall be paid by the Employer and the Employer shall pay any attorneys' fees and costs incurred by the Health & Welfare Fund.

10. The Trustees shall not be required to submit any dispute concerning the Employer's obligation to pay contributions to any grievance/arbitration procedure set forth in any collective bargaining agreement.

11. The Employer acknowledges that it is aware of the Health & Welfare Fund' adverse selection rule and agrees that while this Agreement remains in effect, it will not enter into any agreement or engage in any practice that violates the adverse selection rule.

12. This Agreement shall in all respects be construed according to the laws of the United States. In all actions taken by the Trustees to enforce the terms of this Agreement, including actions to collect delinquent contributions or to conduct audits, the Illinois ten-year written contract statute of limitations shall apply. The Employer agrees that the statute of limitations shall not begin to accrue with respect to any unpaid contributions until such time as the Health & Welfare Fund receives actual written notice of the existence of the Employer's liability.

13. This Agreement may not be modified or terminated without the written consent of the Health & Welfare Fund. To the extent there exists any conflict between any provisions of this Participation Agreement and any provisions of the collective bargaining agreement, this Participation Agreement shall control.

IN WITNESS WHEREOF, said Employer and Union have caused this Instrument to be executed by their duly authorized representatives, the day and year first above written.

City of Goshen
Employer Name

Gina M. Leichty
Representative Signature

Gina M. Leichty, Mayor
Printed Name and Title

8/21/23
Date

c/o Mayor's Office, City Hall, 202 South Fifth Street

Goshen, IN 46528
Complete Address of Employer

574-533-9322 574-533-9740
Telephone Number Fax Number

35-6001045
Federal Employer Identification Number

Local Union No. Elkhart FOP Lodge 52, Inc.

Representative Signature

Printed Name and Title

Date

If the Employer is signatory to a National or Group Contract, indicate the name of such Contract:

Agreement between City of Goshen, Indiana and Elkhart FOP Lodge 52, Inc.

Is the Employer an itinerant construction company working on a project or on a seasonal basis? Yes _____ No x



PARTICIPATION AGREEMENT

CENTRAL STATES, SOUTHEAST AND SOUTHWEST AREAS
HEALTH AND WELFARE FUND
8647 WEST HIGGINS ROAD
CHICAGO, ILLINOIS 60631-2803
PHONE: (847) 518-9800

HEALTH AND WELFARE ONLY EMPLOYER (ExhibitE)

EMPLOYER NAME: City of Goshen
ACCOUNT NUMBER: 3209700-0100-00364A&E

THIS AGREEMENT sets forth the terms under which the Employer will participate in the Central States, Southeast and Southwest Areas Health and Welfare Fund ("Health and Welfare Fund") in accordance with its collective bargaining agreement with the Union covering the following job classification(s): See Exhibit A

and any other job classification covered by the collective bargaining agreement.

1. The Union and Employer agree to be bound by the Trust Agreement(s) of the Health and Welfare Fund and all amendments subsequently adopted as well as all rules and regulations presently in effect or subsequently adopted by the Trustees of the Health & Welfare Fund and accept the respective Employer and Employee Trustees and their successors.
2. The Employer shall contribute to the Health and Welfare Fund for each Covered Employee at the following rates:

Effective Date:	<u>01/02/2022</u>	Rate:	<u>\$453.86</u>
Effective Date:	<u>01/01/2023</u>	Rate:	<u>\$473.86</u>
Effective Date:	<u>12/31/2023</u>	Rate:	<u>\$507.08</u>
Effective Date:	<u>12/29/2024</u>	Rate:	<u>\$532.40</u>
Effective Date:	<u>01/04/2026</u>	Rate:	<u>\$564.30*</u>

*Not to exceed

Contributions are due on a newly hired Covered Employee from the first day the Covered Employee works for the Employer, with a lump sum payment of eight (8) weeks then made to cover the Fund's establishing period.

3. The contribution rate beginning twelve months after the last Effective Date set forth in paragraph 2 shall be changed annually effective the first week of each calendar year to the rate determined by the Trustees to maintain the existing benefit plan and such rate changes shall be incorporated into this Agreement.

4. This Agreement and the obligation to pay contributions to the Health & Welfare Fund will continue after the termination of a collective bargaining agreement except no contributions shall be due during a strike unless the Union and the Employer mutually agree in writing otherwise. This Agreement and the Employer's obligation to pay contributions shall not terminate until: a) the Trustees decide to terminate the participation of the Employer and provide written notice of their decision to the Employer specifying the date of termination of participation or b) the Employer is no longer obligated by a contract or statute to contribute to the Health & Welfare Fund and the Health & Welfare Fund has received a written notice directed to the Health & Welfare Fund's Contracts Department at the address specified above sent by certified mail with return receipt requested which describes the reason why the Employer is no longer obligated to contribute or c) the date the NLRB or state agency certifies the result of an election that terminates the Union's representative status or d) the Union's representative status terminates through a valid disclaimer of interest or lawful withdrawal or recognition by the Employer. In the event an election or disclaimer of interest referred to in c) or d) relates to only part of the bargaining unit, this Agreement shall remain in effect with respect to the remainder of the bargaining agreement.

5. When a new collective bargaining agreement is signed or the Employer and the Union agree to change the collective bargaining agreement, the Employer shall promptly submit the entire agreement or modification to the Health & Welfare Fund's Contracts Department by certified mail (return receipt requested) at the address specified above. Any agreement or understanding which affects the Employer's contribution obligation which has not been submitted to the Health & Welfare Fund

as required by this paragraph, shall not be binding on the Trustees and this Agreement and the written agreement(s) that has been submitted to the Health & Welfare Fund shall alone remain enforceable. An agreement that purports to retroactively eliminate or reduce the Employer's statutory or contractual duty to contribute to the Health & Welfare Fund shall not be valid.

6. For purposes of this Agreement, the term "Covered Employee" shall mean any full-time employee covered by a collective bargaining agreement requiring contributions to the Health & Welfare Fund. Covered Employee shall not include any person employed in a managerial or supervisory capacity or any person employed for the principal purpose of obtaining benefits from the Health & Welfare Fund.

7. The Employer agrees to remit contributions on behalf of each Covered Employee for any period he/she receives, or is entitled to receive, compensation (regardless of whether the employment relationship is terminated), including show up time pay, overtime pay, holiday pay, disability or illness pay, layoff/severance pay, vacation pay or the payment of wages which are the result of any National Labor Relations Board proceeding, grievance/arbitration proceeding or other legal proceeding or settlement. If required by the applicable collective bargaining agreement, contributions shall also be made to the Health & Welfare Fund on behalf of any Covered Employee who is not working due to illness or injury even if the Covered Employee is not entitled to compensation.

8. On or before the 15th day of each month, the Employer must report to the Health & Welfare Fund any change in the Covered Employee workforce (including, but not limited to new hires, layoffs or terminations) which occurred during the prior month and must pay all contributions owed for the prior month. In the event of a delinquency, a) the Employer shall be obligated to pay interest on the monies due to the Health & Welfare Fund from the date when payment was due to the date when the payment is made, together with all expenses of collection incurred by the Health & Welfare Fund, including, but not limited to, attorneys' fees and costs and b) at the option of the Trustees or their delegated representative, the payment of contributions that accrue after the Employer has become delinquent shall be accelerated so that the contributions owed for each calendar week (Sunday through Saturday) shall be due on the following Monday. If the Employer fails to report changes in the covered workforce on time, the Employer must pay the contributions billed by the Health and Welfare Fund regardless of actual terminations, leaves of absence, layoffs, or other changes in the workforce. The Trustees reserve the right to terminate the participation of any Employer that fails to timely pay required contributions.

9. The Employer shall provide the Trustees with access to its payroll records and other pertinent records when requested by the Health & Welfare Fund. If litigation is required to either obtain access to the Employer's records or to collect additional billings that result from the review of the records, all costs incurred by the Health & Welfare Fund in conducting the review shall be paid by the Employer and the Employer shall pay any attorneys' fees and costs incurred by the Health & Welfare Fund.

10. The Trustees shall not be required to submit any dispute concerning the Employer's obligation to pay contributions to any grievance/arbitration procedure set forth in any collective bargaining agreement.

11. The Employer acknowledges that it is aware of the Health & Welfare Fund's adverse selection rule and agrees that while this Agreement remains in effect, it will not enter into any agreement or engage in any practice that violates the adverse selection rule.

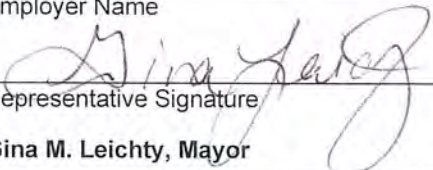
12. This Agreement shall in all respects be construed according to the laws of the United States. In all actions taken by the Trustees to enforce the terms of this Agreement, including actions to collect delinquent contributions or to conduct audits, the Illinois ten-year written contract statute of limitations shall apply. The Employer agrees that the statute of limitations shall not begin to accrue with respect to any unpaid contributions until such time as the Health & Welfare Fund receives actual written notice of the existence of the Employer's liability.

13. This Agreement may not be modified or terminated without the written consent of the Health & Welfare Fund. To the extent there exists any conflict between any provisions of this Participation Agreement and any provisions of the collective bargaining agreement, this Participation Agreement shall control.

IN WITNESS WHEREOF, said Employer and Union have caused this Instrument to be executed by their duly authorized representatives, the day and year first above written.

City of Goshen
Employer Name

Local Union No. 364


Representative Signature

Representative Signature

Gina M. Leichty, Mayor
Printed Name and Title

Printed Name and Title

8/21/23
Date

Date

c/o Mayor's Office, City Hall, 202 South Fifth Street

Goshen, IN 46528
Complete Address of Employer

574-533-9322 574-533-9740
Telephone Number Fax Number

35-6001045
Federal Employer Identification Number

If the Employer is signatory to a National or Group Contract, indicate the name of such Contract:
Agreement between City of Goshen, Indiana and Teamsters Local Union No. 364, affiliated with the International Brotherhood of Teamsters of America

Is the Employer an itinerant construction company working on a project or on a seasonal basis? Yes _____ No x

EXHIBIT A

PARTICIPATION AGREEMENT Account Number: 3209700-0100-00364A

Job classifications covered under Agreement between City of Goshen, Indiana and Teamsters Local Union No. 364, affiliated with the International Brotherhood of Teamsters of America:

Mechanic
SCADA Operator Technician
Wastewater Treatment Operator
Water Plant Operator
Sewer Maintenance Technician
Wastewater Maintenance Technician
TVI Specialist
Water and Sewer Construction and Distribution Technician
Inspector Crew Technician
Park Ranger/Pavilion Manager and Maintenance
Heavy Equipment Operator
Water Treatment Operator
Paint and Sign Technician
Assistant Water Treatment Operator/Maintenance Technician
Meter Service Technician
Park Maintenance
Light Equipment Operator
Mechanic Assistant



CITY OF GOSHEN LEGAL DEPARTMENT
Bodie J. Stegelmann, City Attorney

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

bodiestegelmann@goshencity.com • www.goshenindiana.org
Phone (574) 537-3854 • Fax (574) 533-8626 • TDD (574) 534-3185

Memorandum

To: Board of Public Works and Safety

From: Bodie J. Stegelmann

Re: Agreement for the Completion of Construction Project – Greenwood Rentals, LLC

Date: September 11, 2023

City staff asks the Board to approve the Agreement provided with this Memorandum. Greenwood Rentals LLC constructed apartments near the intersection of Indiana Avenue and Plymouth Ave. All work on the apartments are complete, except NIPSCo has not been able to install meters on certain, individual apartment units due to the meters not being currently available. The agreement provided with this memorandum would allow Greenwood Rentals LLC to lease the units for which electric meters have been installed.

Suggested Motion: Move to approve the Agreement for the Completion of the Construction project with Greenwood Rentals LLC relative to the construction of the Indiana Avenue Apartments, and authorize Mayor Leichty to sign the agreement on behalf of the Board of Public Works and Safety.

AGREEMENT FOR THE COMPLETION OF THE CONSTRUCTION PROJECT

THIS AGREEMENT is entered into on SEPTEMBER 6TH, 2023, between the City of Goshen, Indiana, by and through the Goshen Board of Public Works and Safety, hereinafter referred to as "Goshen," and

Property Owner: Greenwood Rental Properties, LLC

and, if the builder is responsible for completing the remaining work,

Builder: Ancon Construction Co. Inc.

No Builder

hereinafter referred to individually or collectively, if applicable, as "Permittee."

Permittee obtained a building permit for the construction of a building on the real estate at

Site: Indiana Avenue Apartments, Goshen, Indiana, hereinafter referred to as "Site."

The construction project is substantially complete except for:

- certain exterior work that cannot be completed due to weather conditions.
- the installation of certain parts or equipment which are not currently available.

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

1. **WORK.** Permittee agrees to complete the following remaining item(s) of work, hereinafter referred to as "Work," as soon as conditions permit, but no later than October 31, 2023, unless an earlier date is specified below:

Permanently stabilize the Site which shall include grading, adding topsoil where needed, seeding and mulching of the grounds. This shall specifically include stabilization of approximately _____ square feet of disturbed area with seed and a temporary stabilization measure such as anchored mulch, hydromulch, or erosion control blankets. In addition, all adjacent and/or affected inlets shall be kept covered until the Site has been completely and permanently stabilized.

Plant all required landscaping at the Site according to the plan submitted to the Goshen Planning and Zoning Department. This shall include planting: _____

Install the hard surface driveway for the Site.

- Permittee agrees to install a temporary gravel driveway, and Goshen will permit the installation of the temporary gravel driveway until such time as the permanent hard surface driveway can be installed. The temporary gravel driveway shall be installed prior to occupancy of the building, but no later than _____, 20_____.
- Install the hard surface parking lot for the Site.
- Permittee agrees to install a temporary gravel parking lot, and Goshen will permit the installation of the temporary gravel parking lot until such time as the permanent hard surface parking lot can be installed. The temporary gravel parking lot shall be installed prior to occupancy of the building, but no later than _____, 20_____.
- Install all required parking lot striping for parking spaces at the Site.
- Install approximately _____ square feet of concrete sidewalk and/or curbing at or adjacent to the Site parallel to the following public street: _____

- Install approximately _____ of concrete sidewalk at the Site to the building entrance.
- Install the following certain parts or equipment at the Site: Electric meters as soon as NIPSCo provides the meters for installation.

- Other: _____

2. **SURETY.** Permittee is required to provide Goshen a surety to guarantee the timely and proper completion of the Work if the cost of the Work is estimated by Goshen to be at least Two Thousand Dollars (\$2,000), or if the Work includes the installation of a driveway, parking lot, sidewalk, curbing or other hard surface improvement, regardless of cost.

Permittee agrees to provide Goshen a surety in the amount of _____ Dollars (\$ _____) to guarantee the timely and proper completion of the Work under the terms of this agreement. The surety may be in the form of a surety bond, letter of credit, or cash bond, including a cashier's check or corporate check (which City Clerk-Treasurer will cash). The surety is to guarantee the timely and proper completion of the obligations under this agreement and is not intended for the benefit of any third party, including Permittee's contractors or subcontractors. Upon satisfactory completion of the Work, Goshen will release the surety. If the surety is in the form of cash or a check, the Permittee must have a current W-9 on file with the City Clerk-Treasurer so a check may be issued to refund the surety.

Permittee is not required to provide Goshen a surety to guarantee the timely and proper completion of the Work.

3. **CERTIFICATE OF OCCUPANCY.** Except for the Work yet to be completed as set forth in Section 1 above, once the construction project complies with all applicable City ordinances and requirements, Goshen will issue a Certificate of Occupancy for the Site; however, following apartment units located on the Site shall not be occupied until the electric meters for such apartments are installed and accepted by the Goshen Building Department: 101, 102, 103, 104, 112, 201, 202, 203, 204, 212, 301, 302, 303, 304, 312, 401, 402, 403, 404, 412, 501, 502, 503, 504, and 512. **It is Permittee's obligation to contact the Goshen Building Department to obtain the Certificate of Occupancy prior to occupying the building.**
4. **FORCE MAJEURE.** If Permittee's performance under this agreement is prevented because of an occurrence that is beyond the control of the Permittee which could not have been avoided by exercising reasonable diligence, Permittee's time for performance will be extended. Such extension shall be for no longer than necessary given the nature of the occurrence which causes the delay. Examples of such occurrences are tornadoes, floods, or more than a typical number of days where rainfall prohibits the performance required of the Permittee.
If Permittee is delayed, Permittee shall immediately notify Goshen in writing describing the nature of the event delaying performance. Permittee shall make every effort to resume performance as soon as possible.
5. **DEFAULT.** It is mutually agreed that if Permittee fails to perform or comply with the terms of this agreement, Goshen may declare the agreement to be in default without notice to Permittee.
Upon declaration of default, Goshen may take such action as is necessary to complete Permittee's obligations although Goshen is not obligated to do so. If Surety is provided under this agreement, Goshen may use the Surety to pay for the completion of any of Permittee's obligations. Goshen may seek any other remedy available at law or equity in addition to or instead of any remedy provided for in this agreement.
Goshen shall have the right to correct any defect in the Work, and Goshen shall have the right to stabilize the Site in accordance with the Goshen City Construction Site Stormwater Runoff Control Ordinance. The Surety, if required, and/or Permittee shall pay all of Goshen's costs and expenses incurred in taking such actions including, but not limited to engineering, legal and other costs, together with any damages either direct or consequential which Goshen may sustain on account of Permittee's failure to fulfill Permittee's obligations under this agreement.
6. **SUBCONTRACTING OR ASSIGNMENT OF CONTRACT.** Permittee shall not subcontract or assign any right or interest under the agreement without having prior written approval from the Goshen Board of Public Works and Safety, provided, however, that Permittee shall be permitted to independently engage any contractors, subcontractors, or laborers to perform the Work, and such engagement shall not be considered to be an impermissible subcontracting or assignment by Permittee of any right or interest under this agreement. Except as provided herein, any attempt by Permittee to subcontract or assign any portion of the agreement shall not be construed to relieve Permittee from any responsibility to fulfill Permittee's obligations.
7. **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 and such modification is approved by the Goshen Board of Public Works and Safety. Any verbal representations or modifications concerning the agreement shall be of no force and effect.

- 8. **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.
- 9. **NOTICES.** All written notices, properly addressed and sent by U.S. mail or delivered personally to the address provided below shall constitute sufficient notice whenever written notice is required for any purpose in this agreement. Notice will be considered given five (5) days after the notice is deposited in the U.S. mail or when received at the appropriate address.

