



Board of Public Works & Safety and Stormwater Board

Regular Meeting Agenda

4:00 p.m., December 12, 2024

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

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

Call to Order by Mayor Gina Leichty

Approval of Minutes: December 5, 2024 Regular Meetings

Approval of Agenda

- 1) Open Sealed Bids:** Forward all bids received for upfit equipment for 2025 Ford Explorer Hybrid Police Pursuit Vehicles to the Legal Department for review
- 2) Open Sealed Bids:** Forward all quotes received for a 2024 or newer medium duty dump truck to the Legal Department for review
- 3) Open Proposals:** Forward proposals received to purchase real property at 65719 SR 15, Goshen, to Redevelopment for further consideration
- 4) Police Department request:** Approve the Conditional Offer of Employment Agreement with **Tyler D. Smoker** and approve his hiring as a Probationary Patrol Officer, effective Nov. 11, 2024
- 5) Police Department request:** Approve the promotion of **Officer Austin Whitford #228** from the position of Probationary Patrol Officer to the rank of Patrol Officer, retroactive to Dec. 4th, 2024
- 6) Police Department request:** Approve the resignation of **Officer Aaron Dolph #230**, effective Nov. 2, 2024
- 7) Police Department request:** Approve the r resignation of **Reserve Officer Steven H. Taft #R138**, effective Nov. 6, 2024
- 8) Fire Department request:** Approve the City's amended Conditional Offer of Employment with **Brian Guerra** stating that upon completion of his first year of service he will receive a retention bonus of \$2,500 annually for three consecutive years, totaling \$7,500



9) Downtown Goshen Inc. request: For Jan. 3 **First Friday events**, approve the closure of East Washington Street, from 5th to Main streets, from 1 to 11 pm., and allow use of the first 4 parking spots on the north side of East Washington Street, from 8 am to 1 p.m. for unloading of ice blocks and the closure of West Washington Street from the alley to Main Street, 1 to 11 pm.

10) Kauffman Construction request: To facilitate renovations, approve the placement of a dumpster in parking spaces adjacent to **103 North Fifth Street**

11) Legal Department request: Approve the agreement with **DJ Construction Co., Inc.** to serve as Construction Manager as Constructor for preconstruction and construction services required for the renovation of and improvements to the **City Annex Building**, as presented, and authorize Mayor Leichy to execute the Agreement

12) Engineering Department request: Approve the relocation of the existing pedestrian crossing warning sign and re-mounting it at the **Lincoln Avenue entrance to Alley 141**

13) Engineering Department request: Approve the installation of a sign for reserved parking for persons with disabilities with pavement markings for a 23-foot accessible parking space, to be renewed on an annual basis at **1622 Harrison Ridge Lane**

14) Engineering Department request: Approve the installation of a reverse curve warning ahead sign with speed advisory plaque and flashing yellow warning beacon for eastbound traffic on **West Kercher Road**

15) Engineering Department request: Deny the installation of stop signs, making the **intersection of Leroy Street and 13th Street** an all-way stop

16) Engineering Department request: Deny the installation of stop signs in **Harrison Ridge Subdivision and Weaver Woods Subdivision**

17) Engineering Department request: Approve Premium Services request to perform daytime lane restrictions on **West Lincoln Avenue** on Monday, Dec. 16, 2024

18) Engineering Department request: Approve Agreement with **L&M Electric** for the 2025 Civil City Electrical Maintenance in the amount of \$41,950.00 per year for three years

19) Engineering Department request: For the **County Courts Consolidation Roadway Improvements project**, approve Change Order No. 4 with **Niblock Excavating, Inc.** to vacuum excavate around the high-pressure gas main for an increase of \$6,863.56



20) Engineering Department request: Approve the Agreement with **Niblock Excavating** for the **2024 Asphalt Paving project** in the amount of \$2,055,649.40

21) Engineering Department request: Award the bid to **MWI Pumps** as the lowest responsive and responsible bidder and authorize the Mayor to sign the agreement with MWI Pumps for the WWTP Trailer-Mounted Bypass Pump in the amount of \$61,378.00

22) Engineering Department request: Approve and ratify the Mayor's execution of the agreement with **Jones Petrie Rafinski, Corp.** in the amount of \$241,975 to provide design and bid support services for the **Century Drive Reconstruction** project

Privilege of the Floor

CITY OF GOSHEN STORMWATER BOARD

4:00 p.m., Dec. 12, 2024

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

Members: Mayor Leichty, Mike Landis and Mary Nichols

23) Accept the post-construction stormwater management plan for **Indiana Avenue Apartments as it has been found to meet the requirements of City Ordinance 4329**

24) Accept the post-construction stormwater management plan for **Ryan's Place Inc. as it has been found to meet the requirements of City Ordinance 4329**

BOARD OF PUBLIC WORKS & SAFETY UNSAFE BUILDING HEARING: APPROVAL OF AGREEMENT

4:00 p.m., Dec. 12, 2024

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

Members: Mayor Leichty, Mike Landis, Orv Myers, Mary Nichols, Barb Swartley

25) Review and approve a grant agreement between the City of Goshen and Restōr Church and the agreement between the City of Goshen and Christopher D. Jones, the owner of property and unsafe building at 425 North 9th Street

Approval of Civil City and Utility Claims

Adjournment



BOARD OF PUBLIC WORKS & SAFETY & STORMWATER BOARD
MINUTES OF THE DECEMBER 5, 2024 REGULAR MEETING
Convened in the Goshen Police & Court Building, 111 East Jefferson St., Goshen, Indiana

Present: Mayor Gina Leichty, Mike Landis, Orv Myers, Mary Nichols and Barb Swartley
Absent: None

CALL TO ORDER: Mayor Leichty called the meeting to order at 4:00 p.m.

REVIEW/APPROVE AGENDA: Mayor Leichty presented for Board consideration the minutes of the Nov. 7 and Nov. 14 Regular Meetings and the Nov. 21 Special Meeting as prepared by the **Clerk-Treasurer's Office**. Board member Mike Landis made a motion to approve the minutes as presented. Board member Barb Swartley seconded the motion. The motion passed 5-0.

REVIEW/APPROVE AGENDA: Mayor Leichty presented the agenda as prepared by Clerk-Treasurer Aguirre. Board member Landis made a motion to approve the agenda as presented. Board member Swartley seconded the motion. The motion passed 5-0.

1) Open Sealed Bids: 2024 Asphalt Paving Project and refer to the Engineering Department

The Clerk-Treasurer's Office received sealed bids from contractors for the 2024 Asphalt Paving project. All bids were due by 3:45 p.m. on Dec. 5 to the Clerk-Treasurer's Office or by 4 p.m. at the Board's meeting.

Mayor Leichty asked if there are any additional bids to be submitted to the Board. There were not. The Mayor then announced that the following proposals were received:

- D.C. Construction Services, Pendleton, IN: \$1,486,375.53; alternate bid, \$641,585.71
- Niblock Excavating, Inc., Bristol, IN: \$1,427,328; alternate bid, \$628,321.00
- Phend & Brown, Inc., Milford, IN: \$1,419,195.00; alternate bid, \$751,288.40

Landis/Swartley made a motion to forward all bids to the City Engineering Department for review. The motion passed 5-0.

2) Legal Departments request: Approve the Memorandum of Understanding (MOU) between the City, Joseph Cestone, and Goshen Firefighters Association Local No. 1443 and authorize the Mayor to execute the MOU

Assistant City Attorney Don Shuler said the Board extended a conditional offer of employment to and entered into a Conditional Offer of Employment Agreement with **Joseph F. Cestone** on Oct. 28, 2021.

Shuler said Cestone completed the paramedic training per the Conditional Offer of Employment, but did not otherwise become a certified paramedic. The Fire Department, the Fire Union, and Cestone have discussed retaining his employment as they discuss potential revisions to their ambulance run procedures, and wish to utilize the attached Memorandum of Understanding (MOU) to amend the prior Conditional Offer of Employment Agreement.

Shuler recommended that the Board approve and authorize the Mayor to execute the attached MOU. The MOU provides that Cestone will retain his employment with the City Fire Department, that he will continue to serve as an Emergency Medical Technician on ambulance runs, and is otherwise bound by all obligations consistent with the prior Conditional Offer of Employment Agreement and the Collective Bargaining Agreement between the City and the Fire Union.

Landis/Swartley made a motion to approve the Memorandum of Understanding between the City, Joseph Cestone and the Goshen Firefighters Association Local No. 1443 and authorize the Mayor to execute the MOU. The motion passed 5-0.



3) Clear Creek & Associates request: Approve the use two parking spaces on W. Washington Street, Dec. 13-Dec. 18, to place a dumpster for the disposal of items from The Famous building

David Gingerich of Clear Creek & Associates, said the structural engineering firm recently purchased The Famous building, 203 South Main Street in Goshen, and is relocating its offices from its current location at 212 West Washington Street.

As part of the move, **Gingerich** said Clear Creek needs to remove old furniture and miscellaneous debris that has been stored in the basement of the new location. To aid in removal, he asked that the Board allow the placement of a dumpster in the two parking spaces nearest the intersection of the rear alley and West Washington Street.

In his request to the Board, **Gingerich** wrote that the dumpster will be placed on Friday, Dec. 13 and removed between Monday, Dec. 16 and Wednesday, Dec. 18.

Clerk-Treasurer Aguirre pointed out that the company delayed placement of the dumpster until after First Friday. He also said it notified neighbors of the plans and none objected to the placement of the dumpster, which will be 8 feet wide, 22 feet long and 4 feet high.

In response to **Gingerich's** requests, **City Street Commissioner David Gibbs** said his staff would block off the parking spaces on the day of the dumpster delivery and **City Director of Public Works & Utilities Dustin Sailor** said he would provide a letter to **Gingerich** about the Board's approval so the company would deliver the dumpster.

