



Board of Public Works & Safety and Stormwater Board

Regular Meeting Agenda

2:00 p.m., Oct. 31, 2022

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

To access online streaming of the meeting, go to <https://goshenindiana.org/calendar>

Call to Order by Mayor Jeremy Stutsman

Approval of Minutes: Oct. 24, 2022

Approval of Agenda

1) Police Department: Accept resignation of Detective Nicholas D. McCoughen and approve hiring Det. McCloughen as a Reserve Patrol Officer

2) Company request: Yaw Construction request to close eastbound lane of West Lincoln Avenue, west of Riverside Drive, from 9-11 am on Nov. 1, 2022

3) Legal Department request: Approve agreement with Grever & Ward, Inc. to provide cemetery planning services for Violet Cemetery

4) Legal Department request: Approve credit application with McCann Industries, Inc. and authorize Kent Holdren to sign the credit application

5) Legal Department request: Approve Amendment to the Agreement for the sale and purchase of real estate with Delmar J Birkey and Stacy R Birkey

6) Engineering Department request: Approve and authorize the Mayor to sign Change Order No. 1 increasing the contract amount by \$1,221.51, for a revised contract amount of \$6,966,241.07, for the Wilden Avenue reconstruction (JN: 2014-0035)

Privilege of the Floor

Approval of Civil City and Utility Claims

Adjournment



BOARD OF PUBLIC WORKS & SAFETY & STORMWATER BOARD

MINUTES OF THE OCTOBER 24, 2022 REGULAR MEETING

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

Present: Mayor Jeremy Stutsman, Mary Nichols, DeWayne Riouse and Barb Swartley

Absent: Mike Landis

CALL TO ORDER: Mayor Jeremy Stutsman called the meeting to order at 2:00 p.m.

REVIEW/APPROVE MINUTES: Mayor Stutsman presented the minutes of the Oct. 17, 2022 regular meeting. Board member DeWayne Riouse moved to approve the minutes and the motion was seconded by Board member Mary Nichols. Motion passed 4-0.

REVIEW/APPROVE AGENDA: Mayor Stutsman presented the agenda. Board member Riouse moved to approve the agenda as submitted and Board member Nichols seconded the motion. Motion passed 4-0.

1) Kid Mayor Program: Presentations by the finalists

Sophia Charlebois, the parent liaison from West Goshen Elementary School, introduced the finalists for the Kid Mayor Program, which began in 2020 at Model Elementary and has expanded to all of the City's elementary schools. Fourth-graders participated in the program by completing an application and identifying an issue important to the Goshen community. The students then recorded and submitted brief videos introducing themselves and their issues. The videos were reviewed by a selection committee and six finalists were selected.

The 2022-2023 candidates for Kids Mayor are: Eliza Bell, Waterford Elementary; Paul Conner Gwaltney, Prairie View Elementary; Matthew Demott, Waterford; Zoey McDonald, Chamberlain Elementary; Avery McPhail, Prairie View; and Amelia Troyer, Chamberlain. Candidates gave brief speeches to the Board about projects they would promote if elected as Kid Mayor. **Charlebois** said fourth-graders will view candidate videos and vote on Nov. 4. The winner will be announced at the Common Council meeting at 6 p.m. on Monday, Nov. 21.

After the presentations, **Mayor Stutsman** said he was proud of the students and thanked them for their good ideas, which he said echoed the City's goal of bringing the community together. The Mayor also said that the winner will help preside over a Council meeting and that he also will meet with all of the students. **Board member Riouse** thanked the students for their courage in coming forward to offer their ideas.

No Board action taken; for information only.

2) Fire Department: Withdraw Conditional Offer of Employment to Evan T. Baker

Shannon Marks, the Legal Compliance Administrator for the City Legal Department, asked the Board to withdraw the May 16, 2022 conditional offer of employment extended to Evan T. Baker as a probationary firefighter and terminate the May 16, 2022 Conditional Offer of Employment Agreement with Baker. Marks said Baker is requesting to decline the conditional offer of employment and terminate the agreement. Marks said Baker's request was acceptable to the Fire Department.



Riouse/Nichols moved to withdraw and terminate the May 16, 2022 conditional offer of employment extended to Evan T. Baker as a probationary firefighter. Motion passed 4-0.

3) Fire Department: Conditional Offer of Employment to Douglas A. Burggraf

Shannon Marks, the Legal Compliance Administrator for the City Legal Department, asked the Board to extend a conditional offer of employment to Douglas A. Burggraf as a probationary firefighter and to approve the Conditional Offer of Employment Agreement with Burggraf, which includes the payment of a paramedic hiring bonus, and authorize the Mayor, or the Deputy Mayor in the Mayor's absence, to execute the agreement.

The agreement sets forth the conditions that Burggraf must meet prior to beginning employment with the Fire Department as a probationary firefighter which includes being approved by the board of trustees of the Indiana Public Retirement System for membership to the 1977 Police Officers' and Firefighters' Pension and Disability Fund.

Burggraf has a Firefighter I/II certification and an Indiana paramedic license. Once employed, Burggraf will be required to serve as an active paramedic with the Department a minimum of three years. The Fire Department will request the Board to confirm the offer of employment when a position opening becomes available in the Department.

Riouse/Nichols moved to extend a conditional offer of employment to Douglas A. Burggraf as a probationary firefighter and to approve the Conditional Offer of Employment Agreement with Burggraf, which includes the payment of a paramedic hiring bonus, and authorize the Mayor, or the Deputy Mayor in the Mayor's absence, to execute the agreement. Motion passed 4-0.

4) Fire Department: Conditional Offer of Employment to James M. White

Shannon Marks, the Legal Compliance Administrator for the City Legal Department, asked the Board to extend a conditional offer of employment to James M. White as a probationary firefighter, approve the Conditional Offer of Employment Agreement with White, which includes the payment of a paramedic hiring bonus, and authorize the Mayor, or the Deputy Mayor in the Mayor's absence, to execute the agreement.

The agreement sets forth the conditions that White must meet prior to beginning employment with the Fire Department as a probationary firefighter which includes being approved by the board of trustees of the Indiana Public Retirement System for membership to the 1977 Police Officers' and Firefighters' Pension and Disability Fund. White possesses a Firefighter I/II certification and an Indiana paramedic license. Once employed, White will be required to serve as an active paramedic with the Department a minimum of three years. The Fire Department will request the Board to confirm the offer of employment when a position opening becomes available in the Department.

Riouse/Nichols moved to extend a conditional offer of employment to James M. White as a probationary firefighter, approve the Conditional Offer of Employment Agreement with White, which includes the payment of a paramedic hiring bonus, and authorize the Mayor, or the Deputy Mayor in the Mayor's absence, to execute the agreement. Motion passed 4-0.

5) Fire Department: Conditional Offer of Employment to Jordan L. Hunter

Shannon Marks, the Legal Compliance Administrator for the City Legal Department, asked the Board to extend a conditional offer of employment to Jordan L. Hunter as a probationary firefighter, approve the Conditional Offer of Employment Agreement with Hunter, and authorize the Mayor, or the Deputy Mayor in the Mayor's absence, to execute the agreement.



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

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

Riouse/Nichols moved to extend a conditional offer of employment to Jordan L. Hunter as a probationary firefighter, approve the Conditional Offer of Employment Agreement with Hunter, which includes the payment of a paramedic hiring bonus, and authorize the Mayor, or the Deputy Mayor in the Mayor's absence, to execute the agreement. Motion passed 4-0.

6) Water & Sewer Office: Request to approve unpaid final accounts (Kelly Saenz)

Kelly Saenz, Manager of the Goshen City Utilities Office, asked the Board to move the office's uncollected final accounts from active to Collection, Sewer Liens and Write offs. She reported that the original amount of unpaid final Water/Sewer accounts for this period, through July 11, 2022, was \$7,870.18. Collection letters were sent out and payments of \$2,158.08 were collected. The uncollected amount was \$5,712.10.

Riouse/Nichols moved to move the Goshen Water and Sewer Office's uncollected finalized accounts from active to Collection, Sewer Liens and Write offs. Motion passed 4-0.

7) NIPSCO via Water & Sewer Department: Request to approve lane restrictions for sewer line inspections (Kent Holdren)

Kent Holdren, Superintendent of City Water Treatment and Sewer Department, asked the Board to approve NIPSCO's request for lane closures on various City streets for four weeks for construction-related surveys.

Holdren said that Quentin (Roger) Brown, the Cross Bore Program Leader-with NIPSCO, oversees an accelerated safety program within the City of Goshen. Brown said a sewer camera contractor, CCSI, is in the area performing sewer line inspections to ensure their integrity from utility intrusions.

Holdren said Brown reported that partial lane closures were needed to keep workers safe in the following areas: the 1500, 1600, 1700, 1800, 1900, 2000, 2100, 2200 and 2300 blocks of South Main Street; West Lincolnway (South 5th, 6th, 7th Streets); East Clinton Street (between North and South Indiana Avenue to County Road 17) and East Plymouth Avenue (South 13th, 14th, and 15th Streets).

Riouse/Nichols moved to approve traffic control on various City streets for four weeks. Motion passed 4-0.

8) Engineering Department: Approve balancing change order #3 for Madison Street and College Avenue reconstruction (JN: 2021-0016)

City Director of Public Works & Utilities Dustin Sailor, asked the Board to approve the balancing Change Order No. 3, decreasing the contract \$23,519.10, for a final contract amount of \$694,699.25, for the Madison Street and College Avenue reconstruction (JN: 2021-0016).

Sailor said Change Order No. 3 reduces the current contract price \$23,519.10 with Niblock Excavating, Inc. making the final contract amount \$694,699.25, an 18.6% increase over the original contract of \$585,735.50.



Original contract amount	\$585,735.50
Change Order No. 1	\$ 3,619.00
Change Order No. 2	\$128,863.85
Change Order No. 3	\$ -23,519.10
Revised contract amount	\$694,699.25

Riouse/Nichols moved to approve the balancing Change Order No. 3, decreasing the contract \$23,519.10, for a final contract amount of \$694,699.25, for the Madison Street and College Avenue reconstruction (JN: 2021-0016). Motion passed 4-0.

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

Mayor Stutsman opened Privilege of the Floor at 2:23 p.m. There were no public comments, so the Mayor closed Privilege of the Floor at 2:23 p.m.

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

Mayor Stutsman adjourned the meeting at 2:23 p.m.

APPROVED

Mayor Jeremy Stutsman

Mike Landis, Member



Mary Nichols, Member

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

Date: October 31st, 2022

From: Chief Jose' Miller

Reference: Request to Accept Detective Nicholas D. McCloughen Resignation

I am requesting for the Board of Public Works and Safety to approve the resignation of Detective Nicholas D. McCloughen as a fulltime police officer with the Goshen Police Department effective Friday November 4th, 2022. Det. McCloughen wishes to remain at the police department as a reserve officer.

I received a resignation letter from Det. McCloughen stating he will be starting a career in the private sector. Det. McCloughen is an exceptional officer and a truly great person. He has been involved with/and assisted, in the solving of numerous serious crimes against our community. His experience and dedication will truly be missed. He has served on the Goshen Police Department as a fulltime officer since April of 2007. He considers the members of the department his family since he has been here all his life. Nick followed the footsteps of his father who retired from the police department soon after Nick was hired.

I am excited for Nick and his family in this new career path. I am certain he will be successful in whatever he chooses to do in life. I would personally like to thank him for his dedication to our community and our department.

Respectfully,

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



Jose' D. Miller

Chief of Police

111 E Jefferson St
Goshen, Indiana 46528

TO: Goshen Board of Public Works & Safety

Mayor Jeremy Stutsman

Member Mary Nichols

Member Mike Landis

Member Barb Swartley

Member DeWayne Riouse

Date: October 31st, 2022

From: Chief Jose' Miller

Reference: The hiring of Nicholas D. McCloughen as a Reserve Patrol Officer

I am requesting that the Board of Public Works and Safety **approve the hiring of Nicholas D. McCloughen for the position of Reserve Patrol Officer.** Nick has served on the Goshen Police Department since April of 2007. He will be resigning as a fulltime police officer effective November 4th. His last day working will be Thursday November 3rd, 2022. Nick wishes to remain on the Goshen Police Department as a reserve police officer until all the current investigations he has been involved with are concluded. I would be thrilled to have Nick remain as a reserve patrol officer. I would like this hiring to be **effective November 4th, 2022.**

Nicholas D. McCloughen will be present for the Board of Works Meeting.

Jose' Miller #116

Chief of Police

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

YAW CONSTRUCTION INC,
63095 County Road 13
Goshen, Indiana 46526

Re: City of Goshen

Request to close East bound lane of West Lincoln Avenue, West of Riverside Drive, from 9 am to 11 am on Tuesday, November 1st. To pour a concrete patio at the rear of house where because of utility lines cannot get equipment there.

Kerry Yaw

Cell # 574 320 6408

Goshen Engineering has no issue with the 2-hour requested lane closure so long as Mr. Yaw provides a flagging operation in accordance with MUTCD guidelines (i.e., Figure 6H-11 / Figure 6H-10) that allows traffic to safely move around the short-distance lane closure on a collector street.

Regards,

Dustin K. Sailor, P.E.
Director of Public Works
City of Goshen
204 E. Jefferson Street
Goshen, IN 46528
Ph: 574.534.2201
Cell: 574.202.0062

2009 Edition Part 6 Figure 6H-11. Lane Closure on a Two-Lane Road with Low Traffic Volumes (TA-11)

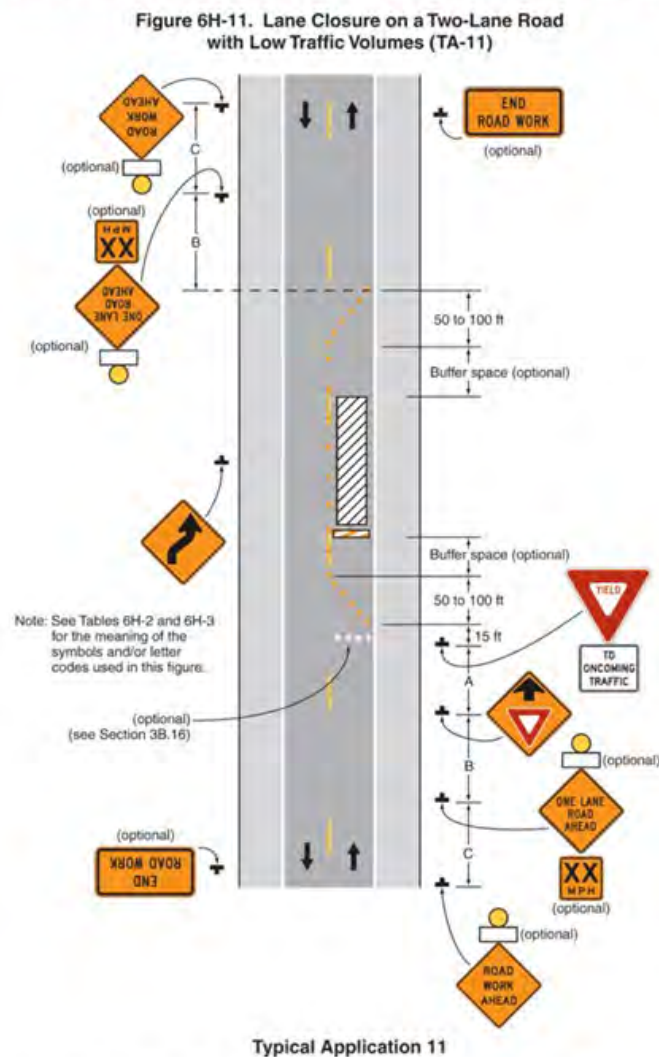


Figure 6H-11. Lane Closure on a Two-Lane Road with Low Traffic Volumes (TA-11)

Figure 6H-10. Lane Closure on a Two-Lane Road Using Flaggers (TA-10)

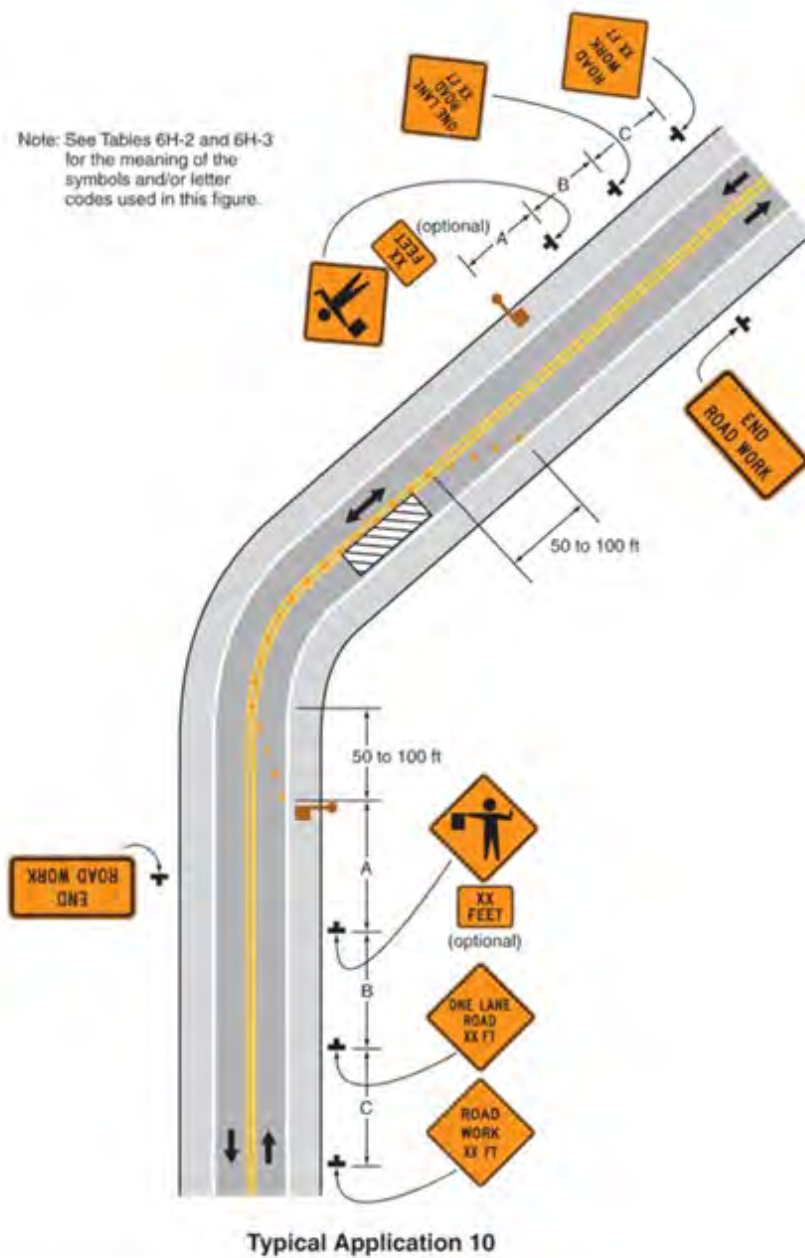


Figure 6H-10. Lane Closure on a Two-Lane Road Using Flaggers (TA-10)



CITY OF GOSHEN LEGAL DEPARTMENT

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

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

To: Board of Public Works and Safety

From: Brandy L. Toms

Date: October 31, 2022

Subject: Grever & Ward, Inc. Agreement regarding Violet Cemetery

The City of Goshen Department of Cemeteries seeks to enter into an agreement with Grever & Ward, Inc. to provide cemetery planning services for Violet Cemetery. Grever & Ward, Inc. will be paid Twenty-Four Thousand Seven Hundred Dollars (\$24,700.00). Contractor anticipates the project to take approximately 12 -16 weeks for completing upon authorization to proceed.

Suggested Motion: Move to approve and authorize Mayor Stutsman to execute the agreement with Grever & Ward, Inc. to provide cemetery planning services to Violet Cemetery at a cost of \$24,700.

AGREEMENT

With Grever & Ward, Inc. for Cemetery Planning Services for Violet Cemetery

THIS AGREEMENT is entered into on _____, 2022, which is the last signature date set forth below, by and between **Grever & Ward, Inc.** ("Contractor"), whose mailing address is 3802 North Buffalo Street, Orchard Park, NY 14127-1840, and **City of Goshen, Indiana**, a municipal corporation and political subdivision of the State of Indiana acting through the Goshen Board of Public Works and Safety ("City").

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

Section 1. Contractor Duties

Contractor shall provide City a Master General Plan and Section Plan for Violet Cemetery, which services are more particularly described in Contractor's October 14, 2022 proposal attached as Exhibit A (hereinafter referred to as "Duties"). In the event of any conflict between the terms of this agreement and the terms contained in the proposal attached as Exhibit A, the terms set forth in this agreement shall prevail.

Section 2. Effective Date; Term

The agreement shall become effective on the day of execution and approval by both parties. Contractor anticipates the project to take approximately 12-16 weeks for completion upon authorization to proceed.

Section 3. Compensation

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

Item 1. Cemetery Master Plan	Lump Sum of \$17,000
Item 2. Section Plan	Lump Sum of \$7,700

Section 4. Payment

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

City of Goshen
c/o Goshen City Cemeteries
202 South 5th Street
Goshen, IN 46528

(B) Payment will be made within forty-five (45) days following City's receipt of the invoice. If any dispute arises, the undisputed amount will be paid. Payment is deemed to be made on the date of mailing the check.

(C) Contractor is required to have a current W-9 form on file with the Goshen Clerk-Treasurer's Office before City will issue payment.

Section 5. Ownership of Documents

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

Section 6. Licensing/Certification Standards

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

Section 7. Independent Contractor

- (A) Contractor shall operate as a separate entity and independent contractor of the City of Goshen. Any employees, agents or subcontractors of Contractor shall be under the sole and exclusive direction and control of Contractor and shall not be considered employees, agents or subcontractors of City. City shall not be responsible for injury, including death, to any persons or damages to any property arising out of the acts or omissions of Contractor and/or Contractor’s employees, agents or subcontractors.
- (B) Contractor understands that City will not carry worker’s compensation or any other insurance on Contractor and/or Contractor’s employees or subcontractors.
- (C) Contractor is solely responsible for compliance with all federal, state and local laws regarding reporting of compensation earned and payment of taxes. City will not withhold federal, state or local income taxes or any other payroll taxes.

Section 8. Non-Discrimination

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

Section 9. Employment Eligibility Verification

- (A) Contractor shall enroll in and verify the work eligibility status of all Contractor’s newly hired employees through the E-Verify program as defined in Indiana Code § 22-5-1.7-3. Contractor is not required to participate in the E-Verify program should the program cease to exist. Contractor is not required to participate in the E-Verify program if Contractor is self-employed and does not employ any employees.
- (B) Contractor shall not knowingly employ or contract with an unauthorized alien, and contractor shall not retain an employee or continue to contract with a person that the Contractor subsequently learns is an unauthorized alien.
- (C) Contractor shall require their subcontractors, who perform work under this contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program.

Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

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

Section 10. Contracting with Relatives

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

Section 11. No Investment Activities in Iran

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

Section 12. Indemnification

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

Section 13. Force Majeure

- (A) Except for payment of sums due, neither party shall be liable to the other or deemed in default under this contract if and to the extent that such party's performance under this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party and could not have been avoided by exercising reasonable diligence. Examples of force majeure are natural disasters or decrees of governmental bodies not the fault of the affected party.
- (B) If either party is delayed by force majeure, the party affected shall provide written notice to the other party immediately. The notice shall provide evidence of the force majeure event to the satisfaction of the other party. The party shall do everything possible to resume performance. If the period of non-performance exceeds thirty (30) calendar days, the party whose ability to perform has not been affected may, by giving written notice, terminate the contract and the other party shall have no recourse.

Section 14. Default

- (A) If Contractor fails to perform the Duties or comply with the provisions of this agreement, then Contractor may be considered in default.
- (B) It shall be mutually agreed that if Contractor fails to perform the Duties or comply with the provisions of this contract, City may issue a written notice of default and provide a period of time that shall not be less than fifteen (15) days in which Contractor shall have the opportunity to cure.

If the default is not cured within the time period allowed, the contract may be terminated by the City. In the event of default and failure to satisfactorily remedy the default after receipt of written notice, the City may otherwise secure similar cemetery planning services in any manner deemed proper by the City, and Contractor shall be liable to the City for any excess costs incurred

(C) Contractor may also be considered in default by the City if any of the following occur:

- (1) There is a substantive breach by Contractor of any obligation or duty owed under the provisions of this contract.
- (2) Contractor is adjudged bankrupt or makes an assignment for the benefit of creditors.
- (3) Contractor becomes insolvent or in an unsound financial condition so as to endanger performance under the contract.
- (4) Contractor becomes the subject of any proceeding under law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors.
- (5) A receiver, trustee, or similar official is appointed for Contractor or any of Contractor's property.
- (6) Contractor is determined to be in violation of federal, state, or local laws or regulations and that such determination renders Contractor unable to perform the Duties.
- (7) The contract or any right, monies or claims are assigned by Contractor without the consent of the City.

Section 15. Termination

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

Section 16. Notice

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

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

Contractor: Grever & Ward, Inc.
3802 North Buffalo Street
Orchard Park, NY 14127-1840

Section 17. Subcontracting or Assignment

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

Section 18. Amendments

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

Section 19. Waiver of Rights

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

Section 20. Applicable Laws

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

Section 21. Miscellaneous

- (A) Any provision of this agreement or incorporated documents shall be interpreted in such a way that they are consistent with all provisions required by law to be inserted into the agreement. In the event of a conflict between these documents and applicable laws, rules, regulations or ordinances, the most stringent or legally binding requirement shall govern.
- (B) This agreement shall be construed in accordance with and governed by the laws of the State of Indiana and any suit must be brought in a court of competent jurisdiction in Elkhart County, Indiana.
- (C) In the event legal action is brought to enforce or interpret the terms and conditions of this agreement, the prevailing party of such action shall be entitled to recover all costs of that action, including reasonable attorneys' fees.

Section 22. Severability

In the event that any provision of the agreement is found to be invalid or unenforceable, then such provision shall be reformed in accordance with applicable law. The invalidity or unenforceability of any

provision of the agreement shall not affect the validity or enforceability of any other provision of the agreement.

Section 23. Binding Effect

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

Section 24. Entire Agreement

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

Section 25. Authority to Bind Contractor

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

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

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

Grever & Ward, Inc.

Jeremy P. Stutsman, Mayor

By:_____

Printed:_____

Title:_____

Date Signed:_____

Date Signed: _____



GREVER & WARD, INC.
3802 NORTH BUFFALO STREET
ORCHARD PARK, NY 14127-1840

CEMETERY PLANNING SINCE 1939

www.greverandward.com

PROPOSAL/AGREEMENT

PHONE
716-662-7700
FAX
716-662-0125

CLIENT Goshen City Cemeteries
202 South 5th Street
Goshen, IN 46526

PROJECT Violet Cemetery - 2818 Violet Road - Goshen, IN
Master Planning and Section Planning
See Exhibit "A", attached

PLANNING SERVICES:

Item 1. Cemetery Master Plan - 10.2 acres ±

The Planners (Grever & Ward, Inc.) will prepare a **Master General Plan** for the above site showing future site development including roads, committal service structures or other requested building sites, section divisions, area features, property line buffers, general landscaping and recommended development sequence (phasing) with individual acreages and estimated interment spaces for each phase. As appropriate, specialty section types (e.g., green burial, cremation gardens, infant sections, etc.) will be suggested for specific sites, based on Client requests and the physical aspects of those sites. A land use summary table will be included to show proposed land commitments.

A **Master Grading and Drainage Plan** will be prepared on the basis of the available topographic mapping, with grading recommendations expressed in proposed 1' or 2' contours. Grading will be designed on the basis of minimum disturbance to existing terrain, to provide proper cemetery operating conditions and to accommodate surplus burial excavation soil over time. The plan will recommend schematic drainage systems in conformance to existing natural drainage patterns to facilitate phased development.

A **supporting master plan letter report** will be included to summarize design decisions and to explain any aspects critical to the implementation of the master plan.

Master plan scale to be 1"= 40'; sheet size 24" x 36"; 2-3 plan sheets anticipated.

Total Cost, Item 1: \$17,000.00

(\$1,667.00 per acre)

Item 2. Section Plan -

Regular Section, 1.0 acres ±; Green Burial Section, 0.25 acres ±

The Planners will design a detailed section (lot and gravesite) plan for the site to include approximately 1,100 new graves (regular grave size 4' x 10'; green burial grave size 5' x 12') showing all lot lines, a lot numbering system, grave divisions, memorial locations, suggested planting locations, paths if requested, details,



GREVER & WARD, INC.
3802 NORTH BUFFALO STREET
ORCHARD PARK, NY 14127-1840

CEMETERY PLANNING SINCE 1939

www.greverandward.com

PROPOSAL/AGREEMENT

PHONE
716-662-7700
FAX
716-662-0125

CLIENT Goshen City Cemeteries
202 South 5th Street
Goshen, IN 46526

PROJECT Violet Cemetery - 2818 Violet Road - Goshen, IN
Master Planning and Section Planning
See Exhibit "A", attached

dimensions and a lot plan summary. Plan scale to be 1"= 20'; sheet size 24" x 36". All plans to be prepared in digital (AutoCAD) format. Regular section lot sizes as follows or as specified by Client:

singles	5%	4-grave lots	5%
2-grave lots	87%	estate lots	1%
3-grave lots	2%		

Total Cost, Item 2: \$7,700.00

Deliverables: Planners to submit two sets of review plans for Client input and approval; one set to be returned with commentary or requested changes.

Final plan submittals to consist of three blackline copies of each plan sheet (of which, one General Plan will be in color). Digital files (PDF format) will be provided. Additional prints are available at Planner's costs.

Note: This proposal covers master planning as an internal document and does not include provision of any requirements that may be needed for regulatory approvals or site planning applications. The Owner is responsible for all permits and applications needed prior to development.

Anticipated Time to Complete: Approximately 12-16 weeks after authorization to proceed and receipt of all Client-provided materials/information stated below.

Client to Provide:

- 1.) Information on any existing underground utilities, easements, wetlands or other land use restrictions.
- 2.) Specific written design requests and/or elements, if any, not described above are to be submitted prior to planning.

Requests that change the scope or extent of the design work beyond the above description will be quoted as extra services in an addendum to this agreement.
- 3.) Timely response to review plan submittals.



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PROPOSAL/AGREEMENT

PHONE
716-662-7700
FAX
716-662-0125

CLIENT **Goshen City Cemeteries**
202 South 5th Street
Goshen, IN 46526

PROJECT **Violett Cemetery - 2818 Violett Road - Goshen, IN**
Master Planning and Section Planning
See Exhibit "A", attached

Fee:	Item 1. Seventeen Thousand Dollars	(\$17,000.00)
Fee:	Item 2. Seven Thousand Seven Hundred Dollars	(\$ 7,700.00)
		Total - \$24,700.00

PLANNING SERVICES - GENERAL CONDITIONS

These General Conditions are a part of this "Proposal/Agreement" by and between Grever & Ward, Inc. ("Grever & Ward") and Goshen City Cemeteries ("Client") dated as of October 14, 2022.

1. If this Proposal/Agreement is not accepted and executed by the Client on or before the "valid until" date set forth herein, Grever & Ward reserves the right to revise the quoted fees and completion time commitments.

2. Client shall pay to Grever & Ward the net amount shown on any invoice within fifteen (15) days of the initial invoice date. Client shall pay interest on amounts received after said date at the rate of 1½ % per month (18%) annually. If Grever & Ward engage a collection agency or attorneys to enforce the Client's payment obligation under the Proposal/Agreement, the Client shall pay a collection fee equal to 25% of the invoice amount and any accrued interest. Grever & Ward may suspend Services or withhold documents from Client if there are outstanding invoices unpaid for more than forty-five (45) days from the date of the initial invoice.

3. Fees for Services quoted as a lump sum shall be invoiced on a lump-sum basis. Fees for Services quoted on a unit basis or percentage completion basis will be invoiced periodically at the rate for the quantity or proportion of the work actually completed. Requests for partial payments shall be made as the work progresses and shall be expressed as a percentage of the entire fee for the work completed for the period of the invoice. For all contracts that require a retainer, the stipulated amount shall be paid in full prior to commencement of services. All retainers will be applied to the final invoice at the conclusion of services.

4. The Client shall approve, conditionally approve or reject all preliminary designs, plans or submittals within thirty (30) days after receiving the same from Grever & Ward. For conditional approvals or total rejections, the Client shall provide a detailed explanation of the conditions or the reasons for rejection. If the Client fails to respond within the foregoing thirty (30) day period, the designs, plans or other submittals shall be deemed to be approved by the Client in the form and content as submitted by Grever & Ward.

5. The Professional Services to be performed by Grever & Ward under this Proposal/Agreement will be completed in accordance with the generally accepted standards of the profession of landscape architecture. Grever & Ward shall not be liable to Client if Grever & Ward's performance is prevented, hindered or delayed by an act of God, weather, governmental action, unavailability of materials and/or other factors beyond the reasonable control of Grever & Ward.

6. All Grever & Ward work product prepared pursuant to this Proposal/Agreement, including, without limitation, drawings, specifications, original reproductions, manuscripts, whether in documentary form or electronically stored, ("Grever & Ward Documents") are the exclusive property of Grever & Ward. Grever & Ward Documents shall not be reused on other projects without the express prior written consent of Grever & Ward. Grever & Ward retains all rights, including copyrights to the Grever & Ward Documents. Client may use the Grever & Ward Documents solely in accordance with the terms of this Proposal/Agreement.

7. If Grever & Ward has started performing Services pursuant to this Proposal/Agreement and the work is abandoned, suspended or substantially modified by the Client, the Client shall pay Grever & Ward in full for all Services performed up to the date of Grever & Ward's receipt of notice of such abandonment, suspension or substantial modification of the work. If such suspended work is resumed within thirty (30) days, all of the terms and conditions of this Proposal/Agreement, including price and specifically excluding the completion dates, shall remain unchanged. If the work is resumed later than thirty (30) days after its suspension, including during a subsequent season or calendar year, Grever & Ward shall provide Client with a revised price and completion date proposal.

8. Grever & Ward shall have no liability arising out of or relating to the source material, land use restrictions or field services supplied or omitted by the Client. Any additional work or the costs associated with delays or interruptions in the progress of the work caused by inaccurate, faulty or unavailable data supplied or omitted by the Client which necessitates the redesign, remedial and/or other additional services by Grever & Ward shall be subject to additional charges to the Client by Grever & Ward. Grever & Ward shall have no responsibility to edit, test or verify data delivered to Grever & Ward by the Client. Grever & Ward may rely on the accuracy and completeness of all items submitted by or at the direction of the Client.



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PHONE
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CLIENT **Goshen City Cemeteries**
202 South 5th Street
Goshen, IN 46526

PROJECT **Violett Cemetery – 2818 Violett Road – Goshen, IN**
Master Planning and Section Planning
See Exhibit "A", attached

9. The Client and Grever & Ward agree to mediate claims or disputes arising out of or relating to this Proposal/Agreement before commencing litigation. The mediation shall be conducted by a mediation service acceptable to the parties. A party shall make a demand for mediation within a reasonable time after a claim or a dispute arises and the parties agree to mediate in good faith. In no event shall any demand for mediation be made after such claim or dispute would be barred by applicable law. Mediation fees shall be shared equally.

10. This Proposal/Agreement is the entire and integrated agreement between the Client and Grever & Ward and supersedes all prior negotiations, statements or agreements, either written or oral. The parties may amend this Proposal/Agreement only by a written instrument signed by the Client and Grever & Ward.

11. Neither the Client nor Grever & Ward shall assign this Proposal/Agreement without the prior written consent of the other.

12. The Client hereby agrees to indemnify, defend and hold Grever & Ward harmless from and against any and all claims, liabilities, suits, demands, losses, costs and expenses, including, without limitation, reasonable attorneys' fees and all legal expenses or fees incurred through appeal, and all interest thereon, accruing or resulting to any and all persons, firms or other legal entities on account of any damages or losses to property or persons, including injuries or death, or economic losses, arising out of the project or this Proposal/Agreement, except that Grever & Ward shall not be entitled to be indemnified to the extent such damages or losses are found by a court or forum of competent jurisdiction to be caused by Grever & Ward's negligent errors or omissions.

13. Prior to the commencement of any work pursuant to this Proposal/Agreement, the Client shall provide Grever & Ward with evidence of the Client's broad form comprehensive general liability policy with limits of at least \$1,000,000, specifically covering liabilities assumed by contract and naming Grever & Ward as an "additional insured".

14. To the fullest extent as permitted by law, Grever & Ward's total liability to Client for any and all injuries, claims, liabilities, losses, costs, expenses or damages whatsoever arising out of or in any way related to this project or this Proposal/Agreement from any cause or causes including, but not limited to Grever & Ward's negligence, errors, omissions or breach of contract, shall not exceed the total fees to be received by Grever & Ward under this Proposal/Agreement. This limitation of liability shall apply to the Client's direct claims and to the Client's claims arising from third parties.

15. Should COVID-19 / Pandemic Conditions warrant a postponement of travel, Grever & Ward will coordinate with the Client on a revised schedule or alternative approaches to completing the work.

Proposal Valid Until: November 14, 2022

Authorized Date: _____

Proposal Date: October 14, 2022

Client

David G. Ward, President
Grever & Ward, Inc.

**Area of Master Planning- 10.2 Acres +/-
(Proposal Item # 1)**

**Area of Section Planning- 1.25 Acres +/-
(Location of Section Planning to be Determined By Master Plan)
Regular Section - 1.0 Acres/950 Graves +/-
Natural Burial Section- 0.25 Acres/150 Graves +/-
(Proposal Item #2)**



NOTES
1) FIELD MAPING CONDUCTED ON 10/20/22
2) AREA OF MAPING: 10.66 ACRES +/-
3) INTERFERING UTILITIES LOCATIONS ARE
GUARANTEED THAT ALL EXISTING UTILITIES
ARE SHOWN AND NO OTHER UTILITIES
WILL BE FOUND WITHIN THE MAPPING AREA ARE SHOWN
ON THIS DRAWING.

Wooded

Service Building

10-14-22 G&W Inc.

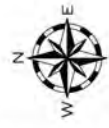


Exhibit A- Planning Sites

VIOLETT CEMETERY

GOSHEN, INDIANA

**GREYER &
WARD, INC.**
CEMETERY PLANNING
3802 N. BUFFALO STREET
ORCHARD PARK, N.Y. 14127
716-662-7700

REVISIONS	DATE	BY	TO
1	10-14-22	GW	GW

SCALE: 1"=40'-0"



CITY OF GOSHEN LEGAL DEPARTMENT

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

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

To: Board of Public Works and Safety
From: Bodie J. Stegelmann
Subject: Credit Application for McCann Industries, Inc.
Date: October 31, 2022

Attached for the Board's approval is a credit application for McCann Industries, Inc. The City's Water & Sewer Department needed to lease a backhoe from McCann Industries, Inc. to complete a project. McCann Industries, Inc. required execution of their form credit application. The Legal Department reviewed the credit application, struck objectionable language, and had Kent Holdren sign the application. If approved, City staff will provide the signed application to McCann Industries, Inc.

Suggested Motion:

Approve the credit application with McCann Industries, Inc. and authorize Kent Holdren to sign the credit application.



APPLICATION FOR CREDIT AND AGREEMENT AS TO CREDIT TERMS

The following information must be completed in full. (Incomplete information will result in a processing delay) and will be held in the strictest confidence.

BY City of Goshen Water & Sewer

Full Legal Business Name or Individual Name _____ Date Business Started _____

308 N 5th St _____

Address (If P.O. Box, include Street Address) _____

Goshen IN 46528 Elkhart

City State Zip County _____

574-534-5306 574-534-4281 35-6001045

Business Telephone Business Cell Business Fax FEIN _____

goshenindiana.org waterseweroffice@goshencity.com

Business Website Address Business Email Address _____

Government water and sewer repairs

State Type and Nature of Business _____

Have you ever applied for credit before with McCann? ☐ Yes ☒ No

If so, under what name? _____

Estimated Average Monthly Purchases \$ 5,000 Credit Line Requested \$ 5,000

OWNERSHIP ☐ Corporation ☐ Partnership ☐ Individual ☒ LLC **Government** Incorporated under the State Laws of _____

(1) _____ %
Name(s) of Principal(s)/Owner(s) Title Social Security # Date of Birth % Owner

Residence Address City State Zip Residence Phone

(2) _____ %
Name(s) of Principal(s)/Owner(s) Title Social Security # Date of Birth % Owner

Residence Address City State Zip Residence Phone

INSURANCE Name of Agency Contact Name Phone Fax

FINANCE Name of Bank Officer Handling Acct. Phone Acct. #

OPEN ACCOUNT SUPPLIER REFERENCES (1) _____
Name of Business Address City State Zip

Phone Fax \$ Avg. of Monthly Purchases Mo./Yr. of Last Purchase

(2) _____
Name of Business Address City State Zip

Phone Fax \$ Avg. of Monthly Purchases Mo./Yr. of Last Purchase

(3) _____
Name of Business Address City State Zip

Phone Fax \$ Avg. of Monthly Purchases Mo./Yr. of Last Purchase

BILLING INFORMATION Who is the Key Financial Decision Maker? Kent Holdren Superintendent
Name Title

Who is the Contact for Invoice(s)/Payment(s)? Ana Rios Admin
Name Title

Will a Purchase Order be Used? ☐ Yes ☒ No Tax Exempt/Resale Number if Used 0003120759

Would you like to Receive Electronic Invoices/Statements? ☒ Yes ☐ No If Yes, what Email or Fax # anarios@goshencity.com

Would you like to Receive Monthly Statements in Addition to Daily Invoicing? ☒ Yes ☐ No anarios@goshencity.com
Salesperson Name, if known

Please See the Reverse Side for Credit Terms and Signature

Page 1 of 2

CREDIT TERMS

- I. The Customer requests that McCann Industries, Inc. (hereinafter referred to as "McCann"), sell, rent, loan, demo, service, and repair goods and equipment on account in consideration of which the Customer and McCann agree as follows:
- II. The Customer shall pay the full amount of any outstanding balance shown on the monthly statement within thirty (30) days of the invoice date. Should payment not be received by McCann according to the credit terms stated, the entire balance is considered in default and due for immediate payment. Customer agrees to pay a service charge on the outstanding balance for which payment has not been received according to terms stated. The service charge shall be a minimum of 1-1/2% per month of the Customer's outstanding past due balance, after deducting current payments and credits. Such service charges shall become part of the Customer's outstanding balance. McCann may change the interest rate by giving the Customer 30 days prior written notice. The new interest rate shall apply only to the balance on the account 30 days from the date of said notice. In the event the interest rate violates any applicable law, then the interest is automatically reduced to the highest rate allowed by applicable law. Customer agrees to pay McCann a reasonable processing fee to cover any check returned by Customer's bank as unpaid.
- III. McCann may agree to increase the amount of credit extended from time to time by merely allowing the Customer increased credit to cover unpaid purchases. McCann may also terminate credit at any time if it determines itself insecure or the Customer is in default under this agreement. Customer authorizes McCann to make whatever credit investigation it feels is proper to evaluate Customer's credit and financial standing, credit experience with credit bureaus and other creditors that McCann believes Customer is or has done business with.
- IV. The Customer acknowledges that it has special skill and knowledge in the selection and use of the equipment and material to be purchased, loaned, used for demo or rented from McCann and expressly disclaims any reliance upon any statements or representations made or to be made by McCann regarding the sale, rental, demo or repair of any material or equipment. The Customer also acknowledges that it is their responsibility to comply with the manufacturer's instructions in regard to storage, preparation, mixing, and application of materials and expressly disclaims any reliance upon any statements or representations made or to be made by McCann regarding the materials. The Customer also waives any liability upon McCann for any direct, special, or consequential damages that Customer may suffer. In the event of damage to any equipment the Customer loans, demos, or rents from McCann, the Customer shall be responsible to pay for the repair and replacement of said property or parts to said property at the regular shop rates and retail parts charges of McCann. In the event any loaner, demo, or rental equipment is damaged beyond repair, stolen, lost or not returned to McCann, the Customer shall be responsible for the retail market value of the property as determined by similar sales of similar equipment by McCann. In the event the Customer is loaned, demos, or rents any equipment, the Customer shall obtain insurance covering all risk of loss, theft, or damage for the loaner, demo or rental equipment and in the event of any such loss, the proceeds of said insurance shall be paid to and are assigned to McCann. In the event the Customer fails to pick up any material ordered, or wrongfully rejects any material, Customer shall pay to McCann a handling and restocking charge of 25%.
- V. If the Customer fails to pay pursuant to the terms of this agreement and McCann elects to take action to collect this Account, the Customer shall pay all costs incurred by McCann including, but not limited to: Attorney's fees, collection agency fees, court costs, deposition and transcript costs, sheriff's fees, special process server fees, expert witness fees and bond costs. ~~THE CUSTOMER ASSIGNS AS SECURITY FOR ANY INDEBTEDNESS INCURRED OR TO BE INCURRED TO McCann UNDER THIS ACCOUNT ALL OF THE CUSTOMER'S PRESENTLY OWNED AND EXISTING AND HEREFTER ACQUIRED AND ARISING ACCOUNTS, ACCOUNTS RECEIVABLE, CONTRACT RIGHTS, CHATTEL PAPER, EQUIPMENT, INVENTORY, AND ALL PROCEEDS OF THE FOREGOING COLLATERAL. CUSTOMER APPOINTS ANY REPRESENTATIVE OF McCann AS CUSTOMER'S ATTORNEY-IN-FACT TO SIGN AND FILE A UCC-1 FINANCING STATEMENT TO PERFECT THE SECURITY INTEREST. THIS TRANSACTION SHALL BE GOVERNED BY THE LAW OF THE STATE OF ILLINOIS, AND JURISDICTION AND VENUE FOR THE HEARING FOR ANY MATTER IN DISPUTE SHALL BE WITH THE DUPAGE COUNTY CIRCUIT COURT OF ILLINOIS. Customer waives any right to a jury trial and any right to file a Counter-Claim in any action to enforce this agreement. At McCann's sole discretion, any deposition will take place in DuPage County.~~
- VI. The Customer authorizes any of its employees it sends to McCann to deliver or pick up equipment or materials, for purchase, loan, demo, rental, or repair, to sign demo, rental or delivery receipts or repair orders for said equipment or materials and agrees to be bound by all the terms of said documents. In the event the Customer directs McCann to deliver any material or equipment, and the Customer does not have a representative present at the time of delivery, the Customer authorizes McCann to leave the material and equipment at the designated place of delivery. Upon said delivery, the Customer will be responsible for said material and equipment. McCann's use of a purchase order number is for Customer's convenience and identification only. This agreement and McCann's Demo Contract, Rental Contract, or General Sales/Rental (Leased) Agreement supersedes any inconsistent provision in any purchase order. Absence of a purchase order number shall not constitute grounds for non-payment of charges when the Customer has had possession, or the right to possession of the items charged.
- VII. If the Customer is not a corporation, the corporation is dissolved or there is a change of ownership of the Customer's business entity, the principal owners will remain personally liable for any indebtedness incurred on the aforesaid Account even if they later incorporate or sell the business, unless the Customer sends a written notice of said change in status by certified mail-return receipt requested to McCann. Personal liability shall continue for the Account balance incurred before said notice is received.
- VIII. Customer agrees to inspect all material immediately upon delivery to verify: (a) the quantities described in the accompanying delivery ticket are the quantities delivered and (b) there are no visible defects in the material. The Customer also agrees to examine all delivery tickets and invoices upon receipt. Unless the Customer gives McCann written notice by certified mail-return receipt requested within three (3) days of delivery, the Customer waives any claim he may have against McCann for any determinable deficiency or defect in said delivery, product, or repair, and any objection he may have to the amount of the invoice.
- IX. The Customer shall indemnify and hold McCann harmless against any and all claims, demands, liabilities, losses, damages, and injuries whatsoever kind or nature, and all attorney's fees, costs and expenses relating to or in any way arising out of the ordering, acquisition, delivery, installation, possession, maintenance, use, operation, control, loss damage, destruction, return, surrender, sale or disposition of the material and/or equipment purchased, loaned, used for demo or rented from McCann. This indemnity shall not be affected by any termination of this agreement with respect to said materials and equipment.
- X. The parties agree that this is the entire agreement and that no oral representation or agreement has been made which would modify this Credit Agreement or be a condition precedent or subsequent to the enforcement of this agreement and that this agreement may not be modified except by a writing signed by each of the parties. The invalidity of any portion of this agreement shall not be construed as a waiver thereof and shall not excuse Customer from strict performance. Time is of the essence of this agreement.

The undersigned does hereby certify and he/she is authorized to sign this application on behalf of the applicant and further certifies the above credit information is correct. The undersigned hereby authorizes McCann Industries, Inc. and/or it's assigns to make all inquiries it deems necessary to verify the accuracy of information provided to determine the creditworthiness including, without limitation, obtaining a consumer and/or business credit reports regarding the undersigned. Each of the undersigned hereby acknowledges that McCann Industries, Inc. and/or it's assigns will obtain a consumer credit report concerning them. The undersigned acknowledges that he/she has read and agrees to be bound to the terms of this agreement. A facsimile copy of this agreement shall be as binding as an original.

Date 10/25 2022 Print Name Kent Holden Signature [Signature] Title Superintendent

PERSONAL GUARANTY

The undersigned hereby personally guarantees any indebtedness incurred on the aforesaid account (including interest and attorney fees) and waives presentment and demand for payment, notice of non-payment, protest and notice of protest, and consents without notice of any extensions of time or increase in the amount of the credit given. The undersigned waives all right to a jury trial and to file a counter-claim and consents to jurisdiction and venue with the DuPage County Circuit Court of Illinois. This is intended to be a continuing guaranty and shall continue as to all new indebtedness incurred unless and until a written notice is served upon McCann Industries, Inc. by certified mail-return receipt requested, declaring said personal guaranty shall not apply to future purchases. Future updates to this application by completion of a new credit application shall not discontinue this guaranty. A facsimile copy of this guaranty shall be as binding as an original.

Print Name _____ Signature _____ Residence Address _____ City _____ State _____ Zip _____
 Print Name _____ Signature _____ Residence Address _____ City _____ State _____ Zip _____

Return to McCann Industries and provide copies of driver's license of each signer with application
 543 S. Rohlwing Road, Addison, Illinois 60101 • www.McCannOnline.com • (630) 627-0000 • FAX: (630) 627-8711
 rev. 06/18



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

October 31, 2022

To: Board of Public Works and Safety

From: Shannon Marks, Legal Compliance Administrator

Subject: Amendment to the Agreement for the Sale of Purchase of Real Estate with
Delmar J Birkey and Stacy R Birkey

Pursuant to an Agreement for the Sale of Purchase of Real Estate with Delmar J Birkey and Stacy R Birkey, the Birkey's are to deliver possession and occupancy of the real estate at 1689 Reliance Road to the City on or before November 1, 2022. The Birkey's have requested additional time to move their personal property, and the City agrees to allow this additional time. The attached Amendment to the Agreement for the Sale of Purchase of Real Estate allows the Birkey's to deliver possession of 1689 Reliance Road to the City on or before January 1, 2023.

Suggested Motion:

Move to approve and authorize the Mayor to execute the Amendment to the Agreement for the Sale of Purchase of Real Estate with Delmar J Birkey and Stacy R Birkey.



**Engineering Department
CITY OF GOSHEN**

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

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

MEMORANDUM

TO: Board of Works and Safety and Stormwater Board

FROM: Goshen Engineering

RE: **WILDEN AVENUE RECONSTRUCTION
(JN: 2014-0035)**

DATE: October 31, 2022

Attached please find Change Order No. 1.

This change order is for the addition of a 3c/8 power cable and service point for the new signal at Wilden and Main. These items were not included in the bid plan set. Change Order No. 1 increases the current contract price by \$1,221.51, making the current contract amount \$6,966,241.07, a 0.018% increase over the original contract of \$6,965,019.65.

Original contract amount	\$6,965,019.65
Change Order No. 1	\$ 1,221.51
Revised contract amount	\$6,966,241.07

Suggested Motion: Move to approve and authorize the mayor to sign Change Order No. 1 increasing the contract amount by \$1,221.51, for a revised contract amount of \$6,966,241.07.

Contract No:R -37647

Change Order No.: 001

INDIANA Department of Transportation
Construction Change Order and Time Extension Summary

Page: 1

Contract Information

District:FT. WAYNE DISTRICT

Contract No.: R -37647

AE:Koch, Michael

Letting Date:05/05/2022

PE/S:Wakeman, John

Status:Draft

Change Order Information

Date Generated: 00/00/0000

Change Order No.: 001

Date Approved: 00/00/0000

EWA: Y or Force Acct: N

Reason Code: ERRORS & OMISSIONS, Design/Plan Related

Description: Traffic Signal Work

Original Contract Amount \$ 6,965,019.56

Current Change Order Amount \$ 1,221.51

Percent: 0.018 %

Total Previous Approved Changes \$ 0.00

Percent: 0.000 %

Total Change To-Date \$ 1,221.51

Percent: 0.018 %

Modified Contract Amount \$ 6,966,241.07

Time Extension Information

Date Initiated 00/00/0000

Date Completed 00/00/0000

Original Contract Time

SS Completion Date 00/00/0000 or SS Calendar/Work Days 0

SP Date 00/00/0000 or SP Days

(SS = Standard Specification, SP = Special Provision)

Time Element Description:

Current Time Extension

SS Days 0 SP Days 0 SP Days Value \$ 0.00

Previous Time Approved

SS Days by AE: _____ DCE: _____ SCE: _____ DDCM: _____

SS Days _____ SP Days Value \$ _____

Revised Contract Time

SS Completion Date 00/00/0000 or SS Calendar/Work Days 0

SS Date 00/00/0000 or SP Days 0

INDIANA Department of Transportation
Construction Change Order and Time Extension Summary

Review and Approval Information

Required Approval Authority AE: _____ DCE: _____ SCE: _____ * DDCM: _____ *
(\$ per Change Order) (- LE \$ 250K-) (- LE \$ 750K -) (-- LE \$ 2 M --) (-- GT \$ 2 M --)
(Days per Contract) (50 SS days) (100 SS days) (200 SS Days) (GT 200 SS days)

Verbal Approval Required? Y / N If Y, by _____ Date Issued _____

Total Change To-Date>5%? Y / N If Y, Copy to Program Budget Manager _____

Scope/Design Recommendation Y / N If Y, Referred to Project Manager(PM) _____
Required?

Date to PM _____ Date Returned _____

Approval Authority Concurs with PM? Y / N If Y, Concurrence by _____ Date _____

If N, Resolution: Approved _____ Disapproved _____

Resolved by _____ Date _____

LPA Signatures Required? Y / N If Y, Date to LPA _____ Date Returned _____

FHWA Signatures Required? Y / N If Y, Date to FHWA _____ Date Returned _____

* Field Engineer Recommendation (Required for SCE or DDCM Approval)

Field Engineer _____ Date _____

Comments: _____

Contract No: R -37647

INDIANA

Date: 10/24/2022

Change Order No: 001

Department of Transportation

Page: 3

Contract: R -37647
 Project: 1400715 - State: 140071500LC2
 Change Order Nbr: 001
 Change Order Description: Traffic Signal Work
 Reason Code: ERRORS & OMISSIONS, Design/Plan Related

CLN	PCN	PLN	Item Code	Unit	Unit Price	CO Qty	Comment	Amount Change
0134	1400715	0134	809-04652	EACH	1,004.910	1.000	C	Amount:\$ 1,004.91
Item Description: SERVICE POINT								
Supplemental Description1: Traffic Signal Service								
Supplemental Description2:								
0135	1400715	0135	805-78467	LFT	3.800	57.000	C	Amount:\$ 216.60
Item Description: SIGNAL CABLE SERVICE COPPER 3C/8 GAUGE								
Supplemental Description1: 3c/8 Gauge Service Cable								
Supplemental Description2:								

Total Value for Change Order 001 = \$ 1,221.51

Whereas, the Standard Specifications for this contract provides for such work to be performed, the following change is recommended.

General or Standard Change Order Explanation

A contract time adjustment is not required for this change.

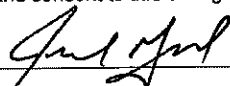
General or Standard Change Order Explanation

The as bid signal plans do not include the 3c/8 power cable or a new service point for the new signal at Wilden/SR 15. The CIB correspondingly does not contain the quantity or pay item for either item. Hawk Enterprises submitted pricing for each item, which were compared with INDOT unit price averages. No additional contract time was requested or is warranted for this work. The INDOT PM and City of Goshen ERC have reviewed this change and given their concurrence. INDOT AE supports this change order

Change Order Explanation for Specific Line Item

It is the intent of the parties that this change order is full and complete compensation for the work describe above.

Notification and consent to this change order is hereby acknowledged.

Contractor: Signed By: JORDAN GARDDate: 10-24-22

NOTE: Other required State and FHWA signatures will be obtained electronically through the SiteManager system.

Contract No:R -37647
Change Order No:001

INDIANA
Department of Transportation

Date:10/24/2022
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APPROVED FOR LOCAL PUBLIC AGENCY

(SIGNATURE)

(SIGNATURE)

(TITLE)

CITY ENGINEER

(TITLE)

(DATE)

10/28/22

(DATE)

SUBMITTED FOR CONSIDERATION

PE/S _____

APPROVED FOR INDIANA DEPARTMENT OF TRANSPORTATION

Approval Level	Name of Approver	Date	Status
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