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

Address for Permittee:

Property Owner: Greenwood Rental Properties, LLC
 3314 US-33
 Goshen, IN
 46526

Builder: Ancon Construction Co. Inc.
 2146 Elkhart Road
 Goshen, IN 46526

No Builder

- 10. **APPLICABLE LAWS.** Permittee agrees to comply with all applicable federal, state, and local laws, rules, regulations, or ordinances.

In the event of a conflict between this agreement and applicable laws, rules, regulations or ordinances, the most stringent or legally binding requirement shall govern.

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

- 11. **ATTORNEY FEES.** In the event legal action is brought to enforce or interpret the terms and conditions of this agreement, the non-prevailing party will pay all costs and expenses expended or incurred by the prevailing party, including reasonable attorneys' fees.
- 12. **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.
- 13. **BINDING EFFECT.** All provisions, covenants, terms and conditions of the agreement apply to bind the parties and their legal heirs, representatives, successors and assigns.

14. **ENTIRE AGREEMENT.** This agreement constitutes the entire agreement between the parties and supersedes all other agreements or understandings between Goshen and Permittee.

15. **AUTHORITY TO EXECUTE.** Each person executing this agreement represents that he or she is duly authorized and has legal authority to execute and deliver this agreement on behalf of the respective party, and upon execution and delivery of this agreement, bind the respective party to the terms and conditions of the agreement.

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

Permittee:¹

Property Owner:

Signature: Jose A. Garcia
Printed: Jose A. Garcia
Title (if any): owner
Date: 9/6/23

Signature: M. Garcia
Printed: Mayra Garcia
Title (if any): owner
Date: 9/6/23

Builder:

Signature: [Signature]
Printed: MATHEW SCHWEIDER
Title: PROJECT MANAGER
Date: 09/06/23

Goshen:

Gina M. Leichty, Mayor
Date: _____

¹ The Property Owner is required to execute the agreement. If the Builder is responsible for completing the remaining work or if the Builder is providing the surety under the agreement (if required), the Builder is also required to execute the agreement.



CITY OF GOSHEN LEGAL DEPARTMENT

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

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

September 11, 2023

To: Goshen Board of Public Works and Safety

From: Shannon Marks

Subject: Dedication of Right-of-Way for Waterford Mills Parkway
between Regent Street and Dierdorff Road

It is recommended that the Board dedicate for public right-of-way purposes the real estate upon which Waterford Mills Parkway is constructed between Regent Street and Dierdorff Road, and authorize Mayor Leichty to execute the attached Deed of Dedication.

Suggested Motion:

Move dedicate for public right-of-way purposes the real estate upon which Waterford Mills Parkway is constructed between Regent Street and Dierdorff Road, and authorize Mayor Leichty to execute the attached Deed of Dedication.

DEED OF DEDICATION

THIS INDENTURE WITNESSETH, that City of Goshen, Indiana, a municipal corporation and political subdivision of the State of Indiana ("Grantor"), dedicates and conveys to City of Goshen, Indiana, a municipal corporation and political subdivision of the State of Indiana, whose mailing address is 202 South Fifth Street, Goshen, Indiana 46528, for Zero Dollars and other good and valuable consideration, the receipt whereof is hereby acknowledged, the following five Tracts of real estate situated in Elkhart County, State of Indiana, for public right-of-way purposes, including, but not limited to the placement and maintenance of a public road and public utilities, and more particularly described as follows:

TRACT 1 (Parcel No. 20-11-26-351-020.000-015)

A part of the West Half of the Southwest Quarter of Section 26, Township 36 North, Range 6 East, Elkhart Township, Elkhart County, Indiana, being more particularly described as follows:

Commencing at the southwest corner of the said West Half of the Southwest Quarter of Section 26; thence North 1°04'08" West, along the west line of said Southwest Quarter, 250.00 feet to the northwest corner of that tract of land described in deed recorded in Volume 367, Page 177, Elkhart County Recorder, and the point of beginning of this description; thence continuing North 1°04'08" West along said west line 195.51 feet; thence North 89°15'58" East 552.21 feet; thence northeasterly 1,063.36 feet along an arc to the left having a radius of 675.00 feet and subtended by a long chord bearing North 44°08'08" East 956.77 feet; thence North 89°00' 19" East 37.50 feet to a point lying offset 47.50 feet west of the east line of said West Half of the Southwest Quarter of Section 26; thence North 0°59'41" West, parallel with said east line 1,522.76 feet to the north line of said West Half; thence North 89°11'55" East along said north line 47.50 feet to the said east line; thence South 0°59'41" East along the said east line 2,112.16 feet; thence South 89°01'57" West 8.62 feet; thence northwesterly 102.41 feet along an arc to the right having a radius of 150.00 feet and subtended by a long chord bearing North 71°24'28" West 100.44 feet; thence North 51°50'53" West 35.43 feet; thence 650.77 feet along an arc to the right having a radius of 825.00 feet and subtended by a long chord bearing South 61°53'41" West 634.03 feet; thence South 1°04'07" East 68.38 feet to the northwest corner of Southside Minor Subdivision, recorded in Plat Book 22, Page 56, in the Office of the Recorder of Elkhart County, Indiana; thence South 89°15'58" West, along the north line of said subdivision 330.01 feet to the east line of that tract of

land described in Deed Record 96-001755; thence North 1°04'08" West, along said east line 20.00 feet to the northeast corner of said tract; thence South 89°15'59" West 290.00 feet to the place of beginning and containing 8.51 acres, more or less, inclusive of presently existing right of way which contains 0.97 acres, more or less, for a net additional area of 7.54 acres, more or less.

LESS AND EXCEPTING (Parcel No. 20-11-26-351-019.000-015):

A part of that tract conveyed to the City of Goshen by instrument recorded in Deed Record 2008-00781, records of the Elkhart County Recorder, located in the West Half of the Southwest Quarter of Section 26, Township 36 North, Range 6 East, Elkhart Township, Elkhart County, Indiana, being more particularly described as follows:

Commencing at the southwest corner of the said West Half of the Southwest Quarter of Section 26; thence North 1°04'08" West, along the west line of said Southwest Quarter, 445.52 feet to the northwest corner of that tract of land conveyed to the City of Goshen by instrument recorded in Deed Record 2008-00781; thence along the north line of said tract North 89°15'58" East 552.51 feet to the place of beginning of this description; thence northeasterly 1,063.36 feet along an arc to the left having a radius of 675.00 feet and subtended by a long chord bearing North 44°08'08" East 956.77 feet; thence North 89°00' 19" East 37.50 feet to a point lying offset 47.50 feet west of the east line of said West Half of the Southwest Quarter of Section 26; thence North 0°59'41" West, parallel with said east line 1,522.76 feet to the north line of said West Half; thence North 89°11'55" East along said north line 47.50 feet to the said east line; thence South 0°59'41" East along the said east line 2,112.16 feet; thence South 89°01'57" West 8.62 feet; thence northwesterly 102.41 feet along an arc to the right having a radius of 150.00 feet and subtended by a long chord bearing North 71°24'28" West 100.44 feet; thence continuing along said southwest line North 51°50'53" West 35.44 feet; thence southwesterly along the southeast line of said tract 214.15 feet along a non-tangent arc to the right having a radius of 825.00 feet and subtended by a long chord bearing South 46°43'59" West 213.55 feet; thence South 89°15'58" West 474.34 feet to the place of beginning of this description.

TRACT 2 (Parcel No. 20-11-26-351-021.000-015)

A part of the Southwest Quarter of Section 26, Township 36 North, Range 6 East, Elkhart Township, Elkhart County, Indiana, being more particularly described as follows:

Commencing at the southwest corner of the said Southwest Quarter of Section 26; thence along the south line of said Southwest Quarter North 89°15'58" East 620.01 feet to the east line of Southside Minor Subdivision, recorded in Plat Book 22, page 56, in the Office of the Recorder of Elkhart County, Indiana, and the place of beginning of this description; thence North 1°04'08" West 230.00 feet to the northeast corner of said Southside Minor Subdivision, being also a southeast corner of that tract acquired by the City of Goshen by instrument recorded in Deed Record 2008-0781; thence continuing along the east line of said tract North 01°04'07" West 68.38 feet; thence continuing along the curved southeast line of said tract 436.62 feet along a non-tangent arc to the left having a radius of 825.00 feet and subtended by a long chord bearing North 69°19'51" East 431.54 feet; thence North 89°15'58" East 241.24 feet to the west line of Tract 1A as acquired

by the City of Goshen by instrument recorded in Deed Record 2008-0780; thence South 0°59'42" East 420.52 feet to the southeast corner of said tract; thence continuing South 0°59'42" East 25.00 feet to said south line of the Southwest Quarter; thence along said south line South 89°15'58" West 647.21 feet to the place of beginning.

TRACT 3 (Parcel No. 20-11-27-451-010.000-015)

A part of the South Half of Section 27, Township 36 North, Range 6 East, Elkhart Township, Elkhart County, Indiana, more particularly described as follows:

Commencing at the southeast corner of said Southeast Quarter; thence North 1°04'08" West along the east line of said Southeast Quarter 250.00 feet to the northeast corner of that tract of land described in Deed Record 94-009769, Elkhart County Recorder, and the point of beginning of this description; thence South 89°19'17" West, along the north line of said tract, along the north line of Southside Estates Subdivision, recorded in Plat Book 13, Page 28, and along the north lines of those tracts described in Deed Records 2000-14804, 2004-22086, and Volume 371, Page 358, a distance of 2,301.82 feet to the east line of that tract of land described in Deed Record 2000-28350; thence North 1°02' 18" West, along said east line, 50.00 feet to the northeast corner of said tract; thence South 89°19'17" West, along the north line of said tract and along the north line of that tract described in Deed Record 2002-45062, a distance of 325.01 feet to the west line of said Southeast Quarter; thence North 1°02'18" West, along said west line, 134.19 feet to the northeast corner of Pleasant Prairie Subdivision, recorded in Deed Record 3, Page 122; thence continuing North 1°02'18" West along said west line 44.37 feet; thence northwesterly 987.78 feet along a non-tangent arc to the right having a radius of 2,575.00 feet and subtended by a long chord bearing North 57°51'32" West 981.73 feet to a point of reverse curvature; thence continuing northwesterly 73.34 feet along an arc to the left having a radius of 925.00 feet and subtended by a long chord bearing North 49°08'27" West 73.32 feet; thence South 62°00'01" West 77.31 feet to a point on the curved southeasterly boundary of Regent Street, as dedicated to the City of Goshen by Deed Record 2003-14265, Elkhart County Recorder; thence northeasterly along said southeast boundary 9.68 feet along a non-tangent arc to the right having a radius of 2,759.89 feet and subtended by a long chord bearing North 12°38'37" East 9.68 feet to the southwest corner of that tract of land described in Deed Record 2001-42759, Elkhart County Recorder; thence along the southerly boundary of said tract North 59°55' 11" East 108.20 feet; thence continuing along the southerly boundary of said tract North 89°24'48" East 165.83 feet; thence southeasterly 1,808.58 feet along an arc to the left having a radius of 2,425.00 feet and subtended by a long chord bearing South 69°22'05" East 1,766.96 feet; thence North 89°15'58" East 1,667.06 feet to the east line of said Southeast Quarter; thence South 1°04'08" East 195.51 feet to the place of beginning, and containing 16.08 acres.

TRACT 4 (Parcel No. 20-11-27-377-002.000-015)

A part of the Southwest Quarter of Section 27, Township 36 North, Range 6 East, Elkhart Township, Elkhart County, Indiana, more particularly described as follows:

Commencing at the southeast corner of the said Southwest Quarter; thence along the east line of said Southwest Quarter North 1 degree 02 minutes 18 seconds West 434.20 feet to the northeast corner of Pleasant Prairie Subdivision, recorded in Record 3, Page 122, Elkhart County Recorder; thence continuing along said east line North 1 degree 02 minutes 18 seconds West 2.31 feet to the place of beginning of this description; thence northwesterly 812.30 feet along a non-tangent arc to the right having a radius of 2,075.00 feet and subtended by a long chord bearing North 58 degrees 05 minutes 03 seconds West 807.12 feet; thence North 46 degrees 52 minutes 10 seconds West 201.32 feet; thence southeasterly 987.78 feet along a non-tangent arc to the left having a radius of 2,575.00 feet and subtended by a long chord bearing South 57 degrees 51 minutes 32 seconds East 981.73 feet to a point on the said east line of the Southwest Quarter; thence along said east line South 1 degree 02 minutes 18 seconds East 42.06 feet to the place of beginning, and containing 0.539 acres.

TRACT 5 (Part of Parcel No. 20-11-27-426-027.000-015)

A PART OF SECTION 27, TOWNSHIP 36 NORTH, RANGE 6 EAST, CITY OF GOSHEN, ELKHART TOWNSHIP, ELKHART COUNTY, INDIANA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS :

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 27; THENCE NORTH 89°39'36" WEST, 1700.87 FEET ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER; THENCE SOUTH 00°06'15" WEST 211.71 FEET ALONG THE CENTERLINE OF WEYMOUTH BOULEVARD TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS OF 770.0 FEET AND A DELTA ANGLE OF 14°29'29"; THENCE SOUTHWARDLY AND SOUTHWESTWARDLY, 194.75 FEET, ALONG SAID CURVE AND CENTERLINE, TO THE POINT OF TANGENCY OF SAID CURVE; THENCE SOUTH 14°35'44" WEST, 319.31 FEET ALONG SAID CENTERLINE TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 1546.92 FEET AND A DELTA ANGLE OF 45°19'10"; THENCE SOUTHWESTWARDLY, SOUTHWARDLY, AND SOUTHEASTWARDLY, 1223.57 FEET, ALONG SAID CURVE AND CENTERLINE, TO THE POINT OF TANGENCY OF SAID CURVE; THENCE SOUTH 30°43'25" EAST, 128.90 FEET, ALONG SAID CENTERLINE, TO THE POINT OF INTERSECTION OF THE CENTERLINE OF WEYMOUTH BOULEVARD WITH THE CENTERLINE OF REGENT STREET; THENCE SOUTH 59°07'27" WEST, 330.06 FEET, ALONG THE CENTERLINE OF REGENT STREET, TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 4218.54 FEET; THENCE SOUTHWESTWARDLY, 21.20 FEET, ALONG SAID CURVE AND CENTERLINE; THENCE SOUTH 31°09'50" EAST, 30 FEET, ALONG A LINE RADIAL TO SAID CURVE, TO A REBAR ON THE SOUTHEASTERLY RIGHT-OF-WAY OF REGENT STREET, MARKING THE NORTHERNMOST CORNER OF WATERFORD CROSSING; THENCE SOUTHWESTWARDLY, 1249.72 FEET, ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 4188.54 FEET AND A DELTA ANGLE OF 17°05'43" TO A REBAR MARKING THE WESTERNMOST CORNER OF WATERFORD CROSSING; THENCE CONTINUING ALONG SAID 4188.54 FOOT RADIUS CURVE, 52.79 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE SOUTH 41°01'13" WEST, 76.94 FEET, ALONG SAID SOUTH

RIGHT OF WAY LINE OF REGENT STREET, TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 2759.89 FEET AND A DELTA ANGLE OF 21°42'44"; THENCE SOUTHWARDLY, 1045.87 FEET, ALONG SAID CURVE TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID 2759.89 FOOT RADIUS CURVE, 298.30 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF REGENT STREET; THENCE NORTH 60°18'02" EAST, 108.27 FEET; THENCE NORTH 89°47'39" EAST, 166.25 FEET; THENCE NORTH 46°39'04" WEST, A DISTANCE OF 197.95 FEET; THENCE NORTH 18°59'49" WEST, 101.71 FEET TO THE POINT OF BEGINNING CONTAINING 0.61 ACRES.

A drawing depicting Tract 5 is attached as Exhibit A.

The undersigned represents and certifies that such person is a duly authorized representative of Grantor and has been fully empowered to execute this Deed of Dedication on behalf of Grantor; that the Grantor has full capacity to grant the Deed of Dedication described; and that all necessary action for granting this Deed of Dedication has been taken.

IN WITNESS WHEREOF, the undersigned has executed this Deed of Dedication on September _____, 2023.

Gina M. Leichty, Mayor
City of Goshen, Indiana

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public, on September _____, 2023, personally appeared Gina M. Leichty as Mayor of City of Goshen, Indiana, and acknowledged the execution of the foregoing instrument.

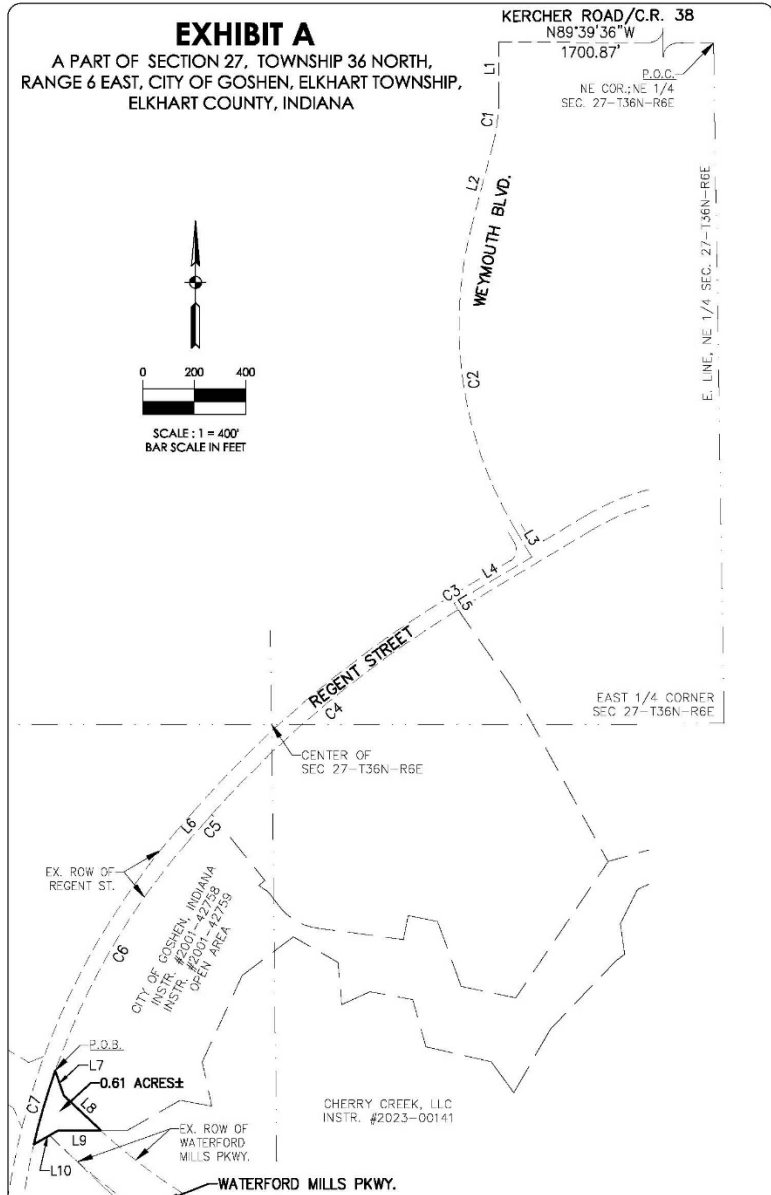
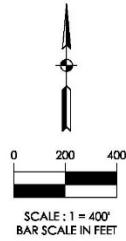
Notary Public
Printed: _____
County of residence: _____
Commission number: _____
My commission expires: _____

This instrument was prepared by Donald R. Shuler, Attorney No. 26587-71, City of Goshen Legal Department, 204 East Jefferson Street, Suite 2, Goshen, Indiana 46528, (574) 537-3820.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law (Donald R. Shuler).

EXHIBIT A

A PART OF SECTION 27, TOWNSHIP 36 NORTH,
RANGE 6 EAST, CITY OF GOSHEN, ELKHART TOWNSHIP,
ELKHART COUNTY, INDIANA



LEGAL DESCRIPTION

A PART OF SECTION 27, TOWNSHIP 36 NORTH, RANGE 6 EAST, CITY OF GOSHEN, ELKHART TOWNSHIP, ELKHART COUNTY, INDIANA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS :

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 27; THENCE NORTH 89°39'36" WEST, 1700.87 FEET ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER; THENCE SOUTH 00°06'15" WEST 211.71 FEET ALONG THE CENTERLINE OF WEYMOUTH BOULEVARD TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS OF 770.0 FEET AND A DELTA ANGLE OF 14°29'29"; THENCE SOUTHWARDLY AND SOUTHWESTWARDLY, 194.75 FEET, ALONG SAID CURVE AND CENTERLINE, TO THE POINT OF TANGENCY OF SAID CURVE; THENCE SOUTH 14°35'44" WEST, 319.31 FEET ALONG SAID CENTERLINE TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 1546.92 FEET AND A DELTA ANGLE OF 45°19'10"; THENCE SOUTHWESTWARDLY, SOUTHWARDLY, AND SOUTHEASTWARDLY, 1223.57 FEET, ALONG SAID CURVE AND CENTERLINE, TO THE POINT OF TANGENCY OF SAID CURVE; THENCE SOUTH 30°43'25" EAST, 128.90 FEET, ALONG SAID CENTERLINE, TO THE POINT OF INTERSECTION OF THE CENTERLINE OF WEYMOUTH BOULEVARD WITH THE CENTERLINE OF REGENT STREET; THENCE SOUTH 59°07'27" WEST, 330.06 FEET, ALONG THE CENTERLINE OF REGENT STREET, TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 4218.54 FEET; THENCE SOUTHWESTWARDLY, 21.20 FEET, ALONG SAID CURVE AND CENTERLINE; THENCE SOUTH 31°09'50" EAST, 30 FEET, ALONG A LINE RADIAL TO SAID CURVE, TO A REBAR ON THE SOUTHEASTERLY RIGHT-OF-WAY OF REGENT STREET, MARKING THE NORTHERNMOST CORNER OF WATERFORD CROSSING; THENCE SOUTHWESTWARDLY, 1249.72 FEET, ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 4188.54 FEET AND A DELTA ANGLE OF 17°05'43" TO A REBAR MARKING THE WESTERNMOST CORNER OF WATERFORD CROSSING; THENCE CONTINUING ALONG SAID 4188.54 FOOT RADIUS CURVE, 52.79 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE SOUTH 41°01'13" WEST, 76.94 FEET, ALONG SAID SOUTH RIGHT OF WAY LINE OF REGENT STREET, TO THE POINT OF CURVATURE OF CURVE TO THE LEFT HAVING A RADIUS OF 2759.89 FEET AND A DELTA ANGLE OF 21°42'44"; THENCE SOUTHWARDLY, 1045.87 FEET, ALONG SAID CURVE TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID 2759.89 FOOT RADIUS CURVE, 298.30 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF REGENT STREET; THENCE NORTH 60°18'02" EAST, 108.27 FEET; THENCE NORTH 89°47'39" EAST, 166.25 FEET; THENCE NORTH 46°39'04" WEST, A DISTANCE OF 197.95 FEET; THENCE NORTH 18°59'49" WEST, 101.71 FEET TO THE POINT OF BEGINNING CONTAINING 0.61 ACRES.

Line #	Bearing	Length
L1	S0°06'15"W	211.71'
L2	S14°35'44"W	319.31'
L3	S30°43'25"E	128.90'
L4	S59°07'27"W	330.06'
L5	S31°09'50"E	30.00'
L6	N41°01'13"E	76.94'
L7	S18°59'49"E	101.71'
L8	S46°39'04"E	197.95'
L9	S89°47'39"W	166.25'
L10	S60°18'02"W	108.27'
L18	N26°45'01"E	150.00'

Curve #	Length	Radius	Delta	Chord Bearing	Chord
C1	194.75'	770.00'	14°29'29"	N7°14'44"E	194.23'
C2	1223.57'	1546.92'	45°19'10"	S8°03'51"E	1191.92'
C3	21.20'	4218.54'	0°17'17"	S58°58'49"W	21.20'
C4	1249.72'	4188.54'	17°05'43"	S50°17'34"W	1245.09'
C5	52.79'	4188.54'	0°43'20"	S41°22'53"W	52.79'
C6	1045.87'	2759.89'	21°42'44"	S30°09'51"W	1039.62'
C7	298.30'	2759.89'	6°11'34"	S16°12'42"W	298.15'

ABONMARCHE
 303 River Race Drive, Unit 204
 Goshen, IN 46526
 T 574.333.9913
 F 574.333.9911
 abonmarcche.com

Benton Harbor
 Ft. Wayne
 Goshen
 Grand Haven
 Hobart

Lafayette
 Portage
 South Bend
 Valparaiso
 South Haven

PREPARED FOR:
CITY OF GOSHEN
WATERFORD MILLS PKWY
R/W DEDICATION

SCALE: 1" = 400'

JOB #: 22-1784

SHEET 1 OF 2

COPYRIGHT 2023 - ABONMARCHE CONSULTANTS, INC.

ABONMARCHE
 303 River Race Drive, Unit 204
 Goshen, IN 46526
 T 574.333.9913
 F 574.333.9911
 abonmarcche.com

Benton Harbor
 Ft. Wayne
 Goshen
 Grand Haven
 Hobart

Lafayette
 Portage
 South Bend
 Valparaiso
 South Haven

PREPARED FOR:
CITY OF GOSHEN
WATERFORD MILLS PKWY
R/W DEDICATION

SCALE:

JOB #: 22-1784

SHEET 2 OF 2

COPYRIGHT 2023 - ABONMARCHE CONSULTANTS, INC.



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

September 11, 2023

To: Goshen Board of Public Works and Safety

From: Shannon Marks

Subject: Resolution 2023-25, Interlocal Memorandum of Understanding for 2023 Edward Byrne Memorial Justice Assistance Grant Formula Program Award

The County of Elkhart, City of Elkhart, and City of Goshen have submitted a joint application for funding under the Edward Byrne Memorial Justice Assistance Grant Formula Program. The County and Goshen City would each receive \$33,960 for fiscal year 2023 to be used for criminal justice purposes. Elkhart City has declined participation in the 2023 JAG program.

The attached resolution is to approve the terms and condition of the Interlocal Memorandum of Understanding and ratify Mayor Leichty's execution of the Interlocal Memorandum of Understanding on behalf of the Board of Public Works and Safety and the City.

Suggested Motion:

Move to adopt Resolution 2023-25, Interlocal Memorandum of Understanding for 2023 Edward Byrne Memorial Justice Assistance Grant Formula Program Award.

**GOSHEN BOARD OF PUBLIC WORKS AND SAFETY
RESOLUTION 2023-25**

**Interlocal Memorandum of Understanding for
2023 Edward Byrne Memorial Justice Assistance Grant Formula Program Award**

WHEREAS in accordance with the Edward Byrne Memorial Justice Assistance Grant (JAG) Program, the County of Elkhart, City of Elkhart and City of Goshen have submitted a joint application for fiscal year 2023 JAG funding to be used for permissible criminal justice purposes;

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

WHEREAS the attached Interlocal Memorandum of Understanding between the three participating units of local government identifies the County of Elkhart as the fiscal agent for the JAG funding, and sets forth the amount of funding to be distributed to each unit.

NOW, THEREFORE, BE IT RESOLVED that the Goshen Board of Public Works and Safety approves the terms and conditions of the Interlocal Memorandum of Understanding for 2023 Edward Byrne Memorial Justice Assistance Grant Formula Program Award between County of Elkhart, City of Elkhart, and City of Goshen attached to and made a part of this resolution.

BE IT FURTHER RESOLVED that the Board ratifies the execution of the Interlocal Memorandum of Understanding by Mayor Gina M. Leichty on behalf of the Goshen Board of Public Works and Safety and the City of Goshen.

PASSED and ADOPTED by the Goshen Board of Public Works and Safety on September ____, 2023.

Gina M. Leichty, Mayor

Mary Nichols, Member

Michael A. Landis, Member

Barb Swartley, Member

Member

OJP/USDOJ APPLICATION NUMBER GRANT13933844

THE STATE OF INDIANA

KNOW ALL BY THESE PRESENT

COUNTY OF ELKHART

INTERLOCAL MEMORANDUM OF UNDERSTANDING (MOU) FOR
2023 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FORMULA
PROGRAM AWARD

This Interlocal Memorandum of Understanding (MOU) is made and entered into effective this 16th day of August, 2023 by and between the County of Elkhart, Indiana acting by and through its governing body the Board of Commissioners of the County of Elkhart, Indiana for and on behalf of the Elkhart County Sheriff's Office, hereinafter referred to as "COUNTY;" the City of Elkhart, Indiana acting by and through its Mayor for and on behalf of the Elkhart Police Department, hereinafter referred to as "ELKHART;" and the City of Goshen, Indiana acting by and through Board of Public Works and Safety with the approval of the Goshen Common Council on behalf of the Goshen Police Department, hereinafter referred to as "GOSHEN;"

WITNESSETH:

WHEREAS each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall do so in a manner in compliance with applicable law from current funds legally available to that party;

WHEREAS COUNTY, ELKHART, and GOSHEN believe it to be in the best interests of the community to reallocate the JAG funds as provided herein;

WHEREAS each governing body finds that the terms, provisions, and performance of this MOU with respect to the 2023 Byrne Justice Assistance Grant (JAG) Program Award is in the best interests of the parties, that the undertaking will benefit the public, and that the allocation of funds fairly compensates the performing parties for the services or functions contemplated herein;

NOW, THEREFORE, in consideration of the premises and the terms and provisions contained herein, COUNTY, ELKHART, and GOSHEN agree as follows:

Section 1 The COUNTY agrees to be the fiscal agent for the joint funds and submit a joint application for the aggregate funds allocated.

Section 2 The COUNTY assumes the responsibility for the administration of the funds including distribution of the funds, monitoring the award, submitting reports including performance measurements and program assessment data, and providing ongoing assistance to ELKHART and GOSHEN.

Section 3 The JAG funds must be used to supplement existing funds for program activities and cannot replace, or supplant, nonfederal funds that have been appropriated for the same purpose. JAG funds cannot be used, directly or indirectly, for security enhancements or equipment to non-governmental entities not engaged in criminal justice or public safety.

OJP/USDOJ APPLICATION NUMBER GRANT13933844

Section 4 The COUNTY will establish a non-interest-bearing trust fund in which to deposit the JAG funds and will be responsible for assuring that all award monies are expended within the 4-year grant period.

Section 5 All parties agree that GOSHEN shall utilize their full individual allocation amount – thirty-three thousand nine hundred sixty dollars (\$33,960) of the aggregate JAG funds allocated herein for officer and community safety in activities of prevention and crime control. GOSHEN shall timely submit one or more appropriately completed and executed claim forms to COUNTY for processing of a distribution or distributions of the aggregate JAG funds allocated herein for them.

Section 6 All parties agree that ELKHART has declined participation in the Fiscal Year 2023 JAG grant program. As such they acknowledge and understand they will receive no funding (\$0) for the four-year term. They will have no reporting obligations for this year. The declination of participation applies to the FY23 JAG program and ELKHART will have every opportunity to participate in future grant programs. Declination notice was received and acknowledged August 14, 2023.

Section 7 All parties agree that the COUNTY shall utilize their full individual allocation amount of – thirty-three thousand nine hundred sixty dollars (\$33,960) of the aggregate JAG funds allocated herein for officer and community safety in activities of prevention and crime control.

Section 8 GOSHEN agrees to provide timely and appropriate data to assist the COUNTY in monitoring the award and submitting reports.

Section 9 GOSHEN agrees to maintain open communications with the COUNTY in regard to the expenditure of JAG funds.

Section 10 GOSHEN agrees that any program adjustments must be approved by the Bureau of Justice Assistance Program compliance personnel through the COUNTY and that they will provide the COUNTY a minimum of thirty (30) days notice of program changes allowing the COUNTY to obtain approval of the program adjustment.

Section 11 Each party to this MOU will be responsible for its own actions in providing services or in receiving funding herein and shall not be responsible for any civil liability that may arise from the furnishing of the services or the receipt of funding by the other parties.

Section 12 By entering into this MOU, the parties do not intend to create any obligations, express or implied, other than those set out herein. Further this MOU shall not create any rights in any party not a signatory hereto.

Section 13 All parties understand that all activities related to the JAG Program are bound by and compliance must be made with Title II – Improving the Department of Justices Grant Programs; Subtitle A - Assisting Law Enforcement and Criminal Justice Agencies Sec. 500 - 508 and the Justice Assistance Grant Application submitted to the Bureau of Justice Assistance, in addition to requirements that may be later added. COUNTY, ELKHART, and GOSHEN each respectfully agree to defend, indemnify, and hold harmless the other parties hereto from any claims, demands, damages, liabilities, fines and penalties arising from each party's own respective violation of or failure to comply with these legal requirements.

Section 14 This MOU shall be binding upon the parties hereto and their respective successors. This MOU may be executed in multiple counterparts and separate signature pages with the multiple counterparts and separate signature pages constituting but one single, complete, and entire document.

OJP/USDOJ APPLICATION NUMBER GRANT13933844

COUNTY: BOARD OF COMMISSIONERS OF THE COUNTY OF ELKHART, INDIANA

By _____
Bradley Rogers, President

Attest: _____

Title: _____

Date: _____

ELKHART: ELKHART CITY

By: _____
Title: Rod Roberson, Mayor of Elkhart

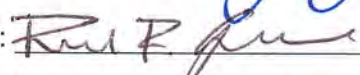
Attest: _____

Title: _____

Date: _____

GOSHEN: BOARD OF PUBLIC WORKS

By: 
Title: Gina Leichty, Mayor of Goshen

Attest: 

Title: *City of Goshen Clerk-Treasurer*

Date: *AUG 29, 2023*



CITY OF GOSHEN LEGAL DEPARTMENT

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

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

September 11, 2023

To: Board of Public Works and Safety

From: Shannon Marks, Legal Compliance Administrator

Subject: Resolution 2023-26, Interlocal Agreement with the County of Elkhart for East College Avenue/C.R. 36 Reconstruction from Fairgrounds to C.R. 31

The attached resolution is to approve the terms and condition and authorize execution of the Interlocal Agreement with the County of Elkhart for East College Avenue/C.R. 36 Reconstruction from Fairgrounds to C.R. 31. Under this agreement, as part of the City's existing contract with Niblock Excavating, the City and County will share in the cost for Niblock to pulverize and pave East College Avenue/County Road 36 between the back entrance to the Elkhart County 4-H Fairgrounds and County Road 31. The County will pay \$78,819 of the cost of the work.

Suggested Motion:

Move to adopt Resolution 2023-26, Interlocal Agreement with the County of Elkhart for East College Avenue/C.R. 36 Reconstruction from Fairgrounds to C.R. 31.

**GOSHEN BOARD OF PUBLIC WORKS AND SAFETY
RESOLUTION 2023-26**

**Interlocal Agreement with the County of Elkhart
for East College Avenue/C.R. 36 Reconstruction from Fairgrounds to C.R. 31**

WHEREAS the City of Goshen and the County of Elkhart have negotiated an interlocal agreement for the reconstruction of East College Avenue/County Road 36 from the back entrance to the Elkhart County 4-H Fairgrounds and County Road 31.

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

NOW, THEREFORE, BE IT RESOLVED that the Goshen Board of Public Works and Safety approves the terms and conditions and authorizes the execution of the Interlocal Agreement with the County of Elkhart for East College Avenue/C.R. 36 Reconstruction from Fairgrounds to C.R. 31 attached to and made a part of this resolution.

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

Gina M. Leichty, Mayor

Mary Nichols, Member

Michael A. Landis, Member

Barb Swartley, Member

Member

INTERLOCAL AGREEMENT
Between the City of Goshen and County of Elkhart
For East College Avenue/CR 36 Reconstruction from Fairgrounds to CR 31

This Agreement is made and entered into this ____ day of _____, 2023, by and between the City of Goshen, Indiana (“City”) by and through the Goshen Board of Public Works and Safety, and with the approval of the Goshen Common Council, and the County of Elkhart, Indiana (“County”) by and through the Board of Commissioners of the County of Elkhart, Indiana, and with the approval of the Elkhart County Council (both parties are collectively referred to as “Parties”).

Witnesseth:

WHEREAS, a substantial industrial construction project is underway along College Avenue, on the east side of the City of Goshen, that requires improvements to public roadways in the area of the construction project;

WHEREAS, City has contracted with Niblock Excavating, Inc. for the industrial construction project;

WHEREAS, the City plans to undertake a reconstruction and widening of College Avenue in 2027;

WHEREAS, East College Avenue and County Road 36 between the back entrance to the Elkhart County 4-H Fairgrounds and County Road 31 is in poor repair and is in need of repair prior to the City’s 2027 reconstruction and widening;

WHEREAS, the County agrees to provide part of the funding for the road repair needed for County Road 36 to County Road 31 as herein provided;

WHEREAS, the City and County enter into this Agreement to identify the duties and responsibilities of the City and County to improve infrastructure near the industrial construction project along College Avenue;

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

1. Project. Project includes the full depth reclamation of the existing asphalt and subgrade and replacement of hot mix asphalt base and surface for Four Thousand Three Hundred (4,300) linear feet along East College Avenue and County Road 36, as indicated on the map attached as Exhibit A. Project will be added to the existing scope of work being completed by Niblock Excavating, Inc. for the industrial construction project along East College Avenue.
2. Lead Agency. City will serve as the Lead Agency for the Project, including, but not limited to, the following duties:
 - a. Awarding the Project in compliance with governmental requirements applicable to the City and County.
 - b. Obtaining any permits or approvals required to construct the Project.
 - c. Providing or contracting for engineering review and construction inspection services for the Project to the extent that such are not the responsibility of the contractor.
 - d. Maintaining the documents, contractors, notes, and other records connected with the Project.
 - e. Providing the County with a financial summary of all funds needed for the Project, all funds received for the Project, and all funds spent on the Project, including the reconciliation of the funding provided by the City and County.
 - f. Paying all administrative costs and expenses associated with serving as the Lead Agency for the Project.
3. Costs. Niblock Excavating, Inc. has provided Change Order No.1, attached to this Agreement as Exhibit B, summarizing the costs of repair work for the Project,

totaling Two Hundred Sixty Thousand Seven Hundred Nine Dollars (\$260,709.00).

4. County Participation. City will serve as the Lead Agency for the Project. City and County acknowledge that City will provide the administrative and oversight services required for the Project. County participation shall include, but not be limited to, the following:
 - a. County will pay a proportional share representing the One Thousand Three (1,300) linear feet of roadway to be repaired located outside the corporate boundaries of the City of Goshen, Indiana. This amount is equal to Seventy-Eight Thousand Eight Hundred Nineteen Dollars (\$78,819.00) [$1300/4300 \times \$260,709.00$].
 - b. County will pay its proportional share to City no later than March 31, 2024.
5. Approvals. This Agreement is subject to the approval of the Goshen Board of Public Works and Safety and the Goshen Common Council for City, and the Board of Commissioners of the County of Elkhart, Indiana and Elkhart County Council for County.
6. Duration. This Agreement shall be effective upon its execution and continue until the Project is complete and County has paid its proportional share per Paragraph No. 4.
7. Supplemental Documents. The Parties agree to execute any and all supplementary documents and to take any and all supplementary steps as are reasonable and appropriate to accomplish the purposes and provisions of this Agreement.
8. Limitations of Liability. City acknowledges that County shall not be liable to City for completion of or the failure to complete any activities that are an obligations of City to perform pursuant to this Agreement, and City agrees to defend, indemnify, and hold harmless County and its agents, officers, and employees from all claims and suits of any nature whatsoever arising from City's performance of this Agreement, from all judgments therefore, and all expenses in defending or appealing any such claims or judgments, including without limitation court costs, attorney's fees, and other expenses.
9. Non-Discrimination. Pursuant to Indiana Code § 22-9-1-10, neither City, nor any of its contractors or subcontractors shall discriminate against any employee or

applicant for employment, to be employed in the performance of any work under this Agreement with respect to hire, tenure, terms or conditions or privileges of employment, or any matter directly or indirectly related to employment because of race, color, religion, sex, disability, national origin, ancestry or veteran status. Breach of this covenant may be regarded as a material breach of this Agreement.

10. Anti-Nepotism. City is aware of the provisions under Indiana Code § 36-1-21 with respect to anti-nepotism in contractual relationships with governmental entities, and shall comply with such statute.
11. Investment Activity. Pursuant to Indiana Code § 5-22-16.5, City certifies that it is not engaged in investment activities in Iran.
12. E-Verify Program. Pursuant to Indiana Code § 22-5-1.7-11, City agrees to and shall enroll in and verify the work eligibility status of all newly hired employees of City after the date of the Agreement through the E-Verify Program as defined in Indiana Code § 22-5-1.7-3. City further represents and certifies subject to the pains and penalties for perjury that it does not knowingly employ an unauthorized alien.
13. Amendment. This Agreement and any exhibits attached hereto, may be amended only by the mutual written consent of the parties, by the adoption of a resolution approving said amendment as provided by law, and by the execution of said amendment by the parties.
14. No Other Agreement. Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations, and discussions relative to the subject matter hereof and is a full integration of the agreement of the parties.
15. Severability. If any provision, covenant, agreement, or portion of this Agreement or its application to any person, entity or property is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants, agreements, or portions of this Agreement, and to that end, any provisions, covenants, agreements, or portions of this Agreement are declared to be severable.
16. Indiana Law. Any notices required or permitted under this Agreement shall be given to the parties at their respective mailing addresses provided below by deposit in the United States mail, certified mail, return receipt requested, with proper postage affixed thereto, and which notices shall be effective three (3) days after date of mailing:

County: Board of Commissioners of the County of Elkhart, Indiana
c/o Jeff Taylor, County Administrator
Elkhart County Administrator Building
117 North Second Street
Goshen, IN 46526
Fax: (574) 535-6747
Email: jtaylor@elkhartcounty.com

City: City of Goshen, Indiana
Board of Public Works and Safety
c/o Mayor Gina M. Leichty
202 South Fifth Street
Goshen, IN 46526
Fax: (574) 533-3074
Email: mayor@goshencity.com

with required copies to:

Bodie J. Stegelmann, Goshen City Attorney
Goshen Legal Department
204 East Jefferson Street, Suite 2
Goshen, IN 46528
Fax: (574) 537-3817
Email: bodiestegelmann@goshencity.com

and

Craig M. Buche, Elkhart County Attorney
Yoder Ainlay Ulmer & Buckingham, LLP
130 North Main Street
Goshen, IN 46526
Fax: (574) 534-4174
Email: cbuche@yaub.com

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

17. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns; provided, however, that this Agreement may not be assigned without the express written consent of the non-assigning party.

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

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

[Signatures start on the following page].

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

Gina M. Leichty

Michael A. Landis

Mary Nichols

Barb Swartley

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public in and for said County and State, this ____ day of _____, 2023, personally appeared Gina M. Leichty, Michael A. Landis, Mary Nichols, and Barb Swartley of the Goshen Board of Public Works and Safety of the City of Goshen, Indiana, being known to me or whose identity have been authenticated by me to be the persons who acknowledged the execution of the foregoing Interlocal Agreement for and on behalf of the City of Goshen, Indiana for the purpose stated therein.

Witness my hand and Notarial Seal.

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

APPROVAL

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

Goshen Common Council
City of Goshen, Indiana

Gina M. Leichty, Mayor and
Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer
City of Goshen, Indiana

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

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

Witness my hand and Notarial Seal.

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

Board of Commissioners of the
County of Elkhart, Indiana

Bradley D. Rogers

Suzanne M. Weirick

Bob Barnes

ATTEST:

Patricia A. Pickens, Auditor
County of Elkhart, Indiana

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public in and for said County and State, this ____ day of _____, 2023, personally appeared Bradley D. Rogers, Suzanne M. Weirick, and Bob Barnes of the Board of Commissioners of the County of Elkhart, Indiana, and Patricia A. Pickens, Auditor of the County of Elkhart, Indiana, being known to me or whose identity have been authenticated by me to be the persons who acknowledged the execution of the foregoing Interlocal Agreement for and on behalf of the County of Elkhart, Indiana for the purpose stated therein.

Witness my hand and Notarial Seal.

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

APPROVAL

The Elkhart County Council of the County of Elkhart, Indiana approves the foregoing Interlocal Agreement on this this ____ day of _____, 2023.

Elkhart County Council
County of Elkhart, Indiana

Thomas W. Stump, President

ATTEST:

Patricia A. Pickens, Auditor
County of Elkhart, Indiana

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public in and for said County and State, this ____ day of _____, 2023, personally appeared Thomas W. Stump, President of the Elkhart County Council of the County of Elkhart, Indiana, and Patricia A. Pickens, Auditor of the County of Elkhart, Indiana, being known to me or whose identity have been authenticated by me to be the persons who acknowledged the execution of the Approval of foregoing Interlocal Agreement for and on behalf of the County of Elkhart, Indiana.

Witness my hand and Notarial Seal.

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

This instrument was prepared by Donald R. Shuler, 26587-71, Assistant City Attorney, City of Goshen, Indiana, 204 E. Jefferson, Suite 2, Goshen, Indiana 46526.

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Donald R. Shuler

EXHIBIT A - East College Avenue / CR 36 Reclamation Project 2023

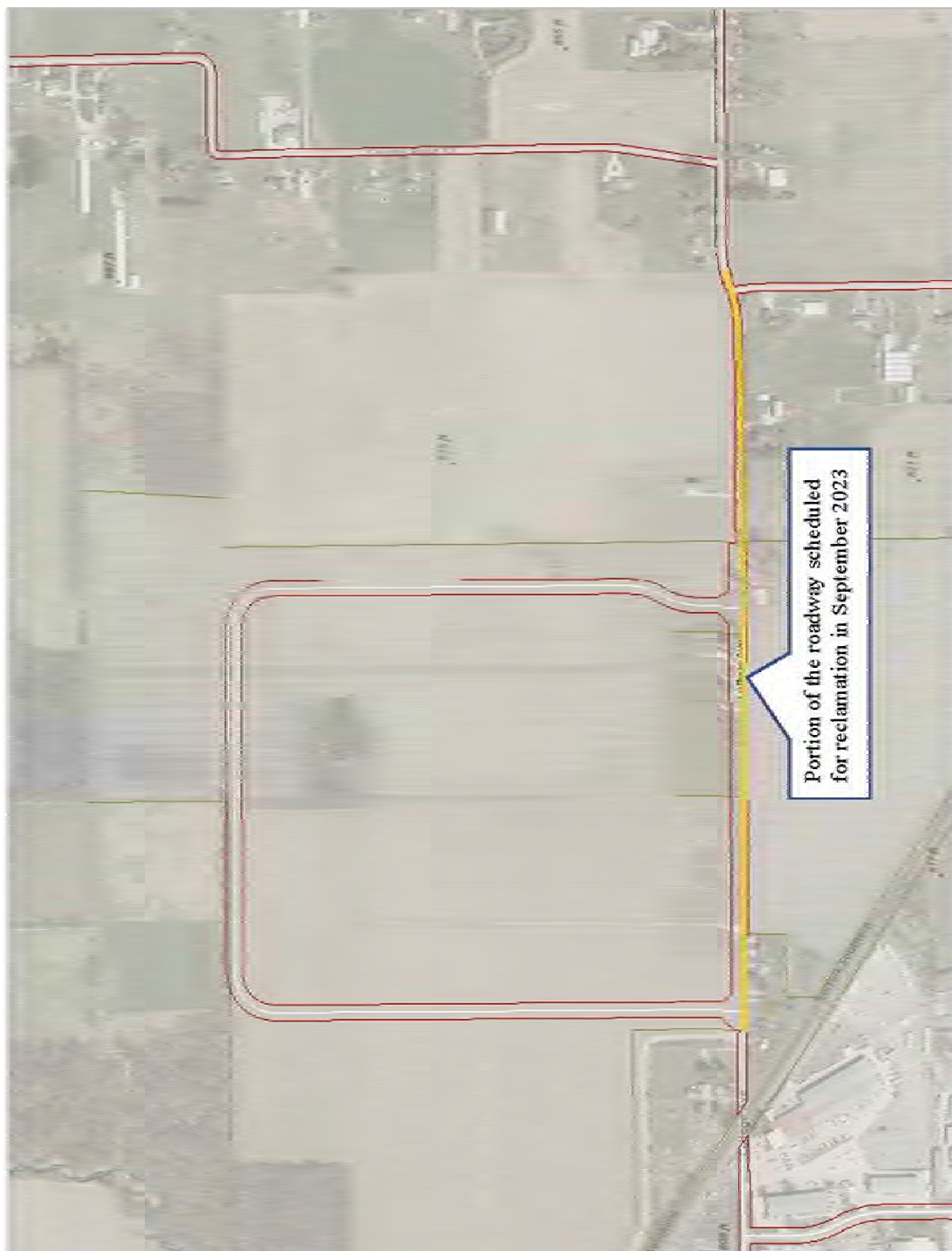


EXHIBIT B

CHANGE ORDER REQUEST

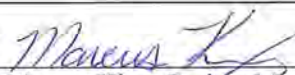
Niblock Excavating, Inc.
PO BOX 211
906 MAPLE STREET
BRISTOL, INDIANA 46507
574-848-4437
574-848-4575

PROPOSAL SUBMITTED: Abonmarche		PHONE 1-574-232-8700	DATE: June 20, 2023
STREET 315 W. Jefferson Blvd		JOB NAME East College Contract #2	
CITY, STATE and ZIP CODE South Bend, In 46601		JOB LOCATION CR36 from RR tracks and CR31	
ATTENTION: Robert Nichols	DATE OF PLANS None Given	Pulverizing and paving	FAX 1-574-258-1776

Mr. Nichols,
 Per your request for pricing to pulverize and re-pave the section of CR36 from the Fair grounds entrance and CR31. Niblock Excavating is pleased to provide the following pricing for your review and approval.

Description	Bid Quantity	Units	Unit Price	Total
CO 1-3 CR36 Pulverze and Pave				
Maintenance of Traffic	1	LS	\$ 5,233.00	\$ 5,233.00
Pulverize	10511	SY	\$ 1.00	\$ 10,511.00
Fine Grade for Asphalt	10511	SY	\$ 1.00	\$ 10,511.00
HMA Base, Type B, 25mm, 275lb/sy	1450	TN	\$ 89.00	\$ 129,050.00
Liquid Asphalt for Tack Coat	1051	GAL	\$ 4.00	\$ 4,204.00
HMA Surface, Type B, 9.5mm, 165lb/sy	880	TN	\$ 115.00	\$ 101,200.00
CO 1-3 Total:				\$ 260,709.00

NOTES:

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workman's Compensation Insurance.	AUTHORIZED SIGNATURE  Marcus King, Project Manager
	Note: This proposal may be withdrawn by us if not accepted within <u>30</u> days.
Acceptance of proposal- The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.	Signature _____
Date of Acceptance: _____	Signature _____



CITY OF GOSHEN LEGAL DEPARTMENT

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

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

September 11, 2023

To: Board of Public Works and Safety and Stormwater Board

From: Shannon Marks, Legal Compliance Administrator

Subject: Resolution 2023-27, Approving the Termination of the Goshen Dam Pond Interlocal Agreement

The City, County of Elkhart, and the Goshen Dam Pond Economic Improvement District entered into an Interlocal Agreement in December 2015 to coordinate activities to pursue maintenance dredging of sediment from the Dam Pond. The parties have all determined that the Interlocal Agreement should be terminated. The attached resolution is to approve the terms and conditions of the Termination of the Goshen Dam Pond Interlocal Agreement and authorize Mayor Leichty to execute the Termination on behalf of the Board of Public Works and Safety and Stormwater Board and the City.

Suggested Motion:

Move to adopt Resolution 2023-27, Approving the Termination of the Goshen Dam Bond Interlocal Agreement.

**GOSHEN BOARD OF PUBLIC WORKS AND SAFETY
AND STORMWATER BOARD**

RESOLUTION 2023-27

Approving the Termination of the Goshen Dam Pond Interlocal Agreement

WHEREAS, the City of Goshen, County of Elkhart, and the Goshen Dam Pond Economic Improvement District entered into an Interlocal Agreement dated December 28, 2015 (“Goshen Dam Pond Interlocal Agreement”);

WHEREAS, the purpose of the Goshen Dam Pond Interlocal Agreement was to coordinate activities to pursue maintenance dredging of sediment from the Goshen Dam Pond (hereinafter the “Project”);

WHEREAS, efforts to complete the Project terminated;

WHEREAS, the City of Goshen, County of Elkhart, and the Goshen Dam Pond Economic Improvement District have all determined to terminate the Goshen Dam Pond Interlocal Agreement; and

WHEREAS, the City of Goshen now seeks to formally terminate the Goshen Dam Pond Interlocal Agreement pursuant to the terms of the Termination of the Goshen Dam Pond Interlocal Agreement that the parties have asked the City of Goshen to execute.

NOW, THEREFORE, BE IT RESOLVED that the Goshen Board of Public Works and Safety and Stormwater Board approves the terms and conditions of the Termination of the Goshen Dam Pond Interlocal Agreement attached to and made a part of this resolution.

BE IT FURTHER RESOLVED that Mayor Leichty is authorized to execute the Termination of the Interlocal Agreement on behalf of the Goshen Board of Public Works and Safety and Stormwater Board and the City of Goshen.

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

Gina M. Leichty, Mayor

Member

Member

Member

Member

**TERMINATION OF THE
GOSHEN DAM POND INTERLOCAL AGREEMENT**

This Termination of the Goshen Dam Pond Interlocal Agreement ("Termination") is entered into effective upon the last to sign this Termination, by and between City of Goshen, an Indiana municipal corporation ("City"), the County of Elkhart, a political subdivision of the State of Indiana ("County"), and the Goshen Dam Pond Economic Improvement District, an economic improvement district organized under the laws of the State of Indiana ("EID"). The City, the County, and the EID are collectively referred to herein as the "Parties."

RECITALS

A. The County of Elkhart ("County"), Goshen Dam Pond Economic Improvement District ("EID") and the City of Goshen ("City") entered into an Interlocal Agreement dated December 28, 2015 ("Interlocal Agreement").

B. On September 14, 2020, the EID approved termination of the Interlocal Agreement so long as the assessment funds received by the EID in or after calendar year 2020 are not considered as remaining funds held by the EID in their economic improvement funds for distribution under Section 8.1 of the Interlocal Agreement.

C. The Elkhart County Commissioners adopted Resolution CO 2020-29 Supporting Termination of the Goshen Dam Pond Interlocal Agreement on October 26, 2020, agreeing to terminate the Interlocal Agreement by executing this Termination and distribute any remaining funds as provided in Section VIII, paragraph 8.1 of the Interlocal Agreement, with the assessment fees received by the EID in 2020 and thereafter not being included in the funds available for distribution.

D. The Common Council for the City of Goshen passed and adopted Council Resolution 2020-24 Supporting Termination of the Goshen Dam Pond Interlocal Agreement on November 20, 2020, agreeing to terminate the Interlocal Agreement by executing this Termination and distribute any remaining funds as provided in Section VIII, paragraph 8.1 of the Interlocal Agreement, with the assessment fees received by the EID in 2020 and thereafter not being included in the funds available for distribution.

Now, therefore, it is agreed by the Parties as follows:

AGREEMENT

The Interlocal Agreement is hereby terminated, and the EID agrees to confirm that all funds have been or will be promptly distributed as provided in Section VIII, paragraph 8.1 of the Interlocal Agreement, with the assessment fees received by the EID in 2020 and thereafter not being included in the funds available for distribution. This Termination may be executed in counterparts, each of which when executed will be deemed to be an original, and such counterparts, together, will constitute but one and the same document.

[Signatures on next pages.]

CITY:

CITY OF GOSHEN
BOARD OF PUBLIC WORKS AND SAFETY
AND STORMWATER BOARD

Gina M. Leichty, Mayor and Member

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, a Notary Public in and for said County and State, this _____ day of _____, 2023, personally appeared Gina M. Leichty, Mayor and Member of the City of Goshen Board of Public Works and Safety and Stormwater Board, and acknowledged that she executed the foregoing Termination for and on behalf and in the name of the City of Goshen Board of Public Works and Safety and Stormwater Board, for the uses and purposes therein mentioned.

Witness my hand and Notarial seal.

Notary Public
Printed: _____
County of residence: _____
Commission number: _____
My commission expires: _____

COUNTY:

COUNTY OF ELKHART BY
BOARD OF COMMISSIONERS OF
THE COUNTY OF ELKHART

By: *Bradley D. Rogers*
Bradley D. Rogers, President

ELKHART COUNTY STORMWATER BOARD

By: *Bradley D. Rogers*
Bradley D. Rogers, President

STATE OF INDIANA)
)SS:
COUNTY OF ELKHART)

Before me, a Notary Public in and for said County and State, this 17th day of April, 2023, personally appeared Bradley D. Rogers, President of the Board of Commissioners of the County of Elkhart, and acknowledged that as said President he executed the foregoing Termination for and on behalf and in the name of the County of Elkhart, for the uses and purposes therein mentioned.

Witness my hand and Notarial seal.



STEVEN J. OLSEN
NOTARY PUBLIC
State of Indiana, Elkhart County
My commission expires Sept. 25, 2026
Commission Number 0716049

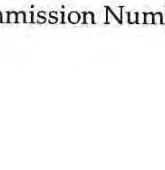
Steven J. Olsen
Notary Public
Residing in Elkhart County, Indiana

My Commission Expires: Sept. 25, 2026
Commission Number: 0716049

STATE OF INDIANA)
)SS:
COUNTY OF ELKHART)

Before me, a Notary Public in and for said County and State, this 27th day of March, 2023, personally appeared Bradley D. Rogers, President of the Elkhart County Stormwater Board, and acknowledged that as said President he executed the foregoing Termination for and on behalf and in the name of the Elkhart County Stormwater Board, for the uses and purposes therein mentioned.

Witness my hand and Notarial seal.



STEVEN J. OLSEN
NOTARY PUBLIC
State of Indiana, Elkhart County
My commission expires Sept. 25, 2026
Commission Number 0716049

Steven J. Olsen
Notary Public
Residing in Elkhart County, Indiana

My Commission Expires: Sept. 25, 2026
Commission Number: 0716049



STEVEN J. OLSEN
NOTARY PUBLIC
State of Indiana, Elkhart County
My commission expires Sept. 25, 2026
Commission Number 0716049

EID:

GOSHEN DAM POND ECONOMIC
IMPROVEMENT DISTRICT BOARD

By: _____
William Rieth, President

STATE OF INDIANA)
)SS:
COUNTY OF ELKHART)

Before me, a Notary Public in and for said County and State, this ____ day of _____, 2023, personally appeared William Rieth, President of the Goshen Dam Pond Economic Improvement District Board, and acknowledged that as said President he executed the foregoing Termination for and on behalf and in the name of the Goshen Dam Pond Economic Improvement District Board, for the uses and purposes therein mentioned.

Witness my hand and Notarial seal.

_____, Notary Public
Residing in Elkhart County, Indiana

My Commission Expires: _____
Commission Number: _____

Approval

The attached and foregoing Termination between the City of Goshen, the County of Elkhart, and the Goshen Dam Pond Economic Improvement District has been approved by the Goshen City Council.

Date: _____

GOSHEN CITY COUNCIL

Gina M. Leichty, Presiding Officer

ATTEST:

Richard R. Aguirre, City Clerk-Treasurer

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, a Notary Public in and for said County and State, this _____ day of _____, 2023, personally appeared Gina M. Leichty, Presiding Officer of the Goshen City Council and Richard R. Aguirre, City Clerk-Treasurer, and acknowledged they executed the foregoing Termination for and on behalf and in the name of the City of Goshen, for the uses and purposes therein mentioned.

Witness my hand and Notarial seal.

Notary Public
Printed: _____
County of residence: _____
Commission number: _____
My commission expires: _____

Approval

The attached and foregoing Termination between the City of Goshen, the County of Elkhart, and the Goshen Dam Pond Economic Improvement District has been approved by the Elkhart County Council.

Date: May 18, 2023

ELKHART COUNTY COUNCIL

By: Thomas W. Stump
Thomas W. Stump, President

ATTEST:

Patricia A. Pickens
Patricia A. Pickens, Elkhart County Auditor

STATE OF INDIANA)
)SS:
COUNTY OF ELKHART)

Before me, a Notary Public in and for said County and State, this 18th day of May, 2023, personally appeared Thomas W. Stump, President of the Elkhart County Council and Patricia A. Pickens, Elkhart County Auditor, and acknowledged that as said President and Elkhart County Auditor they executed the foregoing Agreement for and on behalf and in the name of Elkhart County, for the uses and purposes therein mentioned.



Witness my hand and Notarial seal.

CRAIG M. BUCHE
NOTARY PUBLIC
State of Indiana, Elkhart County
My commission expires Feb. 1, 2024
Commission Number 677548

Craig M. Buche
Craig M. Buche, Notary Public
Residing in Elkhart County, Indiana

My Commission Expires: Feb. 1, 2024
Commission Number: 677548

Prepared by: Steven J. Olsen, Yoder, Ainlay, Ulmer & Buckingham, LLP
130 N. Main Street, Goshen, IN 46527-0575
Telephone: 574-533-1171

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Steven J. Olsen,
130 N. Main St., Goshen, IN 46527-0575



CITY OF GOSHEN LEGAL DEPARTMENT

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

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

September 11, 2023

To: Board of Public Works and Safety
From: Shannon Marks
Subject: Resolution 2023-28, Exchange of Real Property

Attached is a joint resolution with the Goshen Redevelopment Commission to approve the exchange of certain real estate with The Board of Commissioners of Elkhart County. The Redevelopment Commission will consider this joint resolution at their September 12 meeting. The Board of Commissioners have considered or will also be considering a substantially identical resolution.

Aerial views depicting the real estate to be exchanged between the City of Goshen and Elkhart County are attached to the Resolution as Exhibits B and D.

The City-owned real estate to be transferred to The Board of Commissioners of Elkhart County, Indiana includes five parcels located south of the railroad tracks on the west side of the 300-Block of North Main Street. Title to this real estate is currently vested in the City of Goshen, Indiana; City of Goshen for the Use and Benefit of its Department of Redevelopment; and City of Goshen, Indiana for the Use and Benefit of its Department of Redevelopment.

The County-owned real estate to be transferred to the City of Goshen, Indiana includes a buffer strip between Westmoor Parkway and U.S. 33. In addition, there are four parcels of real estate generally located south of Pike Street, north of Clinton Street, west of New Street, and east of the Elkhart River to be transferred to the City of Goshen, Indiana for the Use and Benefit of its Department of Redevelopment.

In addition to the adoption of this Resolution, it is also requested that the Board authorize Mayor Leichty to execute any and all documents on behalf of the City of Goshen, Indiana to effectuate the exchange of the real estate contemplated by this Resolution.

Suggested Motions:

- 1) Move to adopt Resolution 2023-28, Exchange of Real Property.
- 2) Move to authorize Mayor Leichty to execute any and all documents on behalf of the City of Goshen, Indiana to effectuate the exchange of the real estate contemplated by Resolution 2023-28.

City of Goshen

**Goshen Redevelopment Commission Resolution 31-2023
Goshen Board of Public Works and Safety Resolution 2023-28**

Exchange of Real Property

WHEREAS The Board of Commissioners of Elkhart County, Indiana (“County”) owns certain real property generally located south of Pike Street, north of Clinton Street, west of New Street, and east of the Elkhart River, and certain real estate between U.S. 33 and Westmoor Parkway in Goshen (“County Real Estate”);

WHEREAS the County Real Estate is more particularly described in the legal description attached as Exhibit A and depicted on the aerial view attached as Exhibit B;

WHEREAS as part of the Goshen Redevelopment Commission’s plan to the redevelop the area generally located south of Pike Street, west of New Street, east of the Elkhart River, and north of Lincoln Avenue, the Goshen Redevelopment Commission would like to acquire certain County Real Estate from County;

WHEREAS City of Goshen, Indiana (“City”) is also willing to accept from County certain County Real Estate between U.S. 33 and Westmoor Parkway;

WHEREAS County is willing to transfer certain County Real Estate to City of Goshen, Indiana for the use and benefit of its Department of Redevelopment, and certain County Real Estate to the City of Goshen, Indiana;

WHEREAS the City owns real property generally located south of the railroad tracks and west of North Main Street (“City Real Estate”);

WHEREAS the City Real Estate is more particularly described in the legal description attached as Exhibit C and depicted on the aerial view attached as Exhibit D;

WHEREAS the County would like to acquire the City Real Estate from City;

WHEREAS City is willing to transfer the City Real Estate to the County;

WHEREAS in accordance with Indiana Code § 36-1-11-8, a transfer or exchange of real property may be made with a governmental entity upon terms and conditions agreed upon by the entities as evidenced by adoption of a substantially identical resolution by each entity.

NOW, THEREFORE, BE IT RESOLVED that:

1. County agrees to transfer to City the County Real Estate as more particularly described in the legal description attached as Exhibit A and depicted on the aerial view attached as Exhibit B. The title to all real estate shall be transferred to City of Goshen, Indiana for the use and benefit of its Department of Redevelopment, except the title to the real estate between U.S. 33 and Westmoor Parkway shall be transferred to City of Goshen, Indiana.
2. The transfer of the County Real Estate shall be an exchange for the City Real Estate.
3. City accepts the transfer of the County Real Estate in “as is” condition with the transfer to be through a Quit Claim Deed. City releases and discharges the County from any and all claims, demands, actions, and causes of action caused by, arising out of, or related to the County Real Estate. City further agrees to indemnify and hold harmless County from and against all liabilities, damages, civil fines and penalties, costs, expenses, and fees, including reasonable attorney fees, for all claims, demands, actions, and causes of action caused by, arising from, or relating to the County Real Estate.
4. The City agrees to transfer to County the City Real Estate as more particularly described in the legal description attached as Exhibit C and depicted on the aerial view attached as Exhibit D.
5. The transfer of the City Real Estate shall be an exchange for the County Real Estate.
6. County accepts the transfer of the City Real Estate in “as is” condition with the transfer to be through a Quit Claim Deed. County releases and discharges the City from any and all claims, demands, actions, and causes of action caused by, arising out of, or related to the City Real Estate. County further agrees to indemnify and hold harmless City from and against all liabilities, damages, civil fines and penalties, costs, expenses, and fees, including reasonable attorney fees, for all claims, demands, actions, and causes of action caused by, arising from, or relating to the City Real Estate.
7. The City of Goshen’s Legal Department is authorized and directed to prepare the documents necessary to effectuate the transfer of County’s interest in the County Real Estate to City. Any costs for document preparation, title search, and filing and recording the deed shall be paid by City.
8. The Elkhart County Attorney’s Office is authorized and directed to prepare the documents necessary to effectuate the transfer of City’s interest in the City Real Estate to County. Any costs for document preparation, title search, and filing and recording the deed shall be paid by County.
9. This resolution, a substantially identical resolution adopted or to be adopted by County which is a condition for the effectiveness of this resolution, and the execution and the delivery of the respective deeds are intended to comply with Indiana Code § 36-1-11-8.

PASSED and ADOPTED by the Goshen Board of Public Works and Safety of the City of Goshen, Indiana on September _____, 2023.

Gina M. Leichty, Mayor

Mary Nichols, Member

Michael A. Landis, Member

Barb Swartley, Member

Orv Myers, Member

PASSED and ADOPTED by the Goshen Redevelopment Commission of the City of Goshen, Indiana on September _____, 2023.

Brian Garber, President

Brianne Brenneman, Secretary

Exhibit A

COUNTY REAL ESTATE

The Board of Commissioners of Elkhart County, Indiana shall release and quitclaim to the City of Goshen, Indiana, for the use and benefit of its Department of Redevelopment, the following described real estate located in Elkhart Township, Elkhart County, in the State of Indiana, to-wit:

That part of the former Goshen Lateral Track as described in the conveyance to the Board of Commissioners of Elkhart County, Indiana as recorded in the Office of the Recorder of Elkhart County in Vol. 407, pages 526-532, located North of Clinton Street and South of the southern right-of-way line of Pike Street.

Parcel No. 20-11-09-185-006.000-015

ALSO, a part of the South half of Lot Number 277 in HOOD AND BRITTON'S ADDITION to the Town, now City, of Goshen, more particularly described as follows: Beginning Sixty-two (62) feet West of the Southeast corner of said Lot 277; thence in a Northwesterly direction to a point on the East and West centerline of said Lot 80 feet West of the East line of said Lot; thence East to the East line of said Lot; thence South to the Southeast corner of said Lot; thence West on the South line of said Lot and place of beginning.

Being tax code number 20-11-09-185-004.000-015.

ALSO, that part of Lots Number Two Hundred Seventy-five (275) and Two Hundred Seventy-six (276) in Hood and Britton's Addition to the Town, now City of Goshen, which lies east of the right of way of the Goshen Lateral Railway Company; ALSO the north half of the vacated Clinton Street adjacent South, by virtue of Vacation Ordinance 3037.

Being tax code number 20-11-09-185-005.000-015.

ALSO, all that portion of Lots Numbered Two Hundred Seventy-five (275) and Two Hundred Seventy-six (276) in Hood & Britton's Addition to the Town, now City, of Goshen, Indiana, which lies west of the west line of the right-of-way of the Goshen Lateral Railway Company; ALSO, the north half of the vacated Clinton Street adjacent South, by virtue of Vacation Ordinance 3037.

Being tax code number 20-11-05-184-012.000-015.

The Board of Commissioners of Elkhart County, Indiana shall release and quitclaim to the City of Goshen, Indiana, the following described real estate located in Elkhart Township, Elkhart County, in the State of Indiana, to-wit:

ALSO, Westmoor Addition Buffer Strip northeast of Westmoor Drive northwest of Sunset Boulevard, southwest of U.S. 33, containing .154 acre, more or less.

Being tax code number 20-11-08-202-001.000-015.

Exhibit B

AERIAL VIEW OF COUNTY REAL ESTATE



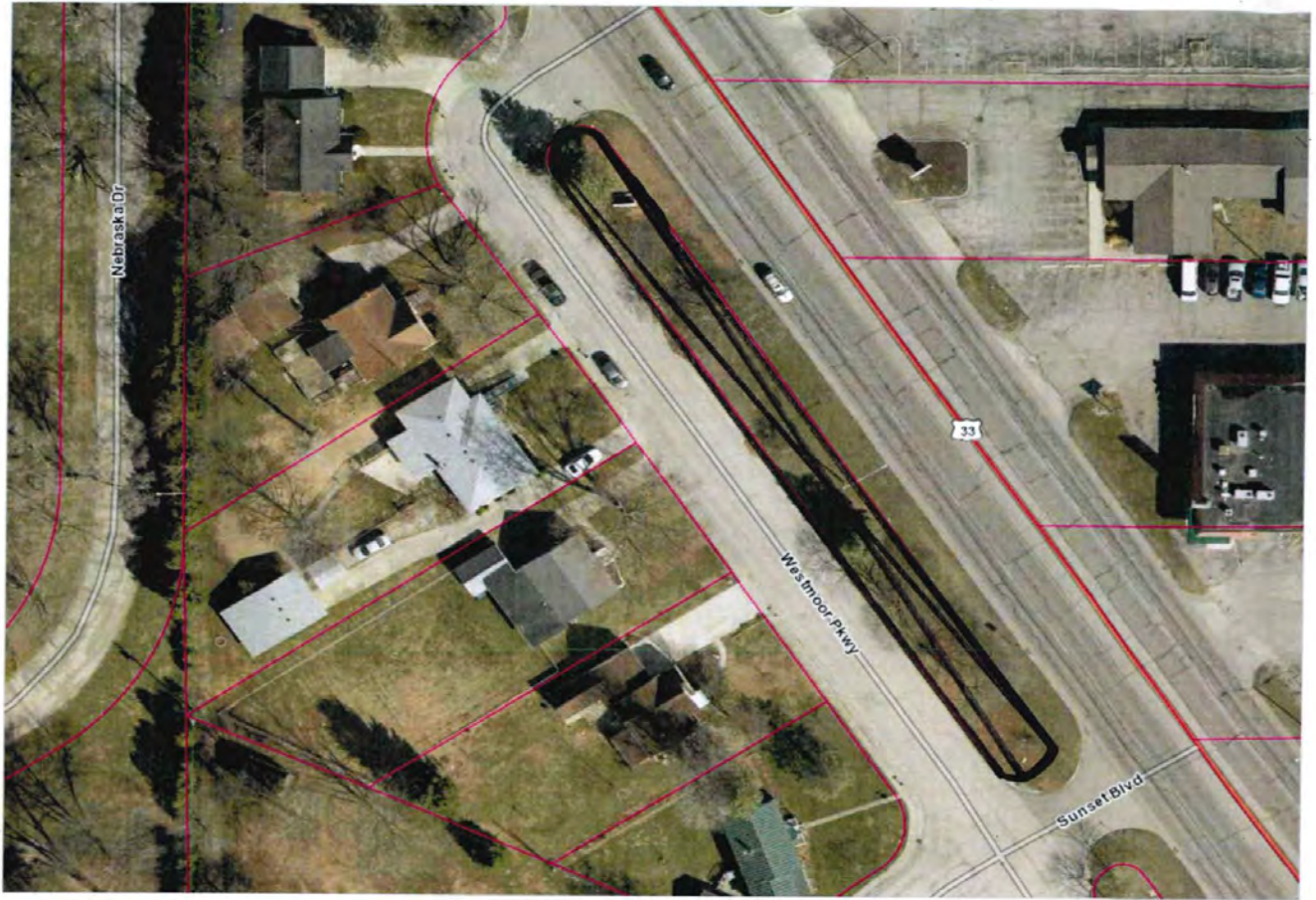


Exhibit C

CITY REAL ESTATE

The City of Goshen, Indiana, the City of Goshen, Indiana for the Use and Benefit of its Department of Redevelopment, and the City of Goshen for the Use and Benefit of its Department of Redevelopment, shall release and quitclaim to the Board of Commissioners of Elkhart County, Indiana, the following described real estate located in Elkhart Township, Elkhart County, in the State of Indiana, to-wit:

Parcel 1:

The South half (S 1/2) of Lot number Fifteen (15) in Crane's North Addition to the City of Goshen, Indiana, more fully described as follows:

Beginning at the Southeast corner of said lot; thence North 33 feet; thence West 165 feet; thence South 33 feet; thence East 165 feet to the place of beginning.

Tax Code Number: 20-11-09-259-016.000-015.

Parcel 2:

The North half (N 1/2) of Lot number Fifteen (15) in Crane's North Addition to the Town, now City of Goshen, Indiana.

Tax Code Number: 20-11-09-259-015.000-015.

Parcel 3:

Lot Number Sixteen (16) in Crane's North Addition to the City of Goshen, Indiana.

EXCEPTING therefrom Thirty-six (36) feet off of the South side of said Lot; said Plat being recorded in Deed Record 1, page 39, in the Office of the Recorder of Elkhart County, Indiana.

ALSO EXCEPTING that part of said Lot heretofore sold to the Indiana Railway Company and to the Lake Shore and Michigan Southern Railway Company (now known as the New York Central Railway Company).

Tax Code Number: 20-11-09-259-013.000-015.

Parcel 4:

That Part of Lot 17 in Crane's North Addition to the City of Goshen, Indiana lying South of Lake Shore and Michigan Central Railroad (now Penn Central Railroad).

Tax Code Number: 20-11-09-259-012.000-015.

Parcel 5:

Part of Lot Number Fourteen (14) in Cranes North Addition to the Town, now City, of Goshen, described as follows, to-wit: Commencing at the Northeast corner of Lot Fourteen (14); then West fifty-six (56) feet; then South sixty-six (66) feet; then East fifty-six (56) feet; then North sixty-six (66) feet to the place of beginning.

Tax Code Number: 20-11-09-259-011.000-015.

Exhibit D

AERIAL VIEW OF CITY REAL ESTATE





CITY OF GOSHEN LEGAL DEPARTMENT

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

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

September 11, 2023

To: Board of Public Works and Safety

From: Shannon Marks

Subject: Resolution 2023-29 - Declaring Surplus and Authorizing the Disposal of Vehicles and Equipment

The city wishes to dispose of personal property that is no longer needed or is unfit for the purpose for which it was intended. Resolution 2023-29 is to declare the property as surplus and authorize its disposal in accordance with the provisions of Indiana Code § 5-22-22-4 by engaging an auctioneer to advertise the sale of the property and conduct a public auction. In addition, the city shall give notice of the sale by publication of the time, place and terms of the sale at least 15 days before the date of the sale.

Suggested Motion:

Move to pass and adopt Resolution 2023-29 - Declaring Surplus and Authorizing the Disposal of Vehicles and Equipment.

**Goshen Board of Public Works and Safety
Resolution 2023-29**

Declaring Surplus and Authorizing the Disposal of Vehicles and Equipment

WHEREAS various City of Goshen departments have personal property that is no longer needed or is unfit for the purpose for which it was intended and wishes to dispose of the personal property.

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

A. The following personal property is declared as surplus property:

1. 2013 Chevy Impala, VIN/Serial Number 2G1WD5E35D1250948
(Police Department Asset #120)
2. 2013 Tahoe 2WD, VIN/Serial Number 1GNLC2E03DR305509
(Police Department Asset #130)
3. 2009 Impala (K-9), VIN/Serial Number 2G1WS57M391303200
(Police Department Asset #134)
4. 2007 Audi Q7, VIN/Serial Number WA1BY74L27D072331
(Police Department Asset #1111)
5. 2010 Chevy Impala, VIN/Serial Number 2G1WD5EM7A1257212
(Police Department Asset #PD1113)
6. 2010 Chevy Impala, VIN/Serial Number 2G1WD5EM4A1260228
(Police Department Asset #PD1115)
7. 2010 Ford Transit, VIN/Serial Number NM0KS9BN3AT013029
(Police Department Asset #PPD1128)
8. 2009 Chevy Impala, VIN/Serial Number 2G1WS57M991303542
(Police Department Asset #1132)
9. 1993 Chevy Van, VIN/Serial Number 1GCEG25K7PF329504
(Police Department Asset #1139)
10. 2009 Pontiac Montana Van, VIN/Serial Number 1GMDU03119D100300
(Police Department Asset #1140)
11. 2005 Ford Freestar Van, VIN/Serial Number 2FMZA58235BA10188
(Police Department Asset #1144)
12. 2008 Ford F150 2WD, VIN/Serial Number 1FTRF12228KB30212
(Parks Department Asset #205)

13. 2005 Ford F250 4x4, VIN/Serial Number 1FTNF21595EC97662, with 2005 Boss straight blade, VIN/Serial Number 6904
(Parks Department Asset #213 and Asset #213A)
14. 2005 Ford F250 4x4, VIN/Serial Number 1FTNF21575EC97661, with Boss V Plow, VIN/Serial Number 92946
(Parks Department Asset #PK214 and Asset #PK214A)
15. 1998 Cozy Cove Trailer, VIN/Serial Number 4Y0MP1118W1000274, with 1996 Jet Ski, VIN/Serial Number ZZND7478K596
(Parks Department Asset #2251 and Asset #2250)
16. Stihl String Trimmer, VIN/Serial Number 511595971
(Parks Department Asset #PK2257)
17. Stihl String Trimmer, VIN/Serial Number 509487899
(Parks Department Asset #PK2259)
18. 1995 International Single Axle Dump, VIN/Serial Number 1HTSDAAR9SH643082
(Street Department Asset #306)
19. 2008 Ford F550 4WD Dump, VIN/Serial Number 1FD5F57R98EB43612
(Street Department Asset #308)
20. Truck Bed from 2011 F350, VIN/Serial Number unknown
(Street Department Asset #trk bed)
21. 2017 Stepp Crack Sealer, VIN/Serial Number 4S9BF3001HS127063
(Street Department Asset #366)
22. 1998 Ford Single Axle Dump, VIN/Serial Number 1FDYS80E8WVA33522, with 1998 Slide-in Salt Spreader, VIN/Serial Number unknown
(Street Department Asset #381 and Asset #381A)
23. 2010 Huskee LT4200 Mower, VIN/Serial Number 1D270B50126
(Street Department Asset #389)
24. Massey Ferguson Mower, VIN/Serial Number 1034
(Cemetery Department Asset #766)
25. 1987 Ford F350 Dump Bed, VIN/Serial Number 1FDJF37L9HNA99464
(Cemetery Department Asset #773)
26. 1995 K2500 4WD, VIN/Serial Number 1GCFK24H7SZ198719, with 1993 Western Plow 7'6", VIN/Serial Number 60381/3700071
(Cemetery Department Asset #794 and Asset #794A)
27. 2004 Buick Lesabre, VIN/Serial Number 1G4HP52K94U108816
(Central Garage Asset #711)

28. 2002 Chevrolet Venture Van, VIN/Serial Number 1GNDX03EX2D311314
(Central Garage Asset #720)

29. Miller Walk Behind Saw, VIN/Serial Number unknown
(Water/Sewer Department Asset #6601)

30. 2006 Sullair Air Compressor, VIN/Serial Number 200608220109
(Water/Sewer Department Asset #6630)

31. Ex-Cell 5000w Generator, VIN/Serial Number 9912120159
(Wastewater Department Asset #964)

32. 10 HP Generator, VIN/Serial Number 190722Y0
(Wastewater Department Asset #966)

B. Authorization is given to dispose of the surplus property in accordance with the provisions of Indiana Code § 5-22-22-4 by engaging an auctioneer licensed under Indiana Code § 25-6.1 to advertise the sale of the property and conduct a public auction.

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

Gina M. Leichthy, Mayor

Mary Nichols, Member

Michael A. Landis, Member

Barb Swartley, Member

Orv Myers, Member



CITY OF GOSHEN LEGAL DEPARTMENT

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

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

September 11, 2023

To: Board of Public Works and Safety
From: Shannon Marks
Subject: Consignment Agreement with Bright Star Realty and Auctions, LLC

Board of Public Works and Safety Resolution 2023-29 authorized the disposal of surplus property by engaging an auctioneer to advertise the sale of the property and conduct a public auction. Central Garage would like to consign the City's surplus property with Bright Star Realty and Auctions, LLC to be sold at Bright Star's upcoming consignment auction to be held on October 27, 2023 at 11751 County Road 12, Middlebury.

Attached for the Board's approval and authorization for Mayor Leichty to execute is a Consignment Agreement and Addendum with Bright Star Realty and Auctions, LLC to sell the City's surplus property at Bright Star's October 27, 2023 consignment auction. Bright Star's commission to sell the surplus property is \$25 per lot plus 5% of the gross proceeds from the sale of the surplus property.

Suggested Motion:

Move to approve and authorize the Mayor to execute the Consignment Agreement and Addendum with Bright Star Realty and Auctions, LLC to sell the City's surplus property at Bright Star's consignment auction.

Seller #



CONSIGNMENT AGREEMENT

1. SELLER'S INFORMATION

Date

Seller's Full Legal Name and Title (if applicable)

Business Name (if applicable)

Street/Mailing Address

Telephone Number: Contact Name:

Email Addresses:

Bright Star's Commission Rate: Date of the Consignment Auction:

SELLER REQUESTS BRIGHT STAR REALTY AND AUCTIONS, LLC ("BRIGHT STAR") TO SELL THE GOODS SELLER HAS CONSIGNED FOR SALE ("PROPERTY") AT THE CONSIGNMENT AUCTION. THE PROPERTY IS LISTED BELOW (USE ADDITIONAL PAGES IF NECESSARY). SELLER REPRESENTS THE FOLLOWING: (A) SELLER IS THE SOLE OWNER OF THE PROPERTY AND HAS GOOD AND MARKETABLE TITLE TO THE PROPERTY; (B) THERE ARE NO LIENS OR ENCUMBRANCES ON THE PROPERTY, UNLESS SPECIFICALLY REFERENCED IN THIS AGREEMENT; AND (C) THAT SELLER HAS THE RIGHT, WITHOUT LIMITATION, TO SELL THE PROPERTY. I HAVE READ AND UNDERSTAND ALL OF THE CONSIGNMENT TERMS ON ATTACHMENT 1. I HEREBY AGREE TO BE BOUND BY CONSIGNMENT TERMS. SELLER AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND BRIGHT STAR AGAINST ANY CLAIMS ARISING BECAUSE OF ANY BREACH OF THE ABOVE REPRESENTATIONS. I HAVE ENGAGED BRIGHT STAR REALTY & AUCTIONS LLC TO ASSIST ME IN ARRANGING FOR THE SETTLEMENT OF MY SECURED DEBT (IF ANY) ON THE CONSIGNED ITEMS. I AUTHORIZE MY CREDITOR TO RELEASE ANY AND ALL INFORMATION CONCERNING THIS DEBT AND OBLIGATIONS LISTED HEREIN. THESE ITEMS ARE BEING SOLD AT ABSOLUTE AUCTION AND SELLER AGREES NOT TO BID ON SELLER'S OWN ITEMS. Seller Initials

(Only if titled vehicles included) Limited Power of Attorney. Seller nominates and appoints Auctioneer as a limited power of attorney to act on behalf of the Seller. The Seller authorizes Auctioneer as the attorney-in-fact for the limited purpose of signing documents to transfer the title of the Personal Property after the Auction. Seller Initials: Seller will sign documents to transfer the title of the Personal Property after the Auction.

Signature of Seller

Bright Star Realty and Auctions, LLC Contact Number:

2. PROPERTY TO BE SOLD ON CONSIGNMENT

Table with 3 columns: Make/Model, Description, Notes

Any and all liens on the Property, if any, must be noted here:

Table with 4 columns: Item, Lien Holder, Address, Unpaid Balance

Attachment 1
CONSIGNMENT TERMS

1. Absolute Auction. The Property will be sold at an Absolute Auction. "Absolute Auction" means an auction to which all of the following apply: (a) the property is sold to the highest bidder without reserve and without any limitations; (b) there is no minimum bid requirement; (c) Seller or Seller's agent may not bid at the Consignment Auction on the Property; and (d) Seller cannot withdraw the property from Consignment Auction after the auction is opened and there is public calling for bids. Seller shall not sell or withdraw any Property, except by mutual agreement between Seller and Bright Star.

2. Auctioneer's Authority and Exclusivity. Seller retains Bright Star to sell the Property at the Consignment Auction. Seller gives Bright Star the sole and exclusive right to offer for sale, and to sell the Property for the Seller according to this Agreement. The exclusive right to sell the Property shall continue for three (3) months and will terminate on three months after the date shown on the first page. Bright Star shall be paid the commission as provided herein if the lots are sold at public auction or by private sale during the term of this Agreement.

3. Property, Inspection, Estimate. Seller agrees to consign to Bright Star the Property listed on the first page, attached hereto and incorporated herein, and/or on additional pages or photographs that are attached to and made an integral part of this Agreement. Bright Star will inspect the Property when it is received at its place of business or other designated area. The condition of the Property will be determined by inspection. The inspection is solely for the benefit of Bright Star and is not to determine whether the Property is safe, able to be used, or whether it functions. Bright Star assumes no risk related to any defects or problems with the Property. To the extent there are any defects or other issues with the Property, Seller shall be solely responsible for them and shall indemnify, defend, and hold harmless Bright Star from any liabilities, claims, or damages (including reasonable attorney fees) arising from any defects, safety issues, or other problems with the Property. Bright Star will give a pre-sale estimate to the Seller. The pre-sale estimate is a range in which Bright Star expects the Property to sell. This is not an appraisal or reserve. It is simply an estimate based on Bright Star's experience. The market and bidding is beyond the control of Bright Star, so it does not guarantee that the Property will sell within the range given at in the pre-sale estimate.

4. Agency Relationship. Seller agrees that Bright Star is an agent of the Seller and is not taking title or ownership of the Property. Seller shall insure the Property for its full value and bears the risk of loss for the Property until the Property is sold. Bright Star is not engaging in a joint business venture, employment relationship, or partnership with the Seller. Bright Star is acting as an independent contractor free of control from the Seller. Bright Star is authorized to sign any memorandum of sale on behalf of the Seller, or in Bright Star's own name, in connection with the sale of Seller's Property.

5. Conduct of the Auction. The Property may be sold in one or more Consignment Auction during the term of this Agreement. The Seller authorizes Bright Star to conduct the Consignment Auction ~~anywhere in the United States of America, at the Auctioneer's sole discretion.~~ at 11751 CR 12, Middlebury, Indiana. Bright Star at its sole discretion, may sell any or all Property online or via the internet, including, but not limited to, using eBay or another internet auction websites.

6. Acknowledgment of Risk. Seller acknowledges and understands the risk of having property sold at an Absolute Auction. Each piece of the Property will be sold to the highest bidder at the Auction. Seller is committed to the sale, no matter what the level of bidding, or the Seller's notion of a lot's "true" value. The Seller has a bona fide intention to transfer ownership of each lot to the highest bidder.

7. Terms of Sale. Bright Star shall establish all terms of the Auction and procedures for bidding within its sole discretion. Bright Star is authorized to solicit and accept absentee, phone, and Internet bids, along with bids from a live gallery. All absentee bids will be represented by Bright Star's representative and will be handled in a competitive manner.

8. Commission, Broker Fees, and Buyer's Premium. Seller agrees that Bright Star may deduct its professional fees, at the rates set forth in this Agreement, as compensation for Bright Star's services to be provided under this Agreement. This fee shall be deducted from the gross proceeds realized from the sale of the Consigned Items. Gross proceeds are defined as the "hammer price" of lots sold and exclude any Buyer's Premium or Sales Tax. Seller agrees that Bright Star is not obligated to pay any fee or commission to any broker, finder, or other intermediary in connection with the sale of the Property. Seller authorizes Bright Star to charge a buyer's premium. The buyer's premium is to be paid to the Auctioneer for the Auctioneer's sole benefit.

9. Advertising Costs. Bright Star is authorized to place Consignment Auction advertisements in such media as Bright Star selects, and provide necessary support, promotional assistance, supplies and materials as Bright Star deems necessary to obtain the highest available bid for the Property. Bright Star shall be responsible for all costs and expenses incurred in advertising the Consignment Auction.

10. Accepting and Collecting Payments. Bright Star is authorized to accept payments for the Property sold in cash, check, credit card, wire transfer, or any other commercially reasonable means. All auction proceeds shall be paid directly to Bright Star and Bright Star shall be responsible for the receipt of all funds. Bright Star agrees to pay Seller the net proceeds (gross proceeds less Bright Star's professional fee) from the sale of the Lots within thirty (30) days following the receipt of monies for the Property. Bright Star shall provide to seller a settlement statement. The contract for the sale of each lot is between the successful bidder and the Seller. Bright Star shall not be responsible for collection of the purchase price in the event the buyer breaches the contract, refuses to pay, or the buyer's payment is subsequently dishonored for any reason. In these instances, Bright Star shall have the option of letting the seller keep his equipment or paying the seller the net proceeds and taking ownership of the equipment. The seller's preferences will certainly be taken into consideration by Bright Star but Bright Star's decision is final. Seller agrees that Bright Star's professional fee shall be paid first from the gross proceeds realized from the sale of Property.

11. Interest Earned. Any and all monies received from the Consignment Auction shall be deposited in the Bright Star's trust account. Any interest earned on the proceeds held in the trust account, if any, shall be paid to the Seller.

12. Indemnification. Seller agrees to indemnify, defend, and hold harmless Bright Star and its agents and employees from any and all liabilities, claims, or damages (including reasonable attorney fees) arising out of the breach of this Agreement.

13. Unsold Property. Bright Star will notify Seller of any unsold Property. Seller must make arrangements to pick up and recover the unsold Property within thirty (30) days of the notice. If Seller does not make reasonable arrangement, Bright Star may charge fees for storage of the unsold Property and deem worthless property abandoned.

14. Miscellaneous. ~~This Agreement constitutes the entire agreement between Seller and Bright Star.~~ and attached Addendum This Agreement supersedes any prior or contemporaneous understanding or agreement with respect to the transactions contemplated by this agreement. It may be amended only by another written agreement signed by Seller and Auctioneer. This Agreement will be governed and construed in accordance with the laws of the State of Indiana, without regard to the choice of law provisions. All claims, disputes, or litigation relating to the Agreement must be brought in the state or federal courts sitting in and for Elkhart, Indiana. In the event any provision in this Agreement shall be held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

ADDENDUM

THIS ADDENDUM is made and entered into the ____ day of _____, 2023, by and between Bright Star Realty and Auctions, LLC (hereinafter referred to as “Contractor”), and the City of Goshen, Indiana (hereinafter referred to as “City”).

WITNESSETH:

WHEREAS Contractor and City are parties to a certain agreement for Contractor to sell certain City property at a Consignment Auction (“Agreement”); and

WHEREAS this Addendum shall be attached to and be a part of the Agreement and shall control in the event of any conflict with the terms and provisions of the Agreement.

NOW, THEREFORE, in consideration of the premises and the terms and conditions contained herein, the parties hereby mutually and further agree as follows:

State Law Provisions.

1) Non-Discrimination - Pursuant to Indiana Code § 22-9-1-10, Contractor and its subcontractors, if any, shall not to discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of his race, religion, color, sex, disability, national origin, ancestry or veteran status. Breach of this covenant may be regarded as a material breach of the Agreement.

2) 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.

3) E-Verify Program - Pursuant to Indiana Code § 22-5-1.7-11, Contractor agrees to and shall enroll in and verify the work eligibility status of all newly hired employees of Contractor after the date of the Agreement through the E-Verify Program as defined in Indiana Code § 22-5-1.7-3; provided, however, Contractor is not required to verify the work eligibility status of all newly hired employees after the date of the Agreement through the E-Verify Program if the E-Verify Program no longer exists. Contractor further represents and certifies subject to the pains and penalties of perjury that Contractor does not knowingly employ an unauthorized alien.

4) General Requirements - Contractor further agrees to comply with the applicable requirements of Indiana state law with respect to contracting with local governmental entities.

This Addendum is dated effective with the effective date of the Agreement.

CITY: CITY OF GOSHEN, INDIANA

By: _____

Name: Gina M. Leichty

Title: Mayor

Date: September _____, 2023

CONTRACTOR: BRIGHT STAR REALTY AND AUCTIONS, LLC

By: _____

Name: _____

Title: _____

Date: _____

City of Goshen, Indiana
List Personal Property to be Sold at Consignment Auction
September 2023

- 1. 2013 Chevy Impala**
VIN/Serial Number: 2G1WD5E35D1250948
Mileage: 116794
Engine: 3.6L
Fuel: gas
Drive Train: FWD
Transmission: auto
Tire Tread: 75%
Notes: normal wear/tear

- 2. 2013 Tahoe 2WD**
VIN/Serial Number: 1GNLC2E03DR305509
Mileage: 139525
Engine: 5.3L
Fuel: gas
Drive Train: RWD
Transmission: auto
Tire Tread: 50%
Notes: normal wear/tear

- 3. 2009 Impala (K-9)**
VIN/Serial Number: 2G1WS57M391303200
Mileage: 163000
Engine: 3.9L
Fuel: gas
Drive Train: FWD
Transmission: auto
Tire Tread: 50%
Notes: odometer not correct

- 4. 2007 Audi Q7**
VIN/Serial Number: WA1BY74L27D072331
Mileage: 139176
Engine: 3.7L V6
Fuel: gas
Drive Train: AWD
Transmission: auto
Tire Tread: 75%
Notes: has issues

- 5. 2010 Chevy Impala**
VIN/Serial Number: 2G1WD5EM7A1257212
Mileage: 129710
Engine: 3.9L
Fuel: gas
Drive Train: FWD
Transmission: auto
Tire Tread: 50%
Notes: normal wear/tear

City of Goshen, Indiana
List Personal Property to be Sold at Consignment Auction
September 2023

6. 2010 Chevy Impala

VIN/Serial Number: 2G1WD5EM4A1260228
Mileage: 122089
Engine: 3.9L
Fuel: gas
Drive Train: FWD
Transmission: auto
Tire Tread: 50%
Notes: normal wear/tear

7. 2010 Ford Transit

VIN/Serial Number: NM0KS9BN3AT013029
Mileage: 170049
Engine: 3.8L V6
Fuel: gas
Drive Train: FWD
Transmission: auto
Tire Tread: 75%
Notes: normal wear/tear

8. 2009 Chevy Impala

VIN/Serial Number: 2G1WS57M991303542
Mileage: 116050
Engine: 3.9L
Fuel: gas
Drive Train: FWD
Transmission: auto
Tire Tread: 50%
Notes: normal wear/tear

9. 1993 Chevy Van

VIN/Serial Number: 1GCEG25K7PF329504
Mileage: 21949
Engine: 5.7L
Fuel: gas
Drive Train: RWD
Transmission: auto
Tire Tread: 90%
Notes: normal wear/tear

10. 2009 Pontiac Montana Van

VIN/Serial Number: 1GMDU03119D100300
Mileage: 138250
Engine: 3.9L
Fuel: gas
Drive Train: FWD
Transmission: auto
Tire Tread: 50%
Notes: normal wear/tear

City of Goshen, Indiana
List Personal Property to be Sold at Consignment Auction
September 2023

11. 2005 Ford Freestar Van

VIN/Serial Number: 2FMZA58235BA10188
Mileage: 195221
Engine: 4.2L
Fuel: gas
Drive Train: FWD
Transmission: auto
Tire Tread: 30%
Notes: normal wear/tear

12. 2008 Ford F150 2WD

VIN/Serial Number: 1FTRF12228KB30212
Mileage: 183389
Engine: 4.2L V6
Fuel: gas
Drive Train: 2WD
Transmission: auto
Tire Tread: 50%
Notes: normal wear/tear

13. 2005 Ford F250 4x4 with 2005 Boss straight blade

VIN/Serial Number: 1FTNF21595EC97662; 6904
Mileage: 45793
Engine: 5.4L V8
Fuel: gas
Drive Train: 4WD
Transmission: auto
Tire Tread: 40%
Notes: normal wear/tear

14. 2005 Ford F250 4x4 with Boss V Plow

VIN/Serial Number: 1FTNF21575EC97661; 92946
Mileage: 196386
Engine: 5.4L V8
Fuel: gas
Drive Train: 4WD
Transmission: auto
Tire Tread: 50%
Notes: normal wear/tear

15. 1998 Cozy Cove Trailer with 1996 Jet Ski

VIN/Serial Number: 4Y0MP1118W1000274; ZZND7478K596
Mileage: na
Engine: na
Fuel: na
Drive Train: na
Transmission: na
Tire Tread: 1%
Notes: normal wear/tear

City of Goshen, Indiana
List Personal Property to be Sold at Consignment Auction
September 2023

16. Stihl String Trimmer

VIN/Serial Number: 511595971
Mileage: na
Engine: FS111RX
Fuel: gas
Drive Train: na
Transmission: na
Tire Tread: na
Notes: normal wear/tear

17. Stihl String Trimmer

VIN/Serial Number: 509487899
Mileage: na
Engine: FS100RX
Fuel: gas
Drive Train: na
Transmission: na
Tire Tread: na
Notes: normal wear/tear

18. 1995 International Single Axle Dump

VIN/Serial Number: 1HTSDAAR9SH643082
Mileage: 30525
Engine:
Fuel: diesel
Drive Train: RWD
Transmission: auto
Tire Tread: 40%
Notes: normal wear/tear

19. 2008 Ford F550 4WD Dump

VIN/Serial Number: 1FD5F57R98EB43612
Mileage: 64326
Engine: 6.4L
Fuel: diesel
Drive Train: 4WD
Transmission: auto
Tire Tread: 40%
Notes: normal wear/tear

20. Truck Bed from 2011 F350

VIN/Serial Number: unknown
Mileage: na
Engine: na
Fuel: na
Drive Train: na
Transmission: na
Tire Tread: na
Notes: na

City of Goshen, Indiana
List Personal Property to be Sold at Consignment Auction
September 2023

21. 2017 Stepp Crack Sealer

VIN/Serial Number: 4S9BF3001HS127063
Mileage: na
Engine: na
Fuel: na
Drive Train: na
Transmission: na
Tire Tread: 40%
Notes: normal wear/tear

22. 1998 Ford Single Axle Dump with 1998 Slide-in Salt Spreader

VIN/Serial Number: 1FDYS80E8WVA33522; unknown
Mileage: 7566
Engine: diesel
Fuel: diesel
Drive Train: RWD
Transmission: auto
Tire Tread: 50%
Notes: normal wear/tear

23. 2010 Huskee LT4200 Mower

VIN/Serial Number: 1D270B50126
Mileage: na
Engine: na
Fuel: na
Drive Train: na
Transmission: na
Tire Tread: na
Notes:

24. Massey Ferguson Mower

VIN/Serial Number: 1034
Mileage: na
Engine: 20hp
Fuel: gas
Drive Train: na
Transmission: auto
Tire Tread: 25%
Notes: normal wear/tear

25. 1987 Ford F350 Dump Bed

VIN/Serial Number: 1FDJF37L9HNA99464
Mileage: 19405
Engine: 7.5L V8
Fuel: gas
Drive Train: RWD
Transmission: 4spd manual
Tire Tread: 10%
Notes: normal wear/tear

City of Goshen, Indiana
List Personal Property to be Sold at Consignment Auction
September 2023

26. 1995 K2500 4WD with 1993 Western Plow 7'6"

VIN/Serial Number: 1GCFK24H7SZ198719; 60381/3700071
Mileage: 85555
Engine: 5.0L V8
Fuel: gas
Drive Train: 4WD
Transmission: auto
Tire Tread: 30%
Notes: normal wear/tear

27. 2004 Buick Lesabre

VIN/Serial Number: 1G4HP52K94U108816
Mileage: 110228
Engine: V6
Fuel: gas
Drive Train: FWD
Transmission: auto
Tire Tread: 75%
Notes: normal wear/tear

28. 2002 Chevrolet Venture Van

VIN/Serial Number: 1GNDX03EX2D311314
Mileage: 77891
Engine: 3.4L
Fuel: gas
Drive Train: FWD
Transmission: auto
Tire Tread: 50%
Notes: normal wear/tear

29. Miller Walk Behind Saw

VIN/Serial Number: unknown
Mileage: na
Engine: na
Fuel: na
Drive Train: na
Transmission: na
Tire Tread: na
Notes: normal wear/tear

30. 2006 Sullair Air Compressor

VIN/Serial Number: 200608220109
Mileage: na
Engine: na
Fuel: na
Drive Train: na
Transmission: na
Tire Tread: na
Notes: normal wear/tear

City of Goshen, Indiana
List Personal Property to be Sold at Consignment Auction
September 2023

31. Ex-Cell 5000w Generator

VIN/Serial Number: 9912120159
Mileage: na
Engine: na
Fuel: gas
Drive Train: na
Transmission: na
Tire Tread: na
Notes: normal wear/tear

32. 10 HP Generator

VIN/Serial Number: 190722Y0
Mileage: na
Engine: na
Fuel: gas
Drive Train: na
Transmission: na
Tire Tread: na
Notes: normal wear/tear

*****REQUEST*****

DATE: Monday, September 11, 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 **\$9,787.64**
Collection letters were sent out and payments of **\$2,178.85** had been collected.

The uncollected amount equals **\$7,608.79**

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 **Wednesday, May 31, 2023**

WATER: \$4,073.04

SEWER: \$3,535.75

TOTALS

REPORT TOTAL		\$9,787.64
BPS TOTAL	\$3,999.90	\$5,787.74
COUNTY TOTAL	\$3,420.19	\$2,367.55
W-WRITE OFF	\$73.14	\$2,294.41
S-WRITE OFF	\$115.56	\$2,178.85
PAYMENT TOTAL	\$2,178.85	\$0.00
AGREEMENT TOTAL		



Kent Holdren, Superintendent
WATER UTILITY, CITY OF GOSHEN
308 North Fifth Street • Goshen, IN 46528-2802

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

September 11, 2023

To the Board of Public Works and Safety and Stormwater Board:

Due to unforeseen large number of claims to the Sewer Maintenance Fund, The Goshen Water and Sewer Department is requesting permission to adjust the 2023 allotted amount of \$0.70 cents for Sewer Maintenance Fund and \$0.40 cents to the Water Maintenance Fund, to a total of \$1.10 one dollar and ten cents to the Sewer Maintenance Fund for the remaining 2023 calendar year.

Sewer:

Collected \$45,345.76
Claims Paid \$66,293.47
Beginning Balance \$ 19,262.29
Current Balance: **\$-16,897.95**

Water:

Collected: \$26,037.85
Claims Paid: \$37,822.10
Beginning Balance: \$38,644.52
Current Balance: \$26,859.87

Regards,

Kent Holdren
Superintendent
Goshen Water and Sewer Collections



**Engineering Department
CITY OF GOSHEN**

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

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

MEMORANDUM

TO: Board of Public Works and Safety

FROM: Engineering Department

RE: **WEST WILDEN AVENUE ROAD RECONSTRUCTION – PROJECT UPDATE AND EXTENDED CLOSURE (JN: 2014-0035)**

DATE: September 11, 2023

Rieth-Riley has provided an updated schedule for the Wilden Avenue Road Reconstruction project. It is anticipated that new utility installation will be complete by the end of September, but Wilden Avenue is expected to remain closed at 1st Street to Main Street until Friday, November 10, 2023. Unexpected underground conflicts and issues requiring project work outside the original scope have both contributed to delays.

Through traffic should still follow the detour via Indiana Avenue/CR 21 to CR 26 to Main Street / State Road 15.



**Engineering Department
CITY OF GOSHEN**

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

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

MEMORANDUM

TO: Goshen Board of Public Works & Safety

FROM: Goshen Engineering

RE: **COLLEGE AVENUE LANE RESTRICTION
(JN: 2023-2001)**

DATE: September 11, 2023

With the Goshen College Westlawn remodel project, C&E Excavating has requested a lane restriction on College Avenue between Main Street and S 9th Street for two days during the week of September 11, 2023. The traffic control plan is attached. When the engineering department has more information regarding exact dates, the information will be posted via social media.

Requested Motion: Move to approve the lane restriction on College Avenue for two days the week of September 11, 2023.

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

Gina Leichty, Mayor

Barb Swartley, Member

Mary Nichols, Member

Michael Landis, Member

College Avenue Lane Restriction

1 - 2 Days
During the week of Monday, 9/11/23

Legend



WORK AREA

Temp Equip Parking





**Engineering Department
CITY OF GOSHEN**

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

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

MEMORANDUM

TO: Goshen Board of Public Works & Safety

FROM: Goshen Engineering

RE: **COLLEGE AVENUE PHASE I – AMERICAN STRUCTUREPOINT,
AGREEMENT NO. 1 FOR EVALUATION ENVIRONMENTAL PHASE II
(JN: 2019-0022)**

DATE: September 11, 2023

Agreement Amendment No. 1 is requested with American StructurePoint for the College Avenue Phase I project. Per INDOT's project review, they are requiring an environmental evaluation of Lippert's property at 2703 College Avenue. The environmental evaluation will screen for potential environmental hazards that could impact the project during construction. StructurePoint will perform a Phase II environmental evaluation to address INDOT's comments for an additional fee of \$29,526.32.

Requested Motion: Move to authorize Mayor Leichty to sign the agreement amendment with American StructurePoint for an environmental evaluation of the property at 2703 College Avenue for an additional fee of \$29,526.32.

Amendment No. 1

This Amendment, made and entered into this ___ day of _____, 2023, by and between City of Goshen Board of Public Works and Safety, acting by and through its proper officials (hereinafter referred to as LPA) and American Structurepoint, Inc., (hereinafter referred to as CONSULTANT), a corporation organized under the laws of the State of Indiana.

WHEREAS, on March 25, 2020 LPA entered into a contract with the CONSULTANT for College Avenue Reconstruction Project, DES No. 1900739,

WHEREAS, the LPA has concurred with CONSULTANT's determination of Limited Phase II Environmental Site Assessment (ESA) services and has requested the additional services be performed by the CONSULTANT.

NOW THEREFORE, it has been determined by LPA and the CONSULTANT that the contract shall be amended as follows:

Appendix A, Paragraph D shall be revised to include **D.1** as follows:

D. Environmental Services

1. The CONSULTANT shall conduct a Red Flag Investigation (RFI) of the project corridor. The RFI will include a preliminary analysis of publicly available infrastructure, environmental, hydrological and cultural resources data within the project corridor. In addition, the IDEM Virtual File Cabinet will be reviewed to assess the potential for sites requiring additional investigation due to potential soil and/or groundwater contamination. A narrative summary and maps depicting findings of the RFI will be produced. The RFI will be prepared in general accordance with the INDOT Site Assessment & Management (SAM) Operating Manual. If after completion of the Red Flag survey and preliminary site investigation it is determined the project will require a Phase I Initial Site Assessment (ISA), Phase II Site Investigation, or development of a remediation work plan the services required to complete these additional investigations will be considered out of scope and additional or supplemental services will required.
2. The CONSULTANT shall carry out environmental analyses and develop the appropriate level of National Environmental Policy Act (NEPA) documentation for the project in accordance with INDOT environmental procedures as determined by the anticipated project impacts. A Level 2 Categorical Exclusion is anticipated for this project. The environmental services required to develop this project shall be in accordance with the *Procedural Manual for Preparing Environmental Documents* (2008) and the most recent *INDOT Categorical Exclusion Manual* and revisions thereto. Copies of these documents are on file with INDOT and are incorporated by reference and made a part hereof.
3. The CONSULTANT shall provide specialized studies required to complete the environmental document including evaluation of potential historic or cultural resources. This shall include a Historic Properties Report, Archaeological Records Check, and an Archaeological Field Reconnaissance as required. The CONSULTANT shall prepare appropriate Section 106 documentation in accordance with the INDOT Cultural Resources Manual. It is anticipated the project will result in a finding of "No Historic Properties." If consultation with INDOT and the State Historic Preservation Officer result in the identification of a resource eligible for listing on the National Register of Historic Places which could result in a finding of "No Adverse Effect "or

“Adverse Effect,” additional services will be required to complete the Section 106 process. These additional services will be considered out of scope, and additional or supplemental services will be required to complete the required consulting parties coordination and/or the preparation of a Memorandum of Agreement.

4. The CONSULTANT shall prepare necessary documentation to advertise and conduct a Public Hearing and one (1) Public Information Meeting for the project. Public notices and presentation graphics will be prepared for the Public Hearing and Public Information Meeting in accordance with the most recent version of the INDOT Public Involvement Procedures Manual and revisions thereto. A hearing transcript and responses to public comment will be prepared to facilitate the Public Hearing Certification. If the LPA requests additional public involvement meetings be held, additional or supplemental services will be required to facilitate these meetings.
5. It is not anticipated that Section 4(f) or Section 6(f) documentation will be required as part of this project. If during development of the preferred alternative it is determined a Section 4(f) or Section 6(f) resource will be impacted and a Section 4(f) or Section 6(f) evaluation is necessary, additional or supplemental services will be required to develop and evaluate potential avoidance alternatives, determine whether any alternatives are feasible and prudent, and analyze impacts from identified avoidance alternatives, as required for individual evaluations.
6. An analysis of Noise Impacts is not anticipated, as the scope of the proposed project is consistent with a Type 3 project, as defined in the most recent version of the INDOT Traffic Noise Analysis Procedures and revisions thereto. If during consultation with INDOT it is determined an analysis of noise impacts is required, services required for determining existing noise levels, identification of noise receivers, predictions of future noise levels, evaluation of impacts, and an analysis of noise abatement will be considered out of scope and additional or supplemental fees will be required.
7. If the CONSULTANT is required to provide an environmental service not listed above, the work to provide such additional service shall be considered a change in the scope of work. The environmental services required to develop this project shall be in accordance with the *Procedure Manual for Preparing Environmental Documents* dated 2008 and the most recent version of the *Categorical Exclusion Manual* and any revisions thereto. Copies of these documents are on file with the INDOT and are incorporated by reference and made a part hereof.
8. The CONSULTANT shall prepare a Wetland Delineation Report, including Qualitative Habitat Evaluation Index for streams to determine the presence of wetlands and other aquatic resources that are regulated by the US Army Corps of Engineers (USACE) and/or Indiana Department of Environmental Management (IDEM). The Wetland Delineation Report will include the location of wetlands or waterways and coordination with the design engineers regarding avoidance alternatives for the proposed project. The Wetland Delineation will be prepared in accordance with the USACE Wetland Delineation Manual (1987) and guidance provided by the USACE since 1991, including the appropriate Regional Supplement to the Corps of Engineers Wetland Delineation Manual.
9. The CONSULTANT shall prepare and submit the appropriate permit applications for the project including Section 401 Regional General Permit (RGP) to the Indiana Department of Environmental Management (IDEM) and Section 404 RGP to the United States Army Corps of Engineers (USACE). If during coordination with the USACE or IDEM it is determined that an individual permit and/or mitigation is required for impacts to water resources, the work to

identify potential sites and to prepare mitigation plans or other related services shall be considered a change in the scope or work, and additional or supplemental services will be required.

D.1 Limited Phase II Environmental Site Assessment (ESA)

- 1. Basic Services:** The tasks as outlined below constitute the scope for the assessment of potentially contaminated soils and groundwater (i.e. Limited Phase II Environmental Site Assessment (ESA)) for the proposed roadway reconstruction project along College Avenue located in Goshen, Elkhart County, Indiana. It is anticipated that the roadway reconstruction will include full depth reconstruction of the roadway with improvements that include the addition of a two-way left turn lane (TWTL), a new 10-foot-wide multi-use path and new storm sewer/curb and gutter system. The Red Flag Investigation (Des # 1900739) identified a Leaking Underground Storage Tank (LUST)/Voluntary Remediation Program (VRP) located at 2703 College Avenue, approximately 1,200 feet east of the intersection of College Avenue and Spring Brooke Drive. Available information indicates the site has currently and historically been occupied by Lippert Components Incorporated, an automotive parts manufacturer. Records indicate the property previously contained multiple underground storage tanks (USTs) containing gasoline and used oil in addition to buried debris, a lacquer thinner storage tank, and a hazardous waste storage area.

The Indiana Department of Environmental Management (IDEM) Office of Land Quality granted the facility a No Further Action (NFA) determination in relation to the LUST incident on July 2, 1999. Additionally, the IDEM VRP Program issued a Certificate of Completion for the property on January 21, 2020. Excavation is anticipated to reach depths as great as 10-feet for the entire project area (approximately 7-feet within the area of investigation for this Phase II ESA). Project activities occurring within the vicinity of the site include full depth reconstruction of the roadway, new curb and gutter system, and new storm sewer system. Because depth of excavation is expected to be as great as ten (10) feet below ground surface (bgs) and due to the potential to encounter contaminated soils and/or groundwater, a Limited Phase II Environmental Site Assessment is warranted to investigate the nature and extent of potential contaminated soil and/or groundwater within the project area.

- 2. Task 1 – Health and Safety Plan:** A Health and Safety Plan (HASP) will be prepared prior to mobilization to the site.
- 3. Task 2 – Utility Locates:** Prior to initiating any work in the project area, the Indiana Underground Plant Protection Service (IUPPS) will be contacted to locate public utility lines in the vicinity of the site. Utility locates will be requested from IUPPS a minimum of 48 hours prior to commencement of field investigations. Work being completed in this area is within the publicly owned right-of-way; however, IUPPS will not identify private utilities that service the site, buried storage tanks, or other subsurface appurtenances that may be present. Therefore, Blood Hound Underground Utility Locators will be contacted to identify the private utilities that service the project area or adjacent properties and other structures that might be located beneath the surface. Blood Hound will search for and mark utilities by use of ground penetrating radar or other non- invasive technologies in the areas of the proposed boring locations.

4. Task 3 – Sampling and Analysis Plan

- a. **Drilling Procedures:** CONSULTANT is proposing to advance ten (10) soil borings (B-1 through B-10) in the project area for the Limited Phase II ESA (see Figure 1). Proposed excavation depths of up to 10 feet are expected for storm sewer construction. A boring depth of 10 feet below ground surface (bgs) is being used to evaluate the subsurface conditions within the project area that might be encountered. A judgmental sampling approach is being employed that will target specific areas in the project area, based on findings of the RFI. The soil borings are anticipated to be advanced to a maximum depth of 10 feet, depending on geologic conditions. However, if auger refusal is met in the boring prior to reaching the desired depth, the boring will be offset a minimum of 5 feet and attempted again. Should auger refusal be met in both attempts prior to reaching the desired depth, the boring will be terminated at this depth and deemed complete.

The drilling procedure will include the advancement of soil borings via GeoProbe® direct push drill rig equipped with an acetate-lined, stainless steel core barrel soil sampler, or via hollow stem auger with stainless steel split spoon samplers. Soil samples will be extracted from the borehole in 2 or 4-foot intervals. This method will be repeated to the desired boring depth.

Upon the conclusion of sampling, all soil borings will be abandoned by an Indiana licensed well driller by removing the temporary well material to at least 2 feet bgs, filled with an inert substance (bentonite) to 6 inches bgs and capped with soil, asphalt, or concrete to match the surrounding ground surface.

All soil cuttings generated during drilling activities will be containerized in a 55-gallon drum, properly labeled and left on site until laboratory analysis for the collected samples is complete. Upon laboratory analysis, all soil cuttings will be properly transported and disposed, as required, based on laboratory analysis.

- b. **Decontamination Procedures:** All soil and water sampling equipment will be thoroughly cleaned prior to the drilling activity. The sampling equipment will also be cleaned between sample intervals using a solution of non-phosphate detergent and rinsed with potable water. All equipment shall also be cleaned, as necessary, between each boring.
- c. **Soil Sampling Procedures:** CONSULTANT will provide a Field Geologist to visually inspect and log each soil interval. Physical evidence of soil contamination will be noted, including soil staining, odor, or presence of free product. Soil will be collected from representative 1-foot intervals and immediately placed into a sealed plastic bag and placed on ice for potential sample collection. A portion of each soil interval will be visually inspected, logged and placed in a separate sealed plastic bag and set aside for approximately 10- 15 minutes to allow for equilibration of vapors within the bag headspace. Each sample will then be monitored for total photo-ionizable vapors (TPV) using a photo-ionization detector (PID) that will record the concentration of TPV (in parts per million) within the headspace of the sealed bag. Additionally, Level D Personal Protection Equipment (PPE) is recommended for work occurring on-site.

One soil sample from the boring displaying the highest probability of contamination, based on field observations and PID readings, will be submitted for analysis. If no

evidence of contamination is observed from the field indicators, CONSULTANT will submit a soil sample from the midpoint of the boring (4-5 feet) interval for laboratory analysis.

All soil cuttings generated during drilling activities will be containerized in a 55-gallon drum, properly labeled and left on-site until laboratory analysis for the collected samples is complete. Upon laboratory analysis, all soil cuttings will be properly transported and disposed, as required, based on results of the laboratory analysis.

- d. **Groundwater Sampling Procedures:** CONSULTANT is proposing to collect one groundwater sample from each boring, if groundwater is encountered within the 10-foot boring depth. Once the soil boring is advanced to the desired depth, a new, temporary 1-inch diameter PVC well screen and casing will be inserted into the borehole and groundwater will be extracted with a check valve (or foot valve) sampler and low-density polyethylene tubing. If available, at least one liter of groundwater shall be purged from the borehole, or until groundwater is notably cleared of suspended sediment. Groundwater will be transferred from the tubing directly to the laboratory provided sample containers. Groundwater samples will be immediately placed on ice and logged on a chain of custody form.
- e. **Laboratory Analysis:** One soil sample and one groundwater sample (if encountered) from each boring will be submitted to an accredited laboratory for analysis of the parameters listed below.
 1. Volatile Organic Compounds (VOCs) via EPA SW846 Method 8260B
 2. PAHs via EPA SW 846 Method 8270
 3. RCRA 8 Metals via EPA SW846 6010B/7471A/7470
 4. Hexavalent Chromium via EPA SW846 Method 7196A (*for soil samples with Total Chromium results that exceed IDEM Remediation Closure Guide (RCG) migration to groundwater screening levels for hexavalent chromium*)
 5. Semi-Volatile Organic Compounds+5IM (SVOCs) via EPA SW846 Method 8270
 6. Volatile Organic Compounds (VOCs) via EPA SW846 Method 8270
 7. Poly-Chlorinated Biphenyls (PCBs) via EPA SW846 Method 8082
 8. Percent Moisture via EPA SW846 Method 1664
 9. Toxicity Characteristic Leaching Potential (TCLP) RCRA 8 Metals via EPA Method 6010B (*required if total lead analysis > 100 ppm (20x RCRA)*)

Analysis for RCRA 8 Metals in groundwater will include both filtered and unfiltered metals. Filtration of the samples will occur at the laboratory. Soil and groundwater sample analysis will utilize analytical methods, detection limits, and QA/QC reporting protocol consistent with the Indiana Department of Environmental Management (IDEM) 2022 Remediation Closure Guide or other appropriate IDEM guidance which will include the submission of Trip Blanks for VOC analysis. Additional quality control samples are not anticipated.

5. Task 4 – Prepare Investigation Report

A technical report describing and documenting the activities performed during the investigation, a summary of field activities, and the laboratory analysis results will be provided. Any opinions and conclusions regarding the presence and extent of contaminants in the soil within the project boundary will be included in the report. The report will be prepared in accordance with the INDOT Site Assessment & Management (SAM) Manual.

In the event that contamination is found, CONSULTANT will utilize INDOT 2024 Standard Specifications and/or prepare draft special provisions (to be included as an appendix item) intended to be used for the project letting documents that provides specifications for the excavation, storage, removal, and transport of contaminated materials, and the appropriate backfill measures for excavation limits. The limits of excavation will be provided on aerial maps and/or project roadway plans. The limits of excavation will not extend beyond the anticipated construction limits for the project. Consultation with IDEM and/or US EPA is not included in our scope of services for this Phase II ESA.

CONSULTANT will not be responsible for reporting site conditions to the regulatory agencies. CONSULTANT is available for this correspondence, but this will constitute an Additional Service. If during consultation with the client, it is determined that the proposed project will require additional soil/groundwater characterization or remediation, the services required to complete a Further Site Investigation (FSI), or a Remediation Work Plan (RWP) related to the handling or disposal of contaminated materials, this will constitute an Additional Service. As indicated above, draft special provisions for the handling of contaminated materials will be included as supporting documentation.

CONSULTANT shall have no responsibility for oversight or supervision of the contractors or their employees, for the means and methods of construction, or for the safety of persons on or off the job site. We shall have no responsibility to remove hazardous materials. If contaminant conditions are encountered in the soil and/or groundwater samples during the Phase II ESA, we recommend the responsible party report the suspected release to the IDEM. We will not be responsible for reporting to any regulatory agencies.

CONSULTANT will provide the LPA with a draft investigation report for review and incorporate comments received into a final investigation report.

6. Deliverables

Phase II ESA Investigation Report

- a. Summary of the analytical results for soil and groundwater
- b. Recommendations for further investigation, if necessary, including locations for additional soil borings and/or monitoring well installation
- c. Maps and exhibits of the project area depicting sampling locations and other pertinent data
- d. Appendices with soil boring logs, laboratory analytical report, draft special provisions for excavation/ handling of contaminated material, and appropriate supporting documentation

Appendix D, Paragraph A.1 and A.2 shall be revised as follows:

APPENDIX "D"

A. Amount of Payment

1. The CONSULTANT shall be compensated for services to be performed under this Contract a total fee not to exceed ~~\$651,210~~ **\$680,810** unless approved in writing by the LPA.
2. The CONSULTANT shall be compensated for the following services on a lump-sum basis. The total obligation under this portion of the Contract shall not exceed ~~\$474,150~~ **\$503,750** unless approved in writing by the LPA.

a. Survey	\$65,750
b. Environmental Services	
1) Red Flag and Initial Site Assessment	\$6,500
2) Section 106 Documentation	\$27,500
3) Categorical Exclusion Document	\$19,700
4) Wetland Delineation	\$10,600
5) Public Hearing	\$16,300
6) Public Information Meeting	\$11,800
7) Limited Phase II ESA	\$29,600
c. Road Design and Plan Development	\$198,000
d. Pavement Design	\$6,500
e. Pedestrian Bridge Design	\$47,050
f. Hydraulic Analysis & DNR Permit	\$13,800
g. Traffic Design Services	\$19,700
h. Meetings	\$8,900
i. Utility Coordination	\$16,900
j. Bidding Phase Services	\$2,650
k. Pre-Construction Meeting	\$2,500

In Witness Whereof, the CONSULTANT and the LPA have, through duly authorized representatives, entered into this Contract. The parties having read and understand the forgoing terms of this Contract do by their respective signatures dated below hereby agree to the terms thereof.

CONSULTANT

American Structurepoint, Inc.

LOCAL PUBLIC AGENCY

DocuSigned by:
Cash E. Canfield

F19A20CCE23A42D...
Cash E. Canfield, Chief Operating Officer

Gina M. Leichty, Mayor
City of Goshen, Indiana



**Engineering Department
CITY OF GOSHEN**

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

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

MEMORANDUM

TO: Board of Public Works and Safety

FROM: Goshen Engineering Department

RE: **CHANGE ORDER NO. 3 FOR 2023 ASPHALT PAVING PROJECT
(JN: 2023-0002)**

DATE: September 11, 2023

After removal of asphalt pavement, Homeacre Drive was found to have subgrade issues. The Engineering Department called a soil technician from Weaver Consultants on site. Weaver Consultants Group recommended placing geo-grid and stone to bridge the poor soils below.

Niblock Excavating is requesting an additional 19 days be added on to the project schedule for the additional work of Geo-grid and 6 rain delay days on Homeacre Drive.

Attached please find Change Order No.3 for the 2023 Paving Project, which provides the cost of the geo-grid and the additional 19 days added to complete the project.

Requested motion: Move to approve Change Order No. 3 for the Geo-grid to bridge the poor soils for an increase of \$21,168 and add 19 additional days to the 2023 Paving Project schedule making the final completion date September 29, 2023.

CHANGE ORDER FORM

Pg 1 of 3

Change Order No. 3

Date: 9/11/23

***CITY OF GOSHEN, INDIANA
OFFICE OF THE CITY ENGINEER
204 E. Jefferson Street, Suite 1
Goshen, IN 46528***

OWNER: City of Goshen
PROJECT NAME: 2023 Asphalt Paving Project
PROJECT NUMBER: 2023-0002
CONTRACTOR: Niblock Excavating, Inc.

1. DESCRIPTION OF WORK INVOLVED (Use additional sheets if needed)

After removal of the asphalt pavement, Homeacre Drive was found to have subgrade issues. The remedy is to place geogrid and stone to bridge the poor soils below. The asphalt pavement was also thickened and raised for strength and help with drainage. This created additional work for Niblock crews. There was also 6 rain days causing additional delays.

Niblock is requesting 19 additional calendar days due to the additional work and rain delays.

CO3.1	Geogrid Treatment	3,528 SY	@	\$6.00	\$21,168.00
-------	-------------------	----------	---	--------	-------------

Subtotal - \$21,168.00

CHANGE ORDER FORM

Pg 2 of 3

Change Order No. 3

II. ADJUSTMENTS IN AMOUNT OF CONTRACT

1. Amount of original contract	\$2,477,613.50
2. Net (Addition/ Reduction) due to all Previous Contract Supplements Numbers 2 to <u>3</u>	\$134,718.00
3. Amount of Contract, not including this supplement	\$2,612,331.50
4. Addition/ Reduction to Contract due to this supplement	\$21,168.00
5. Amount of Contract, including this supplemental	\$2,633,499.50
6. Total (Addition/ Reduction) due to all Change Orders (Line 2 + Line 4)	\$155,886.00
7. Total percent of change in the original contract price Includes Change Order No. 2 to <u>3</u> (Line 6 divided by Line 1)	6.29%

III. CONTRACT SUPPLEMENT CONDITIONS

1. The contract completion date established in the original contract or as modified by previous Contract Supplement(s) is hereby extended/~~reduced~~ by 19 calendar days making the final completion date September 29, 2023
2. Any additional work to be performed under this Contract supplement will be carried out in compliance with the specifications included in the preceding Description of Work Involved, with the supplemental contract drawing designed as _____, and under the provisions of the original contract including compliance with applicable equipment specifications, general specifications and project specifications for the same type of work.
3. This Contract Supplement, unless otherwise provided herein, does not relieve the contractor from strict compliance with the guarantee provisions of the original contract, particularly those pertaining to performance and operation of equipment.
4. The contractor expressly agrees that he will place under coverage of his Performance and Payment Bonds and contractor's insurance, all work covered by this Contract Supplement. The contractor will furnished to the owner evidence of increased coverage of this Performance and Payments bonds for the accrued value of all contract supplements, which exceed the original contract price by twenty (20) percent.

CHANGE ORDER FORM

Pg. 3 of 3

Change Order No. 3

RECOMMENDED FOR ACCEPTANCE

Dustin Sailor, PE

ACCEPTED: BOARD OF PUBLIC WORKS AND SAFETY
CITY OF GOSHEN, INDIANA

Mayor

Member

Member

Member

Member

ACCEPTED: CONTRACTOR

Niblock Excavating, Inc.

BY:

Signature of authorized representative

Printed

Title



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

MEMORANDUM

TO: City of Goshen Stormwater Board

FROM: Stormwater Department

RE: **POST-CONSTRUCTION PLAN APPROVAL**
DOLLAR GENERAL PARKE NORTH (JN: 2022-2020)

DATE: September 11, 2023

The developer of the Dollar General Parke North project, affecting one (1) or more acres of land and located at 811 E Kercher Road, has submitted a sufficient post-construction plan that is compliant with Ordinance 4329, "Uniform Requirements for Post-Construction Stormwater Management."

The Stormwater Department requests the Stormwater Board's acceptance of the plan.

Full document available upon request.

Requested Motion: Accept the post-construction stormwater management plan for Dollar General Parke North as it has been found to meet the requirements of City Ordinance 4329.