Landis/Swartley made a motion to allow Clear Creek Associates to place a dumpster in the two parking spaces nearest the intersection of the rear alley and West Washington Street, starting Friday, Dec. 13 until Wednesday, Dec. 18. The motion passed 5-0.

4) Kauffman Construction requests: Approve the placement of building improvements in the City's right of way at 103 North Fifth Street, which was formerly Tony's Famous Grill

Nate Kauffman, the owner of Kauffman Construction of Bremen, asked the Board to approve use of the City's right of way for a number of planned improvements to the former Tony's Famous Grill building, 103 North 5th Street.

Kauffman said his company is planning the following:

- Tear out ADA ramp and porch cap and repour it so that there are no cracks;
- Install two black awnings on the south side of the building, adjacent to Lincoln Avenue, to match the existing awning next door at Giving Tree massage;
- Install 2 mini split units on the north porch next to the kitchen wall to provide A/C in the kitchen;
- Install a white vinyl privacy fence around the mini split units to keep the public away and safe.

Kauffman provided a site plan and pictures for the Board's review.

City Assistant Planning & Zoning Administrator Rossa Deegan said previously the owner was considering an application to allow outdoor seating but not at this time. **Deegan** said he had nothing to add about the request.

Mayor Leichty asked how soon before the new business might be opened. **Kauffman** said a few months.

In response to a question from **Board member Landis**, **Kauffman** said he plans to remove the current deteriorating handicap ramp and replace it, but it will be in the exact same location.

City Engineering Project Manager Andrew Lund Engineering gave staff feedback on **Kauffman's** request, which he detailed in a memorandum, dated Dec. 5, 2024, and which he distributed to the Board (**EXHIBIT #1**).

Summarizing the comments in the memo, Lund said:

- Engineering staff reviewed the proposed building alterations as part of a recent site plan review;
- All of the proposed alterations are already within the public right-of-way and the Engineering Department would not object to these requests as long as they remain within the current building footprint;
- The existing footprint of the ramp and porch area do not conflict with City utilities;
- The existing features do not overlap onto the pedestrian access route (ADA path);



- The proposed improvements do not increase the area already encroaching in the right-of-way;
- If the Board approves the ramp, it is recommended the Board make the distinction that all compliance with ADA requirements and maintenance are the responsibility of the owner;
- Staff sees no significant issue with the exterior placement of the mini splits and fence under the existing overhang as long as they conform with building and mechanical code requirements and that they are inspected by the City Building Department;
- The applicant should provide a minimum clearance of 8-feet under the awnings as approved by the City Planning Department;
- Though not part of this request, comments were issued as part of Engineering Department review requiring the removal of the large step at the northernmost entrance to the porch;
- Finally, if approved, it was recommended that the Board base approval on the condition that improvements are to be removed at the owner's expense if the City or another utility need access to this portion of the right-of-way, although Lund agreed that likelihood was very low.

Board member Landis, Mayor Leichty, Lund and Kauffman briefly discussed the new ramp and the requirement for the 8-foot clearance for awnings. In response to questions from **Mayor Leichty, City Attorney Bodie Stegelmann** recommended that the Board's motion require compliance with City codes and that the Board note the City's requirement that the owner remove any improvements in the right of way if that becomes necessary.

At the **Clerk-Treasurer's** request, **Kauffman** stated on the record that he "absolutely" agreed with the conditions. **Landis/Swartley made a motion to approve the use of the City's right of way for the building improvements at 103 North 5th Street with the additional conditions that the applicant comply with all City building codes and that if the City were to need access to the right of way that the building owner would bear the expense for having to remove any improvements in the right of way. The motion passed 5-0.**

5) Legal Department request: Approve and authorize the Mayor to execute agreements with Chamber of Commerce of Goshen, Downtown Goshen, Inc. for its administrative, façade and First Fridays programs, Goshen Theater, Inc., Lacasa, Inc., South Bend Elkhart Regional Partnership, and Warsaw Housing Authority for the services described in each agreement

City Attorney Bodie Stegelmann told the Board that many community service organizations provide services or programs to Goshen's residents in a manner more efficient than what the City could provide. He said the City has supported these organizations with funds in the past and wishes to continue to do so.

Stegelmann said these organizations were subject to an application process requiring specific documentation regarding their organization and a detailed description of how these funds will be used. The organizations will also have to account for how the funds were used. He asked the Board to approve the following Community Service Partnership Agreements.

Bodie clarified that the façade program would cost \$20,000 rather than the \$25,000 stated in the memo to the Board.

Organization	Grant amount
Chamber of Commerce of Goshen, Inc.	\$50,000
Downtown Goshen, Inc. – Administrative	\$ 5,000
Downtown Goshen, Inc. – Façade	\$20,000
Downtown Goshen, Inc. – First Fridays	\$50,000
Goshen Theater, Inc.	\$75,000
Lacasa, Inc.	\$25,000
South Bend Elkhart Regional Partnership	\$2,750
Warsaw Housing Authority	\$20,000



Landis/Swartley made a motion to approve and authorize Mayor Leichty to execute agreements with Chamber of Commerce of Goshen, IN, Inc., Downtown Goshen, Inc. for its Administrative, façade and First Fridays programs, Goshen Theater, Inc., Lacasa, Inc., South Bend Elkhart Regional Partnership, and Warsaw Housing Authority for the services described in each agreement. The motion passed 5-0.

6) Legal/Fire Departments request: Approve the agreement of the City and TouchPhrase Development, LLC, dba as Julota, and authorize the Mayor to execute the agreement

Assistant City Don Shuler told the Board that included in the agenda packet was a proposed agreement with TouchPhrase Development, LLC, doing business as Julota, to implement a Software as a Service (SaaS) solution tailored for the needs of the Goshen Fire Department. He said the platform, "Julota Reach," is designed to enhance the City's ability to track and coordinate services for patients between Fire, EMS, law enforcement, and potentially health care facilities.

Under the agreement, **Shuler** said Julota will provide Goshen with access to the hosted service and related modules. The service includes features for tracking patient interactions, managing resources, and generating reports, and contains data privacy measures compliant with HIPAA and other health privacy laws. The agreement outlines an initial term of one year, with options for annual renewal.

Shuler said the service is offered at an annual fee of \$39,474.50, which includes implementation, ongoing maintenance, and support. The agreement has been reviewed by the City's IT department to ensure proper integration with the City's servers and equipment.

Mayor Leichty said software would support the City's Mobile Integrated Health program.

The **Mayor** said the City currently has one police officer, a behavioral health specialist, who focuses his work on substance abuse, homelessness and addiction recovery issues. She said the City is expanding that work to include a Fire Department paramedic assigned to be part of this team. And the Common Council approved the hiring of a social worker for that team.

Mayor Leichty said this software will help that team as they are working with some of the most vulnerable folks in the community to communicate with community providers and assess any medical needs and to help them manage that caseload. She said the City looked at a number of software options, and this is one that's used by Noblesville and other cities within Indiana, and they highly recommended it for the City's team. She encouraged supported of the agreement on behalf of the team.

Landis/Swartley made a motion to approve the agreement between TouchPhrase Development, LLC, doing business as Julota, and authorize the Mayor to execute the agreement. The motion passed 5-0.

7) Legal/Police Departments request: Approve Resolution 2024-29, Approving Revised City of Goshen Police Department Policies and Repealing Certain Policies

City Attorney Bodie Stegelmann said the Board previously approved City of Goshen Police Department Policies developed in coordination with Lexipol, LLC. He said the Police Department and Lexipol LLC staff have identified certain revisions to existing policies deemed appropriate due to legislative or other changed circumstances.

Stegelmann said attached to Resolution 2024-29 were redlined versions of existing policies to show the revisions suggested. If the Board approves Resolution 2024-29, the redlines will be removed and the policies will be inserted into the Policy Manual in final form with an effective date of Dec. 12, 2024.

When passed, Resolution 2024-29 would approve the following revised policies and repeal the previously approved policies for the following:

- 300 – Response to Resistance
- 301 – Response to Resistance Review Boards
- 316 – Missing Persons



- 410 – Emergency Detentions
- 801 – Records Section
- 1021 – Temporary Modified-Duty Assignments
- 1024 – Wellness Program

Included in the agenda packet were the original and revised policies.

Landis/Swartley made a motion to approve Resolution 2024-29, *Approving Revised City of Goshen Police Department Policies and Repealing Certain Policies*, effective Dec. 12, 2024. The motion passed 5-0.

8) Legal Department request: Approve Resolution 2024-31, Declaring Surplus and Authorizing the Disposal of IT Equipment

City Attorney Bodie Stegelmann told the Board the City's Technology Department wants to dispose of personal property that is no longer needed or is unfit for the purpose for which it was intended. He said the items are worthless or of no market value.

Stegelmann said Resolution 2024-31 would declare the property as surplus and authorize its disposal in accordance with Indiana Code § 5-22-22-8 by demolishing or junking property that is worthless or of no market value.

The following surplus property would be discarded:

- Samsung R540 -Laptop; Samsung R530 -Laptop
- HP EliteDesk 800 G2 TWR -Tower; HP EliteDesk 800 G2 TWR -Tower
- HP Pro3500 Series -Tower; HP Pro3500 Series -Tower
- HP EliteDesk 800 G2 TWR -Tower; HP EliteDesk 800 G2 TWR -Tower; HP EliteDesk 800 G2 TWR -Tower
- HP ProBook 440 G2 -Laptop; HP ProBook 440 G2 -Laptop; HP ProBook 440 G2 -Laptop; HP ProBook 440 G2 -Laptop; HP ProBook 440 G2 -Laptop
- Toshiba Satellite C855D-S5100 -Laptop
- HP EliteBook 840 -Laptop
- HP 280 G1 -Tower; HP 280 G1 -Tower
- SYX IPMIP-GS -Tower
- AOC -JT085HA022328 – Flat Screen Monitor
- Acer - ETLDQ0C011851EAC534022 – Flat Screen Monitor
- Neovo - C1F15E0F53502825 – Flat Screen Monitor
- Acer- ETL480201780905172396L – Flat Screen Monitor
- HP – 803823001 - Keyboard
- Logitech – 820006477 – Keyboard
- 4 Custom Towers

Landis/Swartley made a motion to pass Resolution 2024-31, *Declaring Surplus and Authorizing the Disposal of Personal Property*. The motion passed 5-0.

9) Legal Department request: Approve Resolution 2024-30, Declaring Surplus and Authorizing the Disposal of Vehicles and Equipment

City Attorney Bodie Stegelmann told the Board that the City wants to dispose of personal property that is no longer needed or is unfit for the purpose for which it was intended.

Stegelmann said Resolution 2024-30 would declare the property as surplus and authorize its disposal in accordance with the provisions of Indiana Code § 5-22-22-4 by engaging an auctioneer to advertise the sale of the property and conduct a public auction.



Stegelmann said an agreement would be presented to the Board for approval with an auction company to sell the property. In addition, the City will give notice of the auction by publication of the date, time, place and terms of the sale at least 15 days before the date of the sale.

Board member Landis asked how long the surplus property has been accumulating. **City Fleet Manager Carl Gaines** said the property has been accumulating for about a year.

Resolution 2024-30 would declare the following to be surplus property:

1. 2011 5x8 Utility Trailer, VIN/Serial Number 457CA0B08B1022372 (Cemetery Asset #CM7791)
2. Coats Tire Changer Rim Clamp 7060 AX, VIN/Serial Number N/A (Central Garage Asset #N/A)
3. Whelltronic Hoist 15,000, VIN/Serial Number 205B-01831 (Central Garage Asset #N/A)
4. Coats Tire Balancer 1250, VIN/Serial Number N/A (Central Garage Asset #N/A)
5. 2003 Medtec Medic, VIN/Serial Number 1HTMNAAL63H563323 (Fire Asset #FD925)
6. 2010 Chevrolet Tahoe, VIN/Serial Number 1GNUKAE0XAR216470 (Fire Asset #F9071)
7. Poulan Push Mower, VIN/Serial Number 020300M 000622 (Fire Asset #F624)
8. 2014 Toro Timemaster Push Mower, VIN/Serial Number 314003513 (Fire Asset #F626)
9. Snapper P21507B Push Mower, VIN/Serial Number 16273954 (Fire Asset #F629)
10. Snapper Ninja Push Mower, VIN/Serial Number 2012816899 (Fire Asset #F633)
11. Toro SR4 Push Mower, VIN/Serial Number 8.0811570874e+11 (Fire Asset #F634)
12. Honda HR214 Push Mower, VIN/Serial Number 6258364 (Fire Asset #F637)
13. Lawnboy Push Mower, VIN/Serial Number 260002862 (Fire Asset #F649)
14. 2010 Chevrolet Tahoe, VIN/Serial Number 1GNUKAE05AR170434 (Fire Asset #F909)
15. 1993 Chevrolet K3500, VIN/Serial Number 1GCHK34K4PE185533 (Fire Asset #F017) with Boss Straight Plow, VIN/Serial Number A7746 (Fire Asset #F017AA)
16. Honda Push Mower, VIN/Serial Number MZBZ-6043088 (Parks Asset #PKD2212)
17. 2015 Chevrolet Impala, VIN/Serial Number 2G1WD5E32F1161227 (Police Asset #145)
18. 2014 Chevrolet Impala, VIN/Serial Number 2G1WD5E30E1179689 (Police Asset #124)
19. 2004 Ford Explorer, VIN/Serial Number 1FMZU72K14ZA76536 (Police Asset #1104)
20. Sander/Salt Spreader, VIN/Serial Number 2029234 (Street Asset #326C)
21. 2011 Boss V-Plow XT, VIN/Serial Number BC050045 (Street Asset #341A)
22. 2011 Boss V Plow, VIN/Serial Number BC074291 (Street Asset #383A)
23. 2014 Boss Snow Plow, VIN/Serial Number 223297 (Street Asset #ST342A)
24. 2015 Boss Plow 9'2", VIN/Serial Number 237412 (Street Asset #ST378A)
25. 2006 Chevrolet Truck Bed, VIN/Serial Number N/A (Street Asset #N/A)
26. Broce Sweeper, VIN/Serial Number 88347 (Street Asset #388)
27. Wacker Roller, VIN/Serial Number 5021579 (Street Asset #337)
28. Hydrotek Power Washer, VIN/Serial Number N/A (Wastewater Asset #N/A)
29. 2004 Trash Pump 8.0 Honda, VIN/Serial Number WAF008972 (Water & Sewer Asset #6611)
30. 2007 GMC Canyon, VIN/Serial Number 1GTDT13E078144195 (Water & Sewer Asset #801)
31. 2007 Dynapac LT6000 Rammer, VIN/Serial Number 76103889 (Water & Sewer Asset #WS6607)

Landis/Swartzley made a motion to pass Resolution 2024-30, Declaring Surplus and Authorizing the Disposal of Vehicles and Equipment. The motion passed 5-0.

10) Legal Department request: Approve Consignment Agreement with Bright Star Realty and Auctions, LLC
City Attorney Bodie Stegelmann told the Board that Resolution 2024-30 would authorize the disposal of surplus property by engaging an auctioneer to advertise the sale of the property and conduct a public auction.



Stegelmann said the City Central Garage would like to consign the City's surplus property with Bright Star Realty and Auctions, LLC to be sold at Bright Star's upcoming consignment auction to be held on Dec. 30, 2024 at 11751 County Road 12, Middlebury.

Stegelmann recommended that the Board approve and ratify the Mayor's execution of the attached Consignment Agreement and Addendum with Bright Star Realty and Auctions, LLC to sell the City's surplus property at Bright Star's upcoming consignment auction. Bright Star's commission to sell the surplus property is \$25 per lot plus 5% of the gross proceeds from the sale of the surplus property.

Landis/Swartley made a motion to approve and ratify the Mayor's execution of the Consignment Agreement and Addendum with Bright Star Realty and Auctions, LLC to sell the City's surplus property at Bright Star's consignment auction. The motion passed 5-0.

11) Legal/Parks & Recreation Departments request: Approve the agreement with DJ Construction as presented, and authorize the Mayor to execute the agreement

Assistant City Attorney Don Shuler told the Board that the City previously solicited sealed proposals seeking proposals and qualifications for the services of a Construction Manager as Constructor for preconstruction and construction services required for the renovation of and improvements to Shanklin Pool.

Shuler said the proposals were received on Sept. 26, 2024. Following interviews with the prospective teams submitting proposals, a City review committee recommended that the City proceed with DJ Construction.

Shuler said the attached agreement with DJ Construction provides for the reconstruction and improvement of Shanklin Pool. It includes provisions for the demolition of existing pool facilities, the construction of a new pool and associated structures, project management responsibilities, and compliance with Indiana public works statutes. The agreement specifies that a guaranteed maximum price (GMP) will be established, with an appropriate contingency; and finalized upon execution of a GMP Amendment following the completion of pre-construction services. The City will pay DJ Construction a lump sum of \$20,000 for pre-construction services.

The Agreement requires completion of the Project by May 22, 2026. **Shuler** said the City Parks and Recreation Board approved the agreement at its Dec. 2 meeting.

Landis/Swartley made a motion to approve the Agreement with DJ Construction as presented and authorize the Mayor to execute the Agreement. The motion passed 5-0.

12) Legal Department request: Approve and authorize the Mayor to execute the agreement with Peerless Midwest, Inc. for Hydrogeologic Services to Drilling and Development for Well #TW-24F at a cost of \$162,665

City Attorney Bodie Stegelmann recommended that the Board approve and authorize the Mayor to execute the attached agreement with Peerless Midwest, Inc. for Hydrogeologic Services to Drilling and Development for Well #TW-24F. The contractor will be paid \$162,665 for the drilling and development of this test well.

Marvin Shepherd, Superintendent of the City Water Treatment and Sewer Department, distributed to Board members a two-page document showing the location of current two-inch test wells and the proposed 16-inch well in the City's South Wellfield Site and an illustration of hydrological samples (**EXHIBIT #2**).

Shepherd said the City has had a number of two-inch test wells drilled in the City's South Wellfield Site and now wants a 16-inch well drilled that will be 170 feet deep to verify the test results.

Landis/Swartley made a motion to execute the attached agreement with Peerless Midwest, Inc. for Hydrogeologic Services to Drilling and Development for Well #TW-24F at a cost of \$162,665. The motion passed 5-0.

13) Legal Department request: Accept the easement at 1304 East Lincoln Avenue



City Attorney Bodie Stegelmann recommended that the Board accept the attached Easement from Douglas Fearnow, Tony Griffin, and Thomas Nagle, Trustees of Goshen Church of God, as Trustees and constituting the Local Board of Trustees of the Church of God at Goshen, in Elkhart County, Indiana.

Stegelmann said this easement is for Goshen City public parking lot purposes and is part of the real estate at 1304 East Lincoln Avenue, beside Abshire Park. The easement area was depicted in Exhibit A of the attached Easement. As consideration for the easement, **Stegelmann** said the City is agreeing to install a split rail fence upon the City real estate adjacent to the Church's southern property line, and agreeing to spray the Church's gravel parking lot to control weeds in 2025, 2026, and 2027.

Landis/Swartley made a motion to accept the Easement at 1304 East Lincoln Avenue from Douglas Fearnow, Tony Griffin, and Thomas Nagle, Trustees of Goshen Church of God, as Trustees and constituting the Local Board of Trustees of the Church of God at Goshen, in Elkhart County, and authorize the Mayor to execute the acceptance. The motion passed 5-0.

14) Legal Department & Clerk-Treasurer's Office request: Approve and authorize the Mayor to execute the service agreement with Ricoh USA for the new copier for City Hall

City Attorney Bodie Stegelmann said staff is seeking to purchase a new copier from Ricoh, plus training and connection, for the cost of \$7,150 for City Hall and wished to enter into a service contract with Ricoh. The service agreement is for 60 months at a rate of \$0.0066 per B&W page and \$0.0400 per color page.

Stegelmann said the City Legal Department reviewed the service agreement and now recommended that the Board approve and authorize **Mayor Leichty** to execute the services agreement with Ricoh USA Inc.

Clerk-Treasure Aguirre said acquisition of a new printer was spearheaded by **Deputy Clerk-Treasurer Jeffery Weaver**, who received bids from three companies. He said the best bid was being selected. He also noted the invaluable assistance from **Brandy Toms, a paralegal with the City Legal Department.**

Landis/Swartley made a motion to approve and authorize Mayor Leichty to execute the service agreement with Ricoh USA for the new copier for City Hall. The motion passed 5-0.

15) Legal Department request: Approve and authorize the Mayor to execute the amendment agreement with Rowell Chemical Corporation to renew for one (1) year to purchase and supply of Sodium Hypochlorite

City Attorney Bodie Stegelmann recommended that the Board approve and authorize the Mayor to execute the attached amendment agreement with Rowell Chemical Corporation for the purchase and supply of the City's Sodium Hypochlorite, a necessary chemical for water treatment.

This amendment would renew the agreement for a one (1) year term and memorializes a cost reduction per gallon from \$1.79 to \$1.75.

Landis/Swartley made a motion to execute the amendment agreement with Rowell Chemical Corporation to renew for one (1) year to purchase and supply of Sodium Hypochlorite. The motion passed 5-0.

16) Legal Department request: Approve and authorize the Mayor to execute the amendment agreement with PVS Technologies, Inc. to renew for one (1) year to purchase and supply of Ferric Chloride

City Attorney Bodie Stegelmann recommended that the Board approve and authorize the Mayor to execute the attached amendment agreement with PVS Technologies for the purchase and supply of the City's Ferric Chloride, a necessary chemical for water treatment.

This amendment would renew the agreement for a one (1) year term without any changes.

Landis/Swartley made a motion to execute the amendment agreement with PVS Technologies, Inc. to renew for one (1) year to purchase and supply of Ferric Chloride. The motion passed 5-0.



17) Water & Sewer Office request: Move \$1,801.13 in uncollected finalized accounts from active to collection, sewer liens and write offs for the period through Aug. 12, 2024

Kelly Saenz, Manager of the Goshen City Utilities Office, told the Board that the original amount of unpaid final Water/Sewer accounts, for the period through Aug. 12, 2024, was \$3,177.70. Collection letters were sent out and payments of \$1,376.57 were collected.

The uncollected amount was \$1,801.13. So, **Saenz** asked the Board to move the office's uncollected final accounts from active to Collection, Sewer Liens and Write offs for the period. Of the uncollected amounts, \$1,132.64 came from water accounts and \$668.49 from sewer accounts.

Landis/Swartley made a motion to move the Goshen Water and Sewer Office's \$1,801.13 in uncollected finalized accounts for this period from active to Collection, Sewer Liens and Write offs. Motion passed 5-0.

18) Engineering Department information: The City Traffic Commission has asked Engineering staff to request that the Indiana Department of Transportation make pedestrian crossing safety improvements at Main Street and College Avenue

City Engineering Project Manager Andrew Lund told the Board that after the Indiana Department of Transportation's (INDOT's) recent signal replacements at the intersection of Main Street and College Avenue, **City Traffic Commissioner Brett Weddell** received a request from a resident at 1701 Woodward Place.

Lund said the resident asked the City to help petition INDOT to replace a "turning vehicles yield to pedestrians" sign, as well as alter the signal timing to allow for pedestrians to cross Main Street on the south side of the intersection before traffic is allowed to turn left from westbound College Avenue south onto Main Street. He said the left-turning vehicle moving signal is allowed concurrently with the pedestrian walk signal, and these conflict with one another. Before INDOT's recent signal work, there had been a sign to instruct College Avenue left-turning vehicles to yield.

Lund said the resident had petitioned INDOT for the protected pedestrian signal previously. The request was brought to the Nov. 21 Traffic Commission meeting. The Commission voted unanimously for Engineering staff to contact INDOT with the request to reinstall the recently removed "turning vehicles yield to pedestrians" sign and an exclusive pedestrian crossing phase activated by the button.

Clerk-Treasurer Aguirre asked why work at the intersection took so many months to complete. **Lund** said he didn't know but perhaps separate work crews were involved and were waiting for a crew to set mast arms.

Mayor Leichty thanked Lund for the information.

This was an information-only item, so no action was required.

19) Engineering Department request: Approve the installation of three speed limit signs and the relocation of the curve ahead warning sign closer to the curve on Chicago Avenue

City Engineering Project Manager Andrew Lund said the Engineering Department received a concern from **Councilor Matt Schrock** regarding speeding along Chicago Avenue, between Indiana Avenue and Pike Street.

Lund said the current speed limit along Chicago Avenue from Bashor Road to Pike Street is 30 MPH. Upon examining the existing signage along Chicago Avenue, it was discovered that only one speed limit sign was posted, for eastbound traffic.

Lund said Indiana regulations require speed limit signs at points of change from one speed limit to another, as well as beyond major intersections and other areas where it is necessary to remind motorists of the speed limit. Higher speed limits are in effect nearby, with no notice of the lower speed limit for vehicles that turn off these roads: The speed limit is 35 mph on Pike Street / US 33 and 40 mph on Wilden Avenue, west of Indiana Avenue.

Lund said at its Oct. 17 meeting, Traffic Commission members recommended the City install three additional speed limit signs and the relocation of the curve ahead warning sign north, closer to the curve.



Landis/Swartley made a motion to approve the installation of three speed limit signs and relocation of the curve ahead warning sign closer to the curve. The motion passed 5-0.

20) Engineering Department request: Approve the release of the 1-year maintenance bond of \$213,424.68 posted by Niblock Excavating and accept the asphalt paving project for permanent maintenance
City Director of Public Works & Utilities Dustin Sailor said the final inspection of the 2023 Asphalt Paving Project has taken place. The infrastructure (asphalt) has been found to meet City standards and specifications. **Sailor** recommended that the City of Goshen release the one-year maintenance bond, which were posted by Niblock Excavating for asphalt pavement, in the amount of \$213,424.68, and accept this project for permanent maintenance. **Landis/Swartley made a motion to approve the release of the 1-year maintenance bond in the amount of \$213,424.68 and accept the asphalt paving project for permanent maintenance. The motion passed 5-0.**

21) Engineering Department request: Approve Agreement with Middlebury Electric for the 2025 Utilities Electrical Maintenance for \$47,270 per year for three years
City Director of Public Works & Utilities Dustin Sailor told the Board that Middlebury Electric has provided excellent electrical service for Goshen Utilities. He asked the Board to accept Middlebury Electric's quote of \$47,270 per year to continue maintenance and enter into an agreement with them. **Landis/Swartley made a motion to approve Agreement with Middlebury Electric for the 2025 Utilities Electrical Maintenance in the amount of \$47,270.00 per year for three years. The motion passed 5-0.**

22) Engineering Department request: Approve and authorize the Mayor to sign the agreement with Abonmarche Consultants for \$198,000 to provide design and bid support services for the Eisenhower Drive and Caragana Court Reconstruction project
City Director of Public Works & Utilities Dustin Sailor asked the Board to approve an agreement with Abonmarche Consultants for design services and the creation of project bid documents for the reconstruction of Eisenhower Drive and Caragana Court. **Sailor** said this project will include full pavement replacement for both roadways between Dierdorff Road and Lincolnway East / US Highway 33. Limited drainage improvements may also be necessary. The construction project is expected to begin in 2025. This project, including design services, will be funded by Goshen Redevelopment Commission, which selected Abonmarche Consultants' proposal and approved the amount of \$198,000.00 for design services. **Landis/Swartley made a motion to approve and authorize the Mayor to sign the agreement with Abonmarche Consultants in the amount of \$198,000.00 to provide design and bid support services for the Eisenhower Drive and Caragana Court Reconstruction project. The motion passed 5-0.**

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

Mayor Leichty opened Privilege of the Floor at 4:50 p.m.

Goshen Theater Program Director Adrienne Nesbitt distributed to Board members a two-page memorandum in which she requested permission to block the east-west alley, located between 211 5th Street and the Goshen Police Department parking lot, from 10 a.m. to midnight on Dec. 6, 2024, to accommodate two tour buses and trailers of The Wizards of Winter band, which would be presenting a concert at the theater on Dec. 6. The memo included a written request and a map. **(EXHIBIT #3)**



Nesbitt said she had a last-minute request related to a large band arriving Friday for a concert at the Goshen Theater. She said theater staff just learned the band had two large tour buses with trailers that needed to be parked close to the theater.

Because parking in City lots was not an option, **Nesbitt** said one bus and trailer will be parked in alley right next to the theater. She asked that the Board allow the second bus and trailer to also be parked in the east-west alley between Janus Motorcycles and the Goshen Police Department parking lot. And to the east of the north-south alley. She asked that the bus-trailer be allowed to park there from 10 a.m. to midnight on Friday, Dec. 6, 2024.

Mayor Leichty said she didn't have any problem with the request, but asked **Nesbitt** to inform Janus Motorcycles and the Police Department. **The Mayor, Nesbitt, Street Commissioner David Gibbs and City Director of Public Works & Utilities Dustin Sailor** discussed the logistics of the request as well as parking options. And eventually supported the request.

Landis/Swartley then made a motion to allow use of the east-west alley adjacent to the Goshen Theater, from 10 a.m. to midnight on Friday, Dec. 6, 2024, for the parking of two buses and trailers. The motion passed 5-0.

City Street Commissioner David Gibbs announced that the final City leaf collection of the year will begin on Monday, Dec. 9, 2024.

There were no further public comments, so Mayor Leichty closed the public comment period at 4:57 p.m.

At 4:57 p.m., Mayor Leichty recessed the Board of Public Works & Safety meeting and opened a meeting of the City Stormwater Board to consider one item.

CITY OF GOSHEN STORMWATER BOARD

4:00 p.m., Dec. 5, 2024

Members: Mayor Leichty, Mike Landis and Mary Nichols

23) Accept the post-construction stormwater management plan amendment: For Brinkley RV - Building #1 Additional Parking as it has been found to meet the requirements of City Ordinance 4329

City Director of Public Works & Utilities Dustin Sailor told the Board that the developer of the Brinkley RV - Building #1 Additional Parking (East College Avenue Industrial Park Amendment #3) project, affecting one (1) or more acres of land and located south of 1655 Brinkley Way East, has submitted a sufficient post-construction plan amendment that is compliant with Ordinance 4329, "Uniform Requirements for Post-Construction Stormwater Management." The Stormwater Department asked the Stormwater Board to accept the plan.

Landis/Nichols made a motion to accept the post-construction stormwater management plan amendment for Brinkley RV - Building #1 Additional Parking as it has been found to meet the requirements of City Ordinance 4329. The motion passed 3-0.

At 4:59 p.m., Mayor Leichty recessed the City Stormwater Board meeting and convened a Board of Public Works & Safety hearing to review the status of properties at 423 North 5th Street, 511 North 5th Street and 513 North 5th Street.



CITY BOARD OF PUBLIC WORKS & SAFETY PUBLIC HEARING:

4:00 p.m., Dec. 5, 2024

Members present: Mayor Leichty, Mike Landis, Orv Myers, Mary Nichols and Barb Swartley

24) Review of the Order of the City of Goshen Building Commissioner for 423 North 5th Street (Ronald E. Davidhizar, property owner)

At 4:59 p.m., Mayor Leichty convened a hearing to review the Order of the City of Goshen Building Commissioner for 423 North 5th Street (Ronald E. Davidhizar, property owner).

BACKGROUND:

In an Dec. 2, 2024 memorandum, **Assistant City Attorney Don Shuler** informed Board members that **an unsafe building hearing was scheduled for the property located at 423 N. 5th Street**, Goshen, IN. Attached to the memo was the Order of the City of Goshen Building Commissioner concerning the property.

Shuler wrote that the Board needed to conduct the hearing by receiving evidence and arguments from the Building Department, the property owner, and any other individual who wished to speak to the property. **After receiving evidence and at the end of the hearing, he wrote that the Board could take any of the following actions:**

1. Continue the matter for further review at a future date.
 2. Modify the Order by, for example, providing additional time to complete repairs.
 3. Rescind the Order
 4. Affirm the Order.
 - a. In addition to affirming the Order, if the Board found there had been a willful failure to comply with the Building Commissioner's Order, the Board could impose a civil penalty up to \$5,000.
 - b. The effective date of the civil penalty could be postponed for a reasonable period to permit repairs to be made.
- In taking any of these actions, **Shuler** wrote the Board should make specific findings of fact to support its action.

On Oct. 8, 2024, City Building Commissioner Myron Grise issued an order that notified Ronald E. Davidhizar that his property at 423 North 5th Street was in violation of violation of the City of Goshen Neighborhood Preservation Ordinance, codified at Goshen City Code § 6.3.1.

Grise cited the following violations of Goshen City Code Title 6, Article 3, Chapter 1:

1. **The structure's foundation has not been kept reasonably weather tight and in good repair, nor is it firmly supported and free from open cracks and breaks**, a violation of Section 6.3.1. I(b). There are areas in the basement where the foundation is beginning to separate. **The basement wall is showing signs of failure and in danger of collapse.**
2. **The structure's ceilings have not been kept reasonably weather tight and in good repair**, a violation of Section 6.3.1.1 (b). There are multiple ceilings with holes or where it has been removed.
3. **The structure's walls have not been kept reasonably weather tight and in good repair**, a violation of Section 6.3 .1. I (b). There are walls with holes or walls that have been removed.
4. **The structure's floors have not been kept in good repair**, a violation of Section 6.3 .1.I(b). All floor beams are showing signs of possible termite damage or other forms of deterioration.
5. **The structure's painted surfaces are not properly coated and weather tight**, and metal and wood surfaces throughout, including window frames, doors, door frames, cornices, porches, and trim have not been maintained in good condition, a violation of Section 6.3 .1. I(g). There is chipping and peeling paint on multiple surfaces throughout the structure.
6. **The electrical system has not been maintained in a satisfactory working condition nor in a manner that will permit safe operation**, a violation of Section 6.3.1.I(a).



The electrical panel has been tampered with and the entire electrical system needs assessment due to current condition.

7. The **heating and mechanical system has not been maintained in a satisfactory working condition**, a violation of Section 6.3.1. 1(a). There is loose hanging duct work and rusted out duct work in need of repair or replacement.

Grise wrote that the residential structure was unsafe within the meaning of I. C. § 36-7-9- 4(a)(5) and (6). Goshen City Code Title 6, Article 3, Chapter I's requirements are the minimum standards for all structures for purposes of health and safety. Therefore, he wrote that the **structure was dangerous to person or property because of a violation of a statute or ordinance concerning building condition or maintenance**. Further, the **structure is vacant and not maintained in a manner that would permit human habitation, occupancy, or use** under Goshen City Code.

Grise ordered Davidhizar to complete the necessary actions and repairs to the residential structure to bring the property into compliance with the minimum housing standards that permit human habitation, occupancy, or use under the Neighborhood Preservation Ordinance. He wrote that the actions and repairs had to include the following:

- The structure's foundation needs to be properly repaired to remove all indications of failure; areas where the foundation is beginning to separate need to be properly tuck pointed and properly repaired to ensure the integrity of the structure.
- The holes in the walls and ceilings need to be properly repaired with appropriate coverings installed.
- All floor beams showing termite damage and other forms of deterioration must be repaired/replaced.
- All painted surfaces need to be properly coated; chipped and peeling paint needs to be properly eliminated and surfaces repainted.
- The electrical panel needs to be replaced by licensed electrician and the entire electrical system needs assessment by a licensed electrician and repaired/upgraded as necessary.
- All rusted out duct work needs to be replaced and all loose hanging duct work needs to be repaired and/ or replaced to ensure proper and safe functioning of the heating and mechanical system.

Grise further ordered Davidhizar to complete all said work within thirty (30) days. He notified Davidhizar that failure to comply with this Order could result in the City taking action to complete the required demolition and to bill him for the costs of such work and for processing expenses.

Grise notified Davidhizar failure to comply with the Order could result in the City Building Commissioner issuing a civil penalty pursuant to I.C. § 36-7-9-7.5 or pursuing civil action remedies pursuant to I.C. § 36-7-9-17.

Grise notified Davidhizar that his Order would become final ten (10) days after notice was given, unless he requested a hearing in writing within 10 days of the issuance of the order.

Assistant City Attorney Don Shuler certified that the foregoing Order of the City of Goshen Building Commissioner for the premises at 423 N. 5th Street, Goshen, was served by sending a copy by certified mail, return receipt requested and by regular first-class mail, to Davidhizar's last known address on Oct. 9, 2024.

DISCUSSION AND OUTCOME OF BOARD REVIEW HEARING ON DEC. 5, 2024:

At 4:25 p.m., Mayor Leichty convened the review hearing for 423 North 5th Street.

Present were: Board members Leichty, Landis, Myers, Nichols and Swartley; City Attorney Bodie Stegelmann; Assistant City Attorney Don Shuler; City Building Commissioner Myron Grise; and City Building Inspector Travis Eash. Property owner Ronald E. Davidhizar was not present.



Assistant City Attorney Don Shuler provided the background of the case and the reason for the review hearing. **Though his attorney, Shuler said that Davidhizar requested a hearing on the City Building Commissioner's order. He said as a result of that request, a hearing was scheduled for Dec. 5, 2024.**

Shuler said a Building Department representative would present information about the condition of the building. He said he would offer additional information and arguments afterward.

Clerk-Treasurer Aguirre asked **Assistant City Attorney Shuler** if it was important to acknowledge that the property owner was not present. **Shuler** said after the Building Department presentation he would address that issue by introducing an exhibit and testimony specific to the service issue.

Mayor Leichty then swore in **City Building Inspector Travis Eash** and **City Building Commissioner Myron Grise** to give truthful and complete testimony.

Before the meeting **Eash** distributed to Board members a one-page memorandum, dated Dec. 5, 2024, and 13 pages of color photographs, taken June 27 and Nov. 27, 2024, showing the condition of 423 North 5th Street.

(EXHIBIT #4), He then gave a brief update on the property at 423 N. 5th Street.

Reading from his memo, **Eash** said, "My initial inspection of the property was conducted on June 27, 2024. My follow up inspection was conducted on Nov. 27, 2024. Photos from both inspections are in the package I handed to you. As you can tell from the photo evidence, little to no work has been completed.

Eash continued, "There is evidence of this being a house also being accessible to squatters. All items 1 thru 7 in the (Building Commissioner's) order still remain. There has been no water usage since December of 2022. The last permit pulled for this property was for electrical service restoration in 2020. No permits have been pulled or even applied for, for the work that is required.

Eash concluded, "To the Building Department, this demonstrates the lack of initiative from the owner to bring this property into compliance and to a habitable condition. With that being said, it is the Building Department's recommendation that the repair order be affirmed and that there be a \$5,000 civil penalty assessed to the owner."

Eash added that photographs taken on June 27 and Nov. 27 show there wasn't much difference in the condition.

Mayor Leichty asked **Eash** if he was seeking a demolition order. **Eash** said **Assistant City Attorney Shuler** would address the issue. He added that the building could be repaired and was not in danger of eminent collapse.

Board member Myers asked if the City has been in contact with **Davidhizar** about this house. **Eash** said **Davidhizar** was present during the Nov. 27, 2024 inspection and was aware of today's hearing as was his attorney.

Board member Landis said he was "perplexed" because there was evidence of the home's poor condition and that **Davidhizar** had been informed of today's hearing and that there were recommendations to affirm the repair order and impose a \$5,000 fine. He asked **Shuler** for a clarification of what was being recommended.

Shuler responded, "So, I think when the order ... was prepared for this property and in discussion with the Building Department, it was felt that this property was not in quite the same condition as some of the other properties that we've had here in the past, and the idea was that this property could be repaired.

Shuler continued, "There were some issues with the foundation, but not to the extent that there was in other properties, and that the majority of the issues at the property stem primarily from it being vacant for a period of time. But it also hadn't been vacant, for you know, 10, 15, 20 years, like some other properties, had.

"So, because of that, the decision at the time was kind of another group of properties that this was included in was to issue repairs orders underneath the unsafe building law, tell the Board of Works that generally those repair orders aren't required to come before the Board as a process and so a lot of times those orders are handled administratively through the Building Department, and if there are not repairs done, the Building Commissioner has the ability to issue civil penalties and do further enforcement action."



Shuler said in this case there was a request within the 10 days after the order was issued to have a review hearing before the Board. He said that was why the matter was before the Board today as was the case for the two other **Davidhizar** properties to be reviewed later today He said the Building Department determined all three properties “weren't quite in that same level for demolition, and that's why the repair order was initially drafted.”

Shuler said that as presented in his memorandum, he Board was tasked with reviewing the Building Commissioner's repair order and then either affirming or modifying the order or rescinding it if the Board found the repairs had been made. If the order was affirmed or modified, and among other options, **Shuler** said the Board could impose a civil penalty if the Board found there was a willful failure to comply, and payment could be required within 10 days.

Mayor Leichty asked if \$5,000 was the maximum fine allowable. Shuler said it was under the statute.

In response to questions from **Board member Landis**, **Shuler** confirmed that the hearing was being held today because Davidhizar's attorney requested it and typically these kind of cases wouldn't come to the Board.

Board member Landis then asked why **Davidhizar** and his attorney were not present.

Shuler said when the order was issued, **Davidhizar** was out of the country “and it is very likely that the hearing may have been requested by the attorney, just as a matter of course, to try to protect rights, so to speak.” He reminded the Board that **Eash** testified that he inspected the property on Nov. 27, 2024 and that Davidhizar was present and they had a conversation about today's hearing.

Shuler then asked **Grise** to comment on this issue. Under Shuler's questioning, **Grise testified** that during the Nov. 27 inspection, he communicated with **Davidhizar** about the scheduled Dec. 5 hearing. At the time, Grise testified that **Davidhizar** said he would be present. Grise also testified that he called Davidhizar twice earlier today and left a message about the hearing. **Eash** said that Davidhizar contacted the Building Department, by phone, earlier today. **Shuler** entered into the record proof of service of today's hearing. He provided a copy of the notice of the scheduled review hearing that was mailed on Oct. 28, 2024, via regular mail to Davidhizar and a certificate of service signed by Shuler (**EXHIBIT #5**).

Shuler noted, again, that the notice of the review hearing was mailed to **Davidhizar** on Oct. 28, 2024 and **Eash** and **Grise** spoke to Davidhizar on Nov, 27, 2024 during the inspection and mentioned today's hearing. Also, **Shuler** said **Grise** called **Davidhizar** twice this morning and left a message and that **Davidhizar** called the Building Department this afternoon. He said he wanted that testimony on the record for service purposes.

Shuler said **Eash's photographs** show no repairs have been carried out and no permits have been pulled. So, he asked that the Board affirm the Building Commissioner's order by adopt the Commissioner's order as its findings of fact. He also asked that the Board schedule an additional compliance hearing on Jan. 23, 2025 and find there has been a willful failure to comply “as shown by the fact that there's been no work done in the property in six months and no permits pulled and then impose a civil penalty of \$5,000, with payment due in 15 days.”

Mayor Leichty responded, “Well, clearly, the case has been made from my perspective. I mean, there's willful noncompliance with what has been requested. Nothing has happened at this location, so I would support the Board's affirmation that the testimony that's been provided is correct, and we should adopt that and move forward with another hearing.”

The **Mayor** continued, “My only question is whether, besides this fine, it feels like a very light touch. Given the magnitude of destruction in this neighborhood that has been inflicted by all of these blighted homes. and the extent to which our staff has gone to work with Mr. **Davidhizar**, and accommodate him and make sure that he is aware, and because this hearing was requested by his attorney, who didn't bother to show up today, is there any other recourse that the City or that this Board could adopt?”

Mayor Leichty asked, “Is there the capacity for receivership or some alternative to ensure that this is actually being converted into habitable living accommodations for people in our City?”



Shuler responded, There were other options available for enforcement – specific types of remedies – underneath unsafe building law.

Shuler said, “Generally speaking, a receivership or some type of order to rehabilitate would require or necessitate a court action unless you had the property owner’s agreement which I don’t anticipate we would have. So those are options available, but you’d have to go through legal proceedings in court to obtain those.”

Shuler said if the Board scheduled another compliance hearing, it would still have jurisdiction over the matter and would not be limited to a one-time civil penalty if it continued to find that there was noncompliance and the property was found to be detrimental to the neighborhood. And if there was continued noncompliance, **Shuler** said the Board could eventually issue a demolition order.

However, **Shuler** said because of a “quirk” in the statute, in order to increase enforcement at the Board’s level, **Davidhizar** would have to be present at the hearing for that to happen. Otherwise, **Shuler** said the Building Commissioner could modify his order, issue a demolition order and schedule another review hearing.

Mayor Leichty asked why **Shuler** recommended the next review hearing to be on Jan. 23. **Shuler** said he selected a date 30 days from today’s date, and looked for a Thursday where another hearing was not already scheduled. He said otherwise the hearing would be Jan. 9, but other unsafe building hearings already are scheduled.

Board member Swartley said she heard another property auction was coming up. **Shuler** said he learned that there is an auction next weekend involving at least two properties with existing demolition orders that recently were sold by **Davidhizar** to **Artisan Investments**. He said **Artisan** was hoping to sell the properties to someone who can repair them sooner than they can “based on the magnitude of the other properties they have.”

Mayor Leichty and **Board member Landis** discussed the motion to be made.

Mayor Liechty said she favored imposing a limited time for the payment of the fine and asked **Shuler** the minimum amount of time allowable. **Shuler** said the statute doesn’t specify one, so the Board could set one they deemed to be reasonable. **Board member Landis** suggested payment by Christmas. **Mayor Leichty** said 7 to 10 days would be her recommendation.

Landis/Nichols then made a motion to affirm the Building Commissioner’s repair order for the property at 423 North 5th Street, that the Board schedule another review hearing for Jan. 23, 2024 and that the Board impose a \$5,000 civil penalty due in 10 days from now, or Dec. 16, 2024. The motion passed 5-0.

25) Review of the Order of the City of Goshen Building Commissioner for 511 North 5th Street (Ronald E. Davidhizar, property owner)

At 5:19 p.m., **Mayor Leichty** convened a hearing to review the Order of the City of Goshen Building Commissioner for 511 North 5th Street (Ronald E. Davidhizar, property owner).

BACKGROUND:

In an Dec. 2, 2024 memorandum, **Assistant City Attorney Don Shuler** informed Board members that an unsafe building hearing was scheduled for the property located at 511 N. 5th Street, Goshen, IN. Attached to the memo was the Order of the City of Goshen Building Commissioner concerning the property.

Shuler wrote that the Board needed to conduct the hearing by receiving evidence and arguments from the Building Department, the property owner, and any other individual who wished to speak to the property. **After receiving evidence and at the end of the hearing, he wrote that the Board could take any of the following actions:**

1. Continue the matter for further review at a future date.
2. Modify the Order by, for example, providing additional time to complete repairs.



3. Rescind the Order

4. Affirm the Order.

a. In addition to affirming the Order, if the Board found there had been a willful failure to comply with the Building Commissioner's Order, the Board could impose a civil penalty up to \$5,000.

b. The effective date of the civil penalty could be postponed for a reasonable period to permit repairs to be made. In taking any of these actions, **Shuler** wrote the Board should make specific findings of fact to support its action.

On Oct. 8, 2024, City Building Commissioner Myron Grise issued an order that notified Ronald E. Davidhizar that his property at 511 North 5th Street was in violation of violation of the City of Goshen Neighborhood Preservation Ordinance, codified at Goshen City Code § 6.3.1.

Grise cited the following violations of Goshen City Code Title 6, Article 3, Chapter 1:

1. **The structure's foundation has not been kept in good repair, free from open cracks and breaks, capable of supporting all nominal loads and resisting all load effects**, a violation of Section 6.3.1. l(b). The foundation wall in the basement has begun to collapse in areas causing wash out.

2. **The ceilings have not been kept in good repair**, a violation of Section 6.3.1.1 (b). Ceilings tiles have been removed throughout the property and there are other areas where the ceilings have or are collapsing.

3. **The floor and supports for the rear porch have not been kept in good repair**, a violation of Section 6.3 .1.l(b). The rear porch supports are leaning and detaching. The rear porch floor has a large area where it's missing flooring.

4. **The structure's painted surfaces are not properly coated and weather tight**, and metal and wood surfaces throughout, including window frames, doors, door frames, cornices, porches, and trim have not been maintained in good condition, a violation of Section 6.3 .1. l(g). There is chipping and peeling paint on multiple surfaces throughout the structure.

5. **The roof of the garage on the real estate is not sound, tight, and free of defects that admit rain**, a violation of Section 6.3.1. l(c). The garage roof has a large hole permitting weather and animals to enter the structure.

6. **The electrical system has not been maintained in a satisfactory working condition nor in a manner that will permit safe operation**, a violation of Section 6.3.1.l(a). There are exposed electrical wires hanging free throughout the structure.

7. **The heating and mechanical system has not been maintained in a satisfactory working condition**, a violation of Section 6.3.1. l(a). The furnace and mechanical system is in need of assessment.

8. **The plumbing system has not been maintained in a satisfactory working condition nor in a manner that will permit safe operation**, a violation of violation of Section 6.3.1.l(a). There plumbing pipes that have rusted out or not connected properly.

In addition, Grise wrote that the residential **structure is filled with trash, storage of accumulated materials, and debris that makes it uninhabitable in its current condition. The residential structure has not been kept in a clean and sanitary condition that would permit human habitation, occupancy, or use** under the City of Goshen's Neighborhood Preservation Ordinance.

Grise wrote that the residential structure was unsafe within the meaning of I. C. § 3 6-7-9- 4(a)(5) and (6). Goshen City Code Title 6, Article 3, Chapter I's requirements are the minimum standards for all structures for purposes of health and safety. Therefore, he wrote that the **structure was dangerous to person or property because of a violation of a statute or ordinance concerning building condition or maintenance**. Further, the **structure is vacant and not maintained in a manner that would permit human habitation, occupancy, or use** under Goshen City Code.



Grise ordered Davidhizar to complete the necessary actions and repairs to the residential structure to bring the property into compliance with the minimum housing standards that permit human habitation, occupancy, or use under the Neighborhood Preservation Ordinance. He wrote that the actions and repairs had to include the following:

- The residential structure's foundation needs to be properly repaired to remove all indications of failure and collapse, and to ensure the integrity of the structure.
- The residential structure's ceilings need to be properly repaired.
- The rear porch needs to be repaired properly to prevent possible collapse, both the supports and the floor.
- All painted surfaces need to be properly coated; chipped and peeling paint needs to be properly eliminated and surfaces repainted.
- The electrical system needs assessment by a licensed electrician and repaired/upgraded as necessary.
- The heating and mechanical system needs assessment by a licensed contractor and repaired/upgraded as necessary.
- The plumbing system needs assessment by a licensed plumber and repaired/upgraded as necessary, and all rusted out or improperly connected plumbing pipes need to be repaired and/ or replaced.
- The garage roof needs to be repaired.
- The interior of the residential structure shall have all trash, debris, and accumulated materials removed so that same permits human habitation, occupancy, or use under the Neighborhood Preservation Ordinance.

Grise further ordered Davidhizar to complete all said work within thirty (30) days. He notified Davidhizar that failure to comply with this Order could result in the City taking action to complete the required demolition and to bill him for the costs of such work and for processing expenses.

Grise notified Davidhizar failure to comply with the Order could result in the City Building Commissioner issuing a civil penalty pursuant to I.C. § 36-7-9-7.5 or pursuing civil action remedies pursuant to I.C. § 36-7-9-17.

Grise notified Davidhizar that his Order would become final ten (10) days after notice was given, unless he requested a hearing in writing within 10 days of the issuance of the order.

Assistant City Attorney Don Shuler certified that the foregoing Order of the City of Goshen Building Commissioner for the premises at 511 N. 5th Street, Goshen, was served by sending a copy by certified mail, return receipt requested and by regular first-class mail, to Davidhizar's last known address on Oct. 9, 2024.

DISCUSSION AND OUTCOME OF BOARD HEARING ON DEC. 5, 2024:

At 5:19 p.m., Mayor Leichty convened the review hearing for 511 North 5th Street.

Present were: Board members Leichty, Landis, Myers, Nichols and Swartley; City Attorney Bodie Stegelmann; Assistant City Attorney Don Shuler; City Building Commissioner Myron Grise; and City Building Inspector Travis Eash. Property owner Ronald E. Davidhizar was not present.

Assistant City Attorney Don Shuler said that for the sake of brevity, he asked that the Board "incorporate the testimony, and the evidence submitted, particularly as to the service issues," from the hearing on 423 North 5th Street into the record for this hearing on 511 North 5th Street. He said there were all the same dates for the notices, same dates, for the phone calls, inspections, and everything else.

Shuler also entered into the record a copy of the notice of the scheduled review hearing that was sent to Davidhizar for this property on Oct. 28, 2024 and a copy Shuler's certificate of service (**EXHIBIT #6**).



Shuler said **City Building Inspector Travis Eash** would testify on his inspection of this property and about the photographs provided to the Board.

Mayor Leichty asked if **Eash** needed to be sworn in again. **City Attorney Bodie Stegelmann** said **Eash** could testify under the oath he took in the last hearing.

Before the meeting **Eash** distributed to Board members a one-page memorandum, dated Dec. 2, 2024, and 18 pages of photographs, taken June 27 and Nov. 27, 2024, showing the condition of the property. (**EXHIBIT #7**). He then gave a brief update on the property at 511 N. 5th Street.

Reading from his memo, **Eash** said, "My initial inspection of the property was conducted on June 27, 2024. My follow-up inspection was conducted Nov. 27, 2024. Photos from both inspections are in the package I handed to you. "As you can tell from the photo evidence, little to no work has been completed. There is evidence of this house also being accessible to squatters. All items 1 thru 8 still remain."

Eash continued, "There has been no water usage since 2012 other than a significant leak in January of this year. The owner did pull roof permits for the house and garage this year earlier this year. However, no permits have been pulled or even applied for, for the work that is required inside the house."

Eash concluded, "To the building department, this demonstrates the lack of initiative from the owner to bring this property into compliance and into a habitable condition. With that being said, it is the Building Department's recommendation that the repair order be affirmed and that there be a \$5,000 Civil Penalty assessed to the owner."

Assistant City Attorney Shuler said the City Building Department and the Building Commissioner were asking for the same relief as in the prior case – that the Board affirm the Building Commissioner's order as its findings, set it for a compliance hearing, find that there's been a willful failure to comply and impose a civil penalty of \$5,000. He asked that the Board schedule the review hearing on Jan. 23, 2025. For consistency purposes, he also suggested that the payment be due by Dec. 16, 2024.

Mayor Leichty asked Shuler if it was permissible for the City to secure the house and charge **Davidhizar** for the cost of securing the house to ensure that it's not available for squatters.

Shuler said that if the Board believed there was an issue requiring emergency action for an imminent danger, that kind of cost can be justified under the statute. However, he said he didn't know whether a house being unsecured was sufficient to create that danger and justify that type of emergency action.

Mayor Leichty said Goshen Police have found vacant houses that have been occupied and those properties have been of concern. She said she would ask police to attend the January hearing and testify to that effect.

Clerk-Treasurer Aguirre said he wanted to provide historical context. He said several years ago during hearings on other **Davidhizar** properties, the Board included as a condition that **Davidhizar** secure them by boarding them up. He asked **Shuler** if that was correct.

Shuler said it was and that the Board you could add as a condition that the property be secured.

Landis/Swartley made a motion, that for the property at 511 North 5th Street, the Board affirm the Building Commissioner's repair order, order the house to be immediately secured so it cannot be occupied, set a new hearing on Jan. 23, 2025 and that due to the willful failure to comply with the Building Commissioner's Order, the Board imposes a \$5,000 civil penalty due Dec.16, 2024. The motion passed 5-0.

26) Review of the Order of the City of Goshen Building Commissioner for 513 North 5th Street (Ronald E. Davidhizar, property owner)

At 5:25 pm., Mayor Leichty convened a hearing to review the Order of the City of Goshen Building Commissioner for 513 North 5th Street (Ronald E. Davidhizar, property owner).



BACKGROUND:

In an Dec. 2, 2024 memorandum, **Assistant City Attorney Don Shuler** informed Board members that **an unsafe building hearing was scheduled for the property located at 513 N. 5th Street**, Goshen, IN. Attached to the memo was the Order of the City of Goshen Building Commissioner concerning the property.

Shuler wrote that the Board needed to conduct the hearing by receiving evidence and arguments from the Building Department, the property owner, and any other individual who wished to speak to the property. **After receiving evidence and at the end of the hearing, he wrote that the Board could take any of the following actions:**

1. Continue the matter for further review at a future date.
 2. Modify the Order by, for example, providing additional time to complete repairs.
 3. Rescind the Order
 4. Affirm the Order.
 - a. In addition to affirming the Order, if the Board found there had been a willful failure to comply with the Building Commissioner's Order, the Board could impose a civil penalty up to \$5,000.
 - b. The effective date of the civil penalty could be postponed for a reasonable period to permit repairs to be made.
- In taking any of these actions, **Shuler** wrote the Board should make specific findings of fact to support its action.

On Oct. 8, 2024, City Building Commissioner Myron Grise issued an order that notified Ronald E. Davidhizar that his property at 513 North 5th Street was in violation of violation of the City of Goshen Neighborhood Preservation Ordinance, codified at Goshen City Code § 6.3.1.

Grise cited the following violations of Goshen City Code Title 6, Article 3, Chapter 1:

1. The **structure's foundation has not been kept in good repair, free from cracks and breaks, capable of supporting all nominal loads and resisting all load effects**, a violation of Section 6.3.1. l(b). Areas of the foundation have formed holes; bricks around the exterior of the house are crumbling or have fallen.
2. The **walls have not been kept in good repair**, a violation of Section 6.3.1.l(b). Multiple walls throughout the residential structure have holes.
3. The **floor has not been kept in good repair**, a violation of Section 6.3.1. l(b). The floor outside of door to basement is sinking. Multiple floor beams show significant signs of decay and possible termite damage.
4. The **structure's painted surfaces are not properly coated and weather tight**, and metal and wood surfaces throughout, including window frames, doors, door frames, cornices, porches, and trim have not been maintained in good condition, a violation of Section 6.3.1. l(g). There is chipping and peeling paint on multiple surfaces throughout the structure.
5. There is **no guardrail installed upstairs around the stairway**, a violation of Section 6.3.1. l(f).
6. The **electrical system has not been maintained in a satisfactory working condition nor in a manner that will permit safe operation**, a violation of Section 6.3.1. l(a). The electrical panel has been tampered.
7. The **heating and mechanical system has not been maintained in a satisfactory working condition**, a violation of Section 6.3.1. l(a). There is no gas meter and the heating and mechanical system is in need of assessment.
8. The **plumbing system has not been maintained in a satisfactory working condition nor in a manner that will permit safe operation**, a violation of Section 6.3.1. l(a). There is no water meter at the real estate and has been no water usage for at least two (2) years.

In addition, **Grise** wrote that the **residential structure is filled with trash, storage of accumulated materials, and debris that makes it uninhabitable in its current condition**. The residential structure **has not been kept in a clean and sanitary condition that would permit human habitation, occupancy, or use** under the City of Goshen's Neighborhood Preservation Ordinance.



Grise wrote that the residential structure was unsafe within the meaning of I. C. § 36-7-9-4(a)(5) and (6). Goshen City Code Title 6, Article 3, Chapter I's requirements are the minimum standards for all structures for purposes of health and safety. Therefore, he wrote that the **structure was dangerous to person or property because of a violation of a statute or ordinance concerning building condition or maintenance**. Further, the **structure is vacant and not maintained in a manner that would permit human habitation, occupancy, or use** under Goshen City Code. Section 3.

Grise ordered Davidhizar to complete the necessary actions and repairs to the residential structure to bring the property into compliance with the minimum housing standards that permit human habitation, occupancy, or use under the Neighborhood Preservation Ordinance. He wrote that the actions and repairs had to include the following:

- The residential structure's foundation needs to be properly repaired, including tuck pointing, to make weather tight and to ensure the integrity of the structure.
- All crumbling or missing bricks need to be replaced.
- All holes in the walls need to be repaired.
- The floor outside the basement door must be assessed and properly repaired to prevent further collapse.
- Decaying and damaged floor beams need to be replaced.
- A proper guardrail needs to be installed.
- All painted surfaces need to be properly coated; chipped and peeling paint needs to be properly eliminated and surfaces repainted.
- The electrical system needs assessment by a licensed electrician and repaired/upgraded as necessary.
- The heating and mechanical system needs assessment by a licensed contractor and repaired/upgraded as necessary.
- The plumbing system needs assessment by a licensed plumber and repaired/upgraded as necessary.
- The interior of the residential structure shall have all trash, debris, and accumulated materials removed so that same permits human habitation, occupancy, or use under the Neighborhood Preservation Ordinance.

Grise further ordered Davidhizar to complete all said work within thirty (30) days. He notified Davidhizar that failure to comply with this Order could result in the City taking action to complete the required work and to bill him for the costs of such work and for processing expenses.

Grise notified Davidhizar failure to comply with the Order could result in the City Building Commissioner issuing a civil penalty pursuant to I.C. § 36-7-9-7.5 or pursuing civil action remedies pursuant to I.C. § 36-7-9-17.

Grise notified Davidhizar that his Order would become final ten (10) days after notice was given, unless he requested a hearing in writing within 10 days of the issuance of the order.

Assistant City Attorney Don Shuler certified that the foregoing Order of the City of Goshen Building Commissioner for the premises at 513 N. 5th Street, Goshen, was served by sending a copy by certified mail, return receipt requested and by regular first-class mail, to Davidhizar's last known address on Oct. 9, 2024.

DISCUSSION AND OUTCOME OF BOARD REVIEW HEARING ON DEC. 5, 2024:

At 5:25 p.m., Mayor Leichty convened the review hearing for 513 North 5th Street.

Present were: Board members Leichty, Landis, Myers, Nichols and Swartley; City Attorney Bodie Stegelmann; Assistant City Attorney Don Shuler; City Building Commissioner Myron Grise; and City Building Inspector Travis Eash. Property owner Ronald E. Davidhizar was not present.



Assistant City Attorney Don Shuler asked that the Board, again, incorporate into the record of this hearing the discussion of the testimony from **City Building Commissioner Myron Grise** and **City Building Inspector Travis Eash** regarding service of, and notice of this hearing to Davidhizar that was offered at earlier hearings today. **Shuler** also submitted to the **Clerk-Treasurer** the notice of this scheduled review hearing that was sent to Davidhizar on Oct. 28, 2024 for this property (**EXHIBIT #8**). **Shuler** said he would ask **Eash** to testify about his inspection of the property and to discuss the photographs of it that were provided to the Board.

Before the meeting **Eash** distributed to Board members a one-page memorandum, dated Dec. 2, 2024, and 17 pages of photographs, taken June 27 and Nov. 27, 2024, showing the condition of the property. (**EXHIBIT #9**). He then gave a brief update on the property at 513 N. 5th Street. Reading from his memo, **Eash** said, "My initial inspection of the property was conducted on June 27, 2024. My follow up inspection was conducted last week, Nov. 27, 2024. Photos from both inspections are in the package I handed out. As you can tell from the photo evidence, little to no work has been completed. There is evidence this house has been accessible to squatters as well." **Eash** continued, "Items 1 thru 8 still remain. There has been no water usage since 2022. The last permit that was pulled was for restoration of gas service in 2019. No permits have been pulled or even applied for, for the work that is required to the house." **Eash** concluded, "To the Building Department, this again demonstrates the lack of initiative from the owner to bring this property into compliance and to a habitable condition. With that being said, it is the Building Department's recommendation is again that the repair order be affirmed and that there be a \$5,000 civil penalty assessed to the owner."

Assistant City Attorney Shuler said the Building Department requested that the Board affirm the repair order from the Building Commissioner, adopt his findings, schedule another review compliance hearing Jan. 23, 2025 and impose a civil penalty of \$5,000 due to the willful failure to comply as shown by not pulling any permits and not doing any work for multiple months.

Mayor Leichty extended her gratitude **Shuler** and to the **Building Department team** for all the additional work and the extensive steps taken to be in communication and work with the property owner. She said it was disappointing that **Davidhizar** has not been willing to take the necessary steps to preserve some of the houses he still owns. She added "it's clear that he's not willing to take any of the required steps to actually bring them up to code or provide safe habitation in the City of Goshen, so I would certainly offer my full support in continuing along the same vein in this property as we have with the others."

Noting the testimony about the presence of squatters, **Board member Landis** asked **Eash** if this property was secure. He asked if the Board needed to also order that this property be secured.

Eash said all of these properties have doors that can shut, but he didn't know if they were locked. He said a squatter was found in 423 North 5th Street a week before the recent inspection and a squatter was found inside 513 North 5th Street a day before the inspection. **Board member Landis** said he would add securing the property to the motion.

Landis/Swartley then made a motion that the Board finds the property at 513 North 5th Street to be out of compliance, affirms the Building Commissioner's order for repairs, sets a Jan. 23, 2025 next hearing date, and that, due to the willful failure to comply with the Building Commissioner's earlier order, the Board imposes a civil penalty of \$5,000, due Dec.16, 2024. He added to his motion that the Board orders that the property be secured so squatters can't be entering the house. The motion passed 5-0.



At 5:31 p.m., Mayor Leichty adjourned the final hearing and reopened the meeting of the Board of Public Works and Safety.

APPROVAL OF CIVIL & UTILITY CLAIMS

Mayor Leichty/Board member Swartley then moved to approve Civil City and Utility claims and adjourn the meeting. The motion passed 5-0.

ADJOURNMENT

Mayor Leichty adjourned the meeting at 5:31 p.m.

EXHIBIT #1: A memorandum, dated Dec. 5, 2025, from City Engineering Project Manager Andrew Lund to the Board providing staff feedback on the right of way request from Kauffman Construction for planned renovations to the former Tony's Famous Grill building at 103 North Fifth Street, which was agenda item #4.

EXHIBIT #2: A two-page document, distributed to Board members, by Superintendent of the City Water Treatment and Sewer Department Marvin Shepherd showing the location of current two-inch test wells and the proposed 16-inch well in the City's South Wellfield Site and an illustration of hydrological samples. The information was submitted during the Board's consideration of agenda item #12, Legal Department request: Approve and authorize the Mayor to execute the agreement with Peerless Midwest, Inc. for Hydrogeologic Services to Drilling and Development for Well #TW-24F at a cost of \$162,665

EXHIBIT #3: A two-page memorandum, distributed to Board members, by Goshen Theater Program Director Adrienne Nesbitt requesting permission to block the east-west alley located between 211 5th Street and the Goshen Police Department parking lot to accommodate two tour buses and trailers of The Wizards of Winter band, who were presenting a concert at the theater on Dec. 6, 2024. The memo, which included a written request and a map, was presented by Nesbitt during Privilege of the Floor. The request was approved.

EXHIBIT #4: A Dec. 5, 2024 one-page memorandum and 13 pages of color photographs by City Building Inspector Travis Eash about the condition of 423 North 5th Street. The memo was submitted during and for consideration of agenda item #24, Review of the Order of the City of Goshen Building Commissioner for 423 North 5th Street (Ronald E. Davidhizar, property owner).

EXHIBIT #5: Two documents entered into the record on Dec. 5, 2024 by Assistant City Attorney Don Shuler during consideration of agenda item #24, Review of the Order of the City of Goshen Building Commissioner for 423 North 5th Street (Ronald E. Davidhizar, property owner). The documents were a copy of the notice of the scheduled review hearing that was mailed on Oct. 28, 2024, via regular mail, to Davidhizar and a certificate of service signed by Shuler.

EXHIBIT #6: Two documents entered into the record on Dec. 5, 2024 by Assistant City Attorney Don Shuler during consideration of agenda item #25, Review of the Order of the City of Goshen Building Commissioner for 511 North 5th Street (Ronald E. Davidhizar, property owner). The documents were a copy of the notice of the scheduled review hearing that was mailed on Oct. 28, 2024, via regular mail, to Davidhizar and a certificate of service signed by Shuler.



EXHIBIT #7: A Dec. 5, 2024 one-page memorandum and 18 pages of color photographs by City Building Inspector Travis Eash about the condition of 511 North 5th Street. The memