

MINUTES of June 7, 2021 Regular Meeting

Board of Public Works & Safety and Stormwater Board

Held 2:00 p.m. Goshen Police & Court Building, 111 East Jefferson Street, Goshen, Indiana

Present: Chair Jeremy Stutsman, Member Mary Nichols, Member Mike Landis, Member Barb Swartley, Member DeWayne Riouse

Absent: None

Minutes of May 17, 2021 were presented.

Nichols/Landis moved to approve the minutes of May 17, 2021 as presented. Passed 5-0

Mayor Stutsman suggested adding a new Item #1 (Swearing in of New Board Members), Item #2 (Conditional Offer of Employment for the Police Department), and Item #3 (Acceptance of Resignation) to the agenda.

Nichols/Landis moved to approve the agenda as suggested. Passed 5-0

Swearing in of New Board of Public Works & Safety and Stormwater: Barb Swartley and DeWayne Riouse

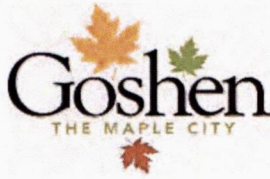
Member Barb Swartley and Member DeWayne Riouse were sworn in by Mayor Jeremy Stutsman.

Conditional Offer of Employment to, and Agreement with: Jonathon G. Fannin

City Attorney Bodie Stegelmann presented the Offer and Agreement. (*Attached as Exhibit A*)

Mayor Stutsman Confirmed that Fannin has already been through the Police Academy so he will receive a hiring bonus.

Nichols/Landis moved to extend a Conditional Offer of Employment to Jonathon G. Fannin as a Probationary Patrol Officer and move to approve and execute the Conditional Offer of Employment Agreement with Jonathon G. Fannin which includes the payment of a hiring bonus. Passed 5-0



Police Department Resignation as Captain by Captain Matthew Shultz to Rank of Patrol Officer

Chief of Police Jose' Miller presented the resignation. (*Attached as Exhibit B*)

Nichols/Landis moved to approve the resignation of Officer Matthew Shultz from Rank of Captain to Rank of Patrol Officer, retroactive to Friday June 4, 2021. Passed 5-0

Encroachment into Right-of-way: Portion of patio at 638 River Race

Property Owner Emily Moore connected via Zoom to present her request. Technical difficulties prevented sound from Zoom to play.

Planning and Zoning Assistant Administrator Rossa Deegan stated his department finds no issues, however no railings or awnings would be allowed.

Director of Public Works Dustin Sailor stated the Engineering Department does not agree with the approval; and the patio could interfere with maintenance on the right-of-way.

Landis asked about some garages in the stretch appeared further into to the right-of-way than the presented patio.

Deegan stated that right-of-ways are inconsistent in size.

Mayor Stutsman/Barb moved to table the request until Emily Moore can be present at a Board Meeting. Passed 5-0

Wastewater Treatment Plant Change Order #3, JN: 2019-0025A

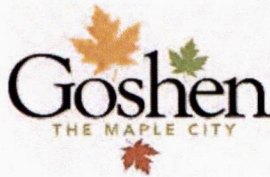
Administrative City Engineer Bryce Gast presented the packet memo.

Landis and Gast discussed the door height change and reduced final contract amount.

Landis asked for clarification on the reimbursement from Donohue and Associates.

Landis and Gast noted causes as design flaw, with ongoing negotiations with Engineering from seeking resolution.

Nichols/Landis moved to approve Change Order #3 in the amount of \$47,084.00 with no change to the project schedule at this time. Passed 5-0



Amended Agreement – PeopleLink Staffing

Paralegal Brandy Henderson presented the packet memo.

Nichols/Landis moved to approve and authorize the Mayor to execute the amended agreement with PeopleLink Staffing Services. Passed 5-0

Grant Agreement: Center for Business Excellence

Henderson presented the packet memo.

Mayor Stutsman stated that this program is selective but continues to be an open process on who can participate in the program.

Nichols/Landis moved to approve that the City of Goshen approved the agreement with Center for Business Excellence, Inc. to support the project or projects outlined in its submitted application. Passed 5-0

Grant Agreement: Historical Society

Henderson presented the packet memo.

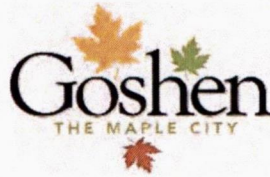
Nichols/Landis moved to approve that the City of Goshen approve the agreement with Goshen Historical Society, Inc. to support the project or projects outlined in its submitted application in the amount of \$3,000.00 Passed 5-0

Mayor Stutsman commented on the technical issues that the meeting was experiencing and encouraged all viewers to attend meetings.

Grant Agreement: Goshen Theater

Henderson presented the packet memo.

Nichol/Landis moved to approve that the City of Goshen approve the agreement with Goshen Theater, Inc. to support the project or projects outlined in its submitted application in the amount of \$50,000.00. Passed 5-0



Grant Agreement: Chamber of Commerce

Henderson presented the packet memo.

Nichols/Landis moved to approve that the City of Goshen approve the agreement with the Chamber of Commerce of Goshen, Indiana, Inc. to support the project or projects outlined in its submitted application in the amount of \$50,000.00. Passed 5-0

Grant Agreement: Downtown Goshen Inc.

Henderson presented the packet memo.

Nichols/Swartley moved to approve that the City of Goshen approve the agreement with Downtown Goshen, Inc. to support the project or projects outlined in its submitted application in the amount of \$70,000. Passed 5-0

Grant Agreement: South Bend – Elkhart Regional Partnership

Henderson presented the packet memo.

Nichols/Landis moved to approve that the City of Goshen approve the agreement with South Bend – Elkhart Regional Partnership and Affiliate to support the project or projects outlined in its submitted application in the amount of \$2,750.00. Passed 5-0

Release of Temporary Easements, SR 15 and Waterford Mills Parkway

Henderson presented Resolution 2021-18.

Nichols/Landis moved to approve and authorize the Release of Temporary Easements at SR 15 and Waterford Mills Parkway. Passed 5-0

Utilities Street Closure: 400-Block Gra-Roy

Water and Sewer Superintendent Kent Holdren presented the packet memo.

Nichols/Landis moved to approve the road closure at Gra-Roy Drive to thru traffic between High Park and Mayflower Place Drive on Tuesday, June 8 starting at 8 a.m. and reopening for traffic on Friday evening June 10, 2021. Passed 5-0



Utilities Street Closure: 600-Block Gra-Roy

Holdren presented the packet memo.

Nichols/Landis moved to approve the closure of Gra-Roy to thru traffic between Marilyn Avenue and Westwood Road on Thursday, June 10 at 8 a.m. and reopening to traffic on Saturday evening, June 12, 2021. Passed 5-0

Closure of Greene Road, JN: 2021-0002

Sailor presented the revised packet memo. (*Attached as Exhibit C*)

Nichols/Landis moved to approve the closure of Greene Road from June 10 thru June 11, 2021 for repaving. Passed 5-0

Sidewalk 50/50 Program Agreements, JN: 2021-0002

Sailor presented the packet memo.

Discussion on what areas of the city were being focused on specific areas, Middlebury Street and Northside Neighborhood, and the response from the residents.

Clerk-Treasurer Adam Scharf relayed a message from a resident asking if a sidewalk was just to be removed and not replaced, would the City pay half for the removal. Sailor suggested that the resident speak with the Engineering Department to report the location and if any connections to the sidewalk exist.

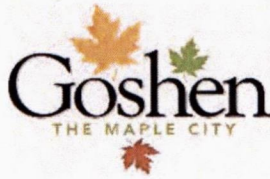
Nichols/Landis moved to approve 12 Agreements with homeowners participating in the 2021 Sidewalk and Curb 50/50 Program for a total cost of \$25,850.65 with the City participating \$13,771.08 of that total. Passed 5-0

Privilege of the Floor

Community Development Director Mark Brinson presented an Agreement with Community Foundation of Elkhart County Inc. (*Attached as Exhibit D*).

Brinson explained that the agreement is to assist in attracting financing with a Community Development Financial Institution, a consulting firm. Businesses would like to expand the South Bend location to include Elkhart County. Next phase will have Community Foundation of Elkhart County leading the \$225,000.00 project.

Nichols/Landis moved to approve the agreement with Community Foundation of Elkhart County Inc. to provide Community Development Financial Institution consulting work with the City of Goshen's portion being \$19,920.00. Passed 5-0



Stutsman/Landis moved to approve Civil City and Utility claims and adjourn. Passed 5-0

Adjournment at 2:43 p.m.

Exhibit A: Conditional Offer of Employment to, and Agreement with, Jonathon G. Fannin, (4 pages)

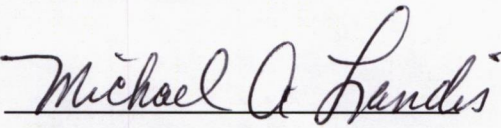
Exhibit B: Resignation as Captain by Captain Matthew Shultz to Rank of Patrol Officer, (2 pages)

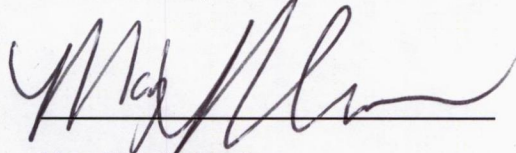
Exhibit C: Asphalt Paving Project – Revised, (1 page)

Exhibit D: Agreement with Community Foundation of Elkhart County, Inc. to provide Community Development Financial Institution Consulting Work, (10 pages)

APPROVED

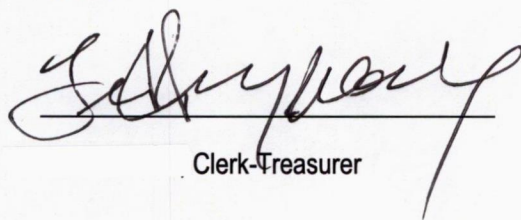


Jeremy Stutsman, Chair

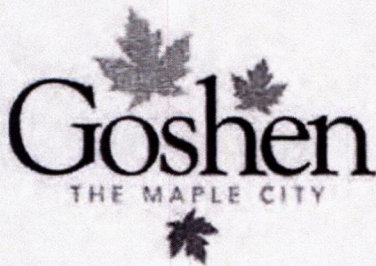
Michael Landis, Member

Mary Nichols, Member

ATTEST



Clerk-Treasurer



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

June 7, 2021

To: Board of Public Works and Safety

From: Bodie J. Stegelmann

Subject: Conditional Offer of Employment to, and Agreement with, Jonathon G. Fannin

On behalf of the Police Department, it is recommended that the Board extend a conditional offer of employment to Jonathon G. Fannin and approve and execute the attached Conditional Offer of Employment Agreement. The agreement sets forth the conditions that Jonathon G. Fannin must meet prior to beginning employment with the Goshen Police Department as a probationary patrol officer, and requires Jonathon to successfully complete all training requirements once employed and also provides for payment of a hiring bonus. The Board will be requested 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 Jonathon G. Fannin as a probationary patrol officer.
- (2) Move to approve and execute the Conditional Offer of Employment Agreement with Jonathon G. Fannin which includes the payment of a hiring bonus.

CONDITIONAL OFFER OF EMPLOYMENT AGREEMENT

THIS AGREEMENT is entered into on _____, 2021, between the City of Goshen, Indiana, by and through the Goshen Board of Public Works and Safety ("City"), and Jonathon G. Fannin ("Fannin").

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

PREREQUISITES TO BEGINNING EMPLOYMENT

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

- (1) A personnel vacancy in the Goshen City Police Department rank and file must exist. Fannin understands that currently no vacancy exists in the rank and file of the Police Department.
- (2) Fannin certifies that Fannin is currently an member of the Indiana Public Retirement System and the 1977 Police Officers' and Firefighters' Pension and Disability Fund.
- (3) City will confirm its offer of employment to Fannin when a position opening becomes available in the Goshen City Police Department.

HIRING BONUS

- (1) City agrees to pay a hiring bonus upon Fannin's commencement of employment provided that Fannin meets the following prerequisites:
 - (a) Fannin has sucessfully completed the minimum Tier I basic training requirements established by the Indiana Law Enforcement Training Board;
 - (b) Fannin has an active certification with the Indiana Law Enforcement Training Board;
 - (c) Fannin has separated from another Indiana law enforcement agency as an active reserve officer or a paid police officer within twelve (12) months of accepting the employment offer with the City (within twelve (12) months of the date of this agreement);
 - (d) Fannin has served with the other Indiana law enforcement agency as an active reserve officer or paid police officer for a minimum of one (1) year; and
 - (e) Fannin will be a first time employee of the Goshen Police Departement as a police officer.
- (2) By execution of this agreement, Fannin certifies that Fannin meets the prerequisites set forth in paragraph (1).

- (3) Upon commencement of employment, City agrees to pay Fannin a hiring bonus payment of Eight Thousand Dollars (\$8,000) over Fannin's first five (5) years of employment with the City as follows:
 - (a) Two Thousand Dollars (\$2,000) shall be paid upon Fannin's date of hire;
 - (b) Two Thousand Dollars (\$2,000) shall be paid upon Fannin's second employment anniversary date with City; and
 - (c) Four Thousand Dollars (\$4,000) shall be paid upon Fannin's fifth employment anniversary date with City.
- (4) Upon commencement of employment, City agrees to pay Fannin a base wage equal to the base wage paid to a patrol officer as set forth in the current salary ordinance. In addition, Fannin shall be credited with forty-five (45) hours of paid sick leave.
- (5) Fannin's appointment shall be probationary for a period not to exceed one (1) year. The Police Chief may recommend to the Goshen Board of Public Works and Safety that Fannin receive permanent appointment at any time within the probationary period.
- (6) In the event that Fannin voluntarily leaves city employment or is terminated for cause prior to Fannin's second employment anniversary date, Fannin agrees to repay City the hiring bonus payment of Two Thousand Dollars (\$2,000) paid under paragraph (3)(a). No repayment will be due City if Fannin leaves city employment due to disability or illness which make it impractical to continue to serve as a police officer in the foreseeable future, or death.
- (7) Fannin's repayment to City under paragraph (6) is due within thirty (30) days of Fannin's last day of employment with City. Interest will accrue on the unpaid balance of the repayment at the rate of eight percent (8%) per annum beginning thirty (30) days after Fannin's last day of employment with City.
- (8) Fannin shall forfeit any future hiring bonus payments under paragraphs (3)(b) or (3)(c) if:
 - (a) Any disciplinary action in excess of a written warning is taken against Fannin at any time during the first five (5) years of employment; and
 - (b) Fannin receives a performance evaluation with a score less than thirty-two (32) after Fannin's first year of employment.

AMENDMENT

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

SEVERABILITY

If any provision, covenant, or portion of this agreement or its application to any person, entity or property is held to be invalid, such invalidity shall not affect the application or validity of any other provisions, covenants or portions of this agreement.

INTEGRATION

This agreement supersedes all prior agreements and negotiations that relate to the subject matter and is a full integration of the agreement of the parties.

INDIANA LAW

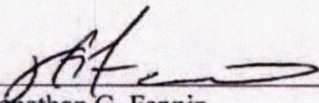
This agreement shall be governed by and construed in accordance with the laws of the State of Indiana. Proper venue to enforce the terms and conditions of this agreement shall be in Elkhart County, Indiana.

BINDING EFFECT

This agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns, provided that this agreement may not be assigned without the written consent of the parties.

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

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



Jonathon G. Fannin

Date: 6-4-2021

Jeremy P. Stutsman, Mayor

Michael A. Landis, Member

Mary Nichols, Member

DeWayne Riouse, Member

Barb Swartley, Member

Date: _____



Jose' D. Miller

Chief of Police

111 E Jefferson St

Goshen, Indiana 46528

TO: Goshen Board of Public Works & Safety

Mayor Jeremy Stutsman

Member Mike Landis

Member Mary Nichols

Member Barb Swartley

Member DeWayne Riouse

Date: June 7, 2021

From: Jose' Miller, Chief of Police

Reference: The Resignation as Captain by Captain Matthew to the Rank of Patrol Officer.

I am requesting that the Board of Public Works and Safety approve the resignation of Officer Matthew Shultz from the rank of Captain to the rank of Patrol Officer. Captain Shultz has informed administration he will be stepping down from Captain to Patrolman. Captain Shultz said that his move is best for he and his family since the Captain's position has much more responsibility than patrol officer.

Captain Shultz brought leadership, skill, professionalism, wisdom, and hard work to the Goshen Police Department. Captain Shultz's leadership will be missed at all levels of this department. I would like to thank Captain Shultz for his leadership at the Goshen Police Department. I am requesting this resignation to be retroactive to Friday June 4th, 2021.

A handwritten signature in black ink, appearing to be "J. Miller", with a stylized flourish at the end.

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

Good morning,

I would like this opportunity to thank each of you for the opportunity to lead this department in the many avenues throughout my career, most specifically my role as a supervisor. Effective June 3rd 2021, I wish to step down as Day Shift Captain.

Many things have contributed to this decision. This letter couldn't possibly include everything that has brought me to this decision, however, the biggest reason is the stress that the role of Captain brings. All leadership positions at all levels bring along a certain degree of stress and at times I've asked myself if life would be simpler if I was just a patrolman with patrolman responsibilities. I have thought about this decision thoroughly and weighed the pros and cons of staying or stepping down. I've considered the predicament that it will cause our department in a time that on its own is stressful itself. The duration of my career has been selfless and all for the people I work with and for this department. We all make sacrifices in this career.

This conclusion is solely based on me and I feel I need to do it for me and my family. I plan on speaking to everyone on the shift to alleviate any unwanted rumors or turmoil that it could potentially create throughout our department. The last thing I want to happen is to create rumors or degrade the department's morale.

Thank you again for the opportunity to serve our department in the capacity of a supervisor.

Matt Shultz #153

Day Shift Captain

Goshen Police Department

111 E. Jefferson Street

Goshen, IN 46528

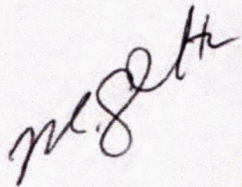
Phone (574) 533-8661

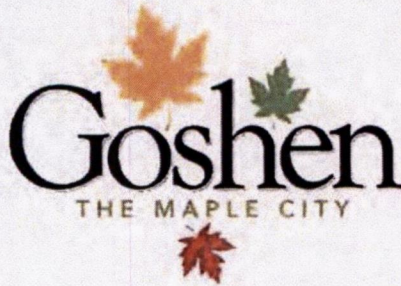
Office (574) 533-9387

mattshultz@goshencity.com

www.goshenindiana.org

<https://www.facebook.com/CityOfGoshen>

A handwritten signature in black ink, appearing to read 'mshultz', is written diagonally across the middle of the page.



**Engineering Department
CITY OF GOSHEN**

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

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

MEMORANDUM

TO: Board of Works Public and Safety

FROM: Engineering

RE: **ASPHALT PAVING PROJECT- REVISED
(JN: 2021-0002)**

DATE: June 7, 2021

Due to a change in schedule, Niblock will be performing work to pave Greene Road and Berkey Avenue on June 10 and June 11. The work will require a road closure of Greene Road between Plymouth Avenue and Berkey Avenue. The work on Berkey Avenue will be with traffic control and will remain open. The original schedule had Greene Road closed from June 1 to June 11 so that Niblock could mill and pave. Niblock was able to temporarily open the road back up earlier than they anticipated after the mill work was complete. Niblock will maintain open access for the Intermediate School and residents on Greene Road. The Greene Road closure (weather depending) will occur Thursday June 10 thru Friday June 11, 2021 and open to traffic June 12, 2021.

Suggested Motion: Move to approve closure of Greene Road from June 10 thru June 11 for repaving.

AGREEMENT

With Community Foundation of Elkhart County, Inc. To Provide Community Development Financial Institution Consulting Work

This Agreement, entered into by and between the City of Goshen, Indiana, a municipal corporation and political subdivision of the State of Indiana acting through its Board of Public Works and Safety ("City") and Community Foundation of Elkhart County, Inc., an Indiana Nonprofit Corporation (the "Community Foundation"), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

1. Purpose of this Agreement.

A. The purpose of this Agreement is to enable the City to award funds in the amount of \$19,920.00, to the Community Foundation for the cost of the program and services described in the Scope of Work, a copy of which is attached hereto and made a part hereof as Exhibit A (the "Project").

B. The funds shall be used exclusively in accordance with the provisions contained in this Agreement, the description of the program described in Exhibit A, and in conformance with any applicable Indiana Code provisions. The funds received by the Community Foundation pursuant to this Agreement shall be used only to implement the Project or to provide the services in conformance with this Agreement and for no other purpose.

2. Representations and Warranties of the Community Foundation.

A. The Community Foundation expressly represents and warrants to the City that it is statutorily eligible to receive these funds. The Community Foundation expressly agrees to promptly repay all funds paid to it under this Agreement should it be determined either that it was ineligible to receive the funds.

B. By entering into this Agreement, Community Foundation certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Agreement by any federal or state department or agency. The term "principal" for purposes of this Agreement is defined as an officer, director, owner, partner, key employee, other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Community Foundation.

3. Implementation of and Reporting on the Project.

A. The Community Foundation shall implement and complete the Project in accordance with the description contained in Exhibit A. Any modification of the Project from the description given in Exhibit A shall require prior written approval of the City.

B. The Community Foundation shall submit to the City and a report within thirty (30) days of completion of the Project.

4. Term. This Agreement commences on July 1, 2021, and shall remain in effect through completion of the Project, or December 31, 2021, whichever is later.

5. Funding.

The City shall provide funds to the Community Foundation once all participants in the Project have approved the Project in the amount of Nineteen Thousand Nine Hundred Twenty Dollars (\$19,920.00) for its share of the program and services to be provided under this Agreement, plus an amount not to exceed Four Thousand One Hundred Fifty Dollars (\$4,150.00) for its share of out of pocket expenses incurred as part of the program and services. The disbursement of funds to the Community Foundation shall not be made until this Agreement has been fully approved by the City.

6. Project Monitoring by the City. The City may conduct on-site or off-site monitoring reviews of the Project during the term of this Agreement. The Community Foundation shall extend its full cooperation and give full access to relevant documentation to the City or its authorized designees for the purpose of determining, among other things:

A. whether Project activities are consistent with those set forth in the Exhibit A; and

B. whether Community Foundation is making timely progress with the Project, and that its project management, financial management and control systems, procurement systems and methods, and overall performance are in conformance with the requirements set forth in this Agreement and are fully and accurately reflected in Project reports submitted to the City.

7. Audits and Maintenance of Records. Community Foundation may be required to submit to an audit of funds paid pursuant to this Agreement, and shall make all books, accounting records, and other documents available at all reasonable times during the term of this Agreement and for a period of three (3) years after final payment for inspection by the City or its authorized designee. Copies shall be furnished to the City at no cost.

8. Compliance with Laws.

A. The Community Foundation shall comply with all applicable federal, state and local laws, rules, regulations and ordinances. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Agreement shall be reviewed by the City and the Community

Foundation to determine whether the provisions of this Agreement require formal modification.

B. The Community Foundation warrants that the Community Foundation and any contractors performing work in connection with the Project shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of any work activities. Failure to do so may be deemed a material breach of this Agreement and grounds for immediate termination.

C. The Community Foundation affirms that, if it is an entity described in Indiana Code Title 23, it is properly registered, and owes no outstanding reports to the Indiana Secretary of State.

D. As required by I.C. § 5-22-3-7:

i. The Community Foundation and any principals of the Community Foundation certify that:

a. the Community Foundation, except for *de minimis* and nonsystematic violations, has not violated the terms of:

- (i) I.C. 24-4.7 [Telephone Solicitation Of Consumers];
- (ii) I.C. 24-5-12 [Telephone Solicitations]; or
- (iii) I.C. 24-5-14 [Regulation of Automatic Dialing Machines];

in the previous three hundred sixty-five (365) days, even if I.C. 24-4.7 is preempted by federal law; and

b. the Community Foundation will not violate the terms of I.C. 24-4.7 for the duration of this Agreement, even if I.C. 24-4.7 is preempted by federal law.

ii. The Community Foundation and any principals of the Community Foundation certify that an affiliate or principal of the Community Foundation and any agent acting on behalf of the Community Foundation or on behalf of an affiliate or principal of the Community Foundation, except for *de minimis* and nonsystematic violations,

a. has not violated the terms of I.C. 24-4.7 in the previous three hundred sixty-five (365) days, even if I.C. 24-4.7 is preempted by federal law; and

b. will not violate the terms of I.C. 24-4.7 for the duration of this Agreement even if I.C. 24-4.7 is preempted by federal law.

9. Employment Eligibility Verification. As required by I.C. 22-5-1.7, the Community Foundation hereby swears or affirms under the penalties of perjury that:

- A. The Community Foundation has enrolled and is participating in the E-Verify program;
- B. The Community Foundation has provided documentation to the City that it has enrolled and is participating in the E-Verify program;
- C. The Community Foundation does not knowingly employ an unauthorized alien.
- D. The Community Foundation shall require its contractors who perform work under this Agreement to certify to Community Foundation that the contractor does not knowingly employ or contract with an unauthorized alien and that the contractor has enrolled and is participating in the E-Verify program. The Community Foundation shall maintain this certification throughout the duration of the term of a contract with a contractor.

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

10. Funding Cancellation. When a written determination is made that funds are not appropriated or otherwise available to support continuation of performance of this Agreement, it shall be canceled.

11. Governing Law. This Agreement shall be governed, construed, and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in Elkhart County, State of Indiana.

12. Nondiscrimination. Pursuant to the Indiana Civil Rights Law, specifically including I.C. § 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Community Foundation covenants that it shall not discriminate against any employee or applicant for employment relating to this award of funds with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee or applicant's: race, color, national origin, religion, sex, sexual orientation or identity, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). Furthermore, Community Foundation certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services.

The Community Foundation understands that the City is a recipient of federal funds, and therefore, where applicable, Community Foundation and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246 as amended by Executive Order 13672.

13. Notice to Parties. Whenever any notice, statement or other communication is required under this Agreement, it shall be sent by first class mail or via an established courier/delivery service to the following addresses, unless otherwise specifically advised.

A. Notices to the City shall be sent to:

City of Goshen
Attn: Legal Department
204 E. Jefferson Street
Goshen, IN 46526
bodiestegelman@goshencity.com

B. Notices to the Community Foundation shall be sent:

Community Foundation of Elkhart County, Inc.
Attn: Peter L. McCown
300 Nibco Parkway, Suite 301
Elkhart, IN 46516

14. Order of Precedence. Any inconsistency or ambiguity in this Agreement shall be resolved by giving precedence in the following order: (1) requirements imposed by applicable federal or State law; (2) this Agreement; (3) Exhibit A.

15. Termination for Breach.

A. Failure to complete the Project and expend funds in accordance with this Agreement may be considered a material breach, and shall entitle the City to suspend payments until such time as all material breaches are cured to the City's satisfaction.

B. The expenditure of funds other than in conformance with the Project or the Budget may be deemed a breach. The Community Foundation explicitly covenants that it shall promptly repay to the City all funds not spent in conformance with this Agreement.

16. Non-Collusion, Acceptance. The undersigned individual signing on behalf of the Community Foundation attests, subject to the penalties for perjury, that the undersigned is the Community Foundation or a properly authorized representative, agent, member, or officer of the Community Foundation. To the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent, or officer of the Community Foundation, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face hereof.

In Witness Whereof, Community Foundation and the City have, through their duly authorized representatives, entered into this Agreement. The parties, having read and understood the foregoing terms of this Agreement, do by their respective signatures dated below agree to the terms thereof.

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

Community Foundation
of Elkhart County, Inc.

Jeremy P. Stutsman, Mayor

By: _____

Printed: _____

Michael A. Landis, Member

Its: _____

Mary Nichols, Member

Date Signed: _____

Barb Swartly, Member

DeWayne Riouse, Member

Date Signed: _____

EXHIBIT A

Scope of Work

The Community Foundation shall gather funds from local governmental units in Elkhart County to engage a consultant to help key local leaders become more knowledgeable of Community Development Financial Institutions ("CDFI") and to understand the importance of a CDFI Friendly strategy for the City.

At the outset, the consultant will organize and convene:

- A *Leadership Group* comprising Pete McCown, President of the Community Foundation of Elkhart County; the Mayors of Elkhart, Goshen, and Nappanee; and a member of the Elkhart County Commission; the Leadership Group will be Chaired by the President of the Client; and
- A *Working Group* of community leaders from Elkhart County's business, civic, financial, neighborhood, and other constituencies, as well as staff members from the Client, the County of Elkhart, and the Cities of Elkhart, Goshen, and Nappanee. The Working Group will include staff representing the client, the County, and the cities and will be coordinated by Mark Brinson of Goshen. It will add members as participation grows.

The consultant will lead the working group to produce two (2) community convenings that will serve as the "tent posts" for this effort over approximately five (5) months. Both events will be planned and implemented with assistance from the client and participants in the CDFI Friendly working group.

Convening #1

At the outset, the consultant will convene a meeting for key parties to review the consultant's Phase I findings and to introduce and explain the work. The purpose of the meeting is to cast as wide a net as possible for possible participants in the work. The meeting will introduce CDFIs, CDFI financing, and the existing CDFI Friendly entity in South Bend. It will outline and explain the work over the next five (5) months.

With the advice and help of both groups, the consultant will meet with an expanding array of key players in the community through the work period to discuss the financing needs of the community, the roles CDFIs could play, and past efforts to meet financing needs. The consultant will participate in meetings with the public and the media as requested by the client and the community. In addition, the consultant will meet with CDFIs engaged in Elkhart County, interested in engaging in Elkhart County, and other potentially key partners in the community.

The consultant will prepare materials and research to explain CDFIs, to answer questions about CDFIs in Elkhart County, and to explain the planned consolidation of CDFI Friendly South Bend and CDFI Friendly efforts serving Elkhart County. It will develop and provide materials as needed to help participants to understand CDFIs well enough to envision what roles they should play in meeting the client's goals for the CDFI Friendly effort in Elkhart County.

The consultant will conduct small group, individual, and large group meetings, as needed, to ensure that everyone involved in the work in Elkhart County are prepared to make recommendations and decisions regarding the prospects and value of a CDFI Friendly approach. In addition, the consultant will initiate preliminary discussions with potential funders and investors in the prospective effort to begin organizing and securing the financial resources necessary to go forward.

Over the work period the Consultant's focus will increasingly be on matching demand for CDFI financing with CDFIs. To that end, the consultant will guide the working group to develop a set of "deal sheets" — short summaries of actual, possible CDFI financing opportunities in the community.

Elkhart County participants will identify and write-up these potential deals using a format provided by the consultant. The participants could include the client, local financial institutions, CDFIs, local community organizations, local community development corporations, interest groups, Elkhart County and City officials, members of the Working Group, and others.

This work requires community leaders to demonstrate their understanding of the roles CDFIs might play. The products (the deal sheets) help CDFIs and community representatives explore the potential for collaboration. Those conversations, which occur primarily at the second "tent pole" event, also help the community determine priorities for financing.

Convening #2

The consultant and the working group will convene a community-wide meeting that includes CDFI leaders interested in working in Elkhart; CDFI leaders who can provide perspective that can guide the community; national CDFI investors who might assist local and regional investors work with CDFIs; public officials working with CDFIs; and representatives of the current CDFI Friendly entity in South Bend. The structure of the convening will include in-depth conversations to present the case for Elkhart County's CDFI Friendly Strategy, flag major outstanding issues and questions, and identify priority financing needs in the local market.

The product of this convening will be decisions about and clear direction for community needs, preferences, and priorities for Implementation.

Business Planning

The business plan the consultant will prepare will re-visit and expand on the business plan prepared in late 2019 and early 2020 for CDFI Friendly South Bend. It will explain in quantifiable terms the work that the expanded and re-configured CDFI Friendly entity would do, the costs of operating that entity, the sources and uses of funds and investments to support operations of a CDFI Friendly entity, including the CDFI Friendly Enhancement Fund. To those ends, it will refine and expand the market data gained in the earlier Assessment and the earlier work under this phase into a market analysis and identify capital gaps that CDFIs and others can fill which will result in a market financing strategy. It will account for work already being done by others in the market, including but not limited to banks, credit unions, CDFIs, governments, and others. It will incorporate data provided by the client and others, data from third party sources, and—as necessary and possible—data developed by the consultant.

The plan will be used as a basis for discussion with all constituencies through the working group. The efficacy of the business plan is a product of the accuracy and quality of the data, requiring the consultant to get regular and realistic feedback from all parties.

The business plan must meet the “reality test” of potential funders, investors, borrowers, partners, and others is key to ensuring that there is good reason and a good basis on which to launch a CDFI Friendly Elkhart County entity and strategy. A substantial portion of effort will be devoted to fundraising and capitalization for the strategy. The business plan will allow the consultant and the client to test assumptions.

Implementation

The work at this stage is to combine the Elkhart County strategy with the South Bend strategy in a reconstituted CDFI entity succeeding the current CDFI Friendly South Bend. The consultant will accelerate the emerging entity to become fully operational and independent as rapidly as possible.

Client's Roles & Responsibilities

This will be an interactive engagement where the Client/Community and the Consultant will be responsible for different, related tasks. Consultant will request support and/or action as needed.

Client will be responsible for setting up in-person “tent-pole” meetings, handling coordination and logistics, and internal decision-making logistics. Consultant will ask the Client to set up other group and one-on-one meetings, as needed.

The consultant will make recommendations based on its experience and expertise, but the client and community must make governing and oversight decisions at clearly delineated steps in the workflow. If the client and the community have differing ideas about the course of this

work, they must resolve any differences in clear, workable, and timely fashion. Client is ultimately responsible for all strategic decisions about how the work should proceed towards implementation.

The consultant's ability to complete the work on time and as promised is dependent on full engagement and timely decision-making by the client and the community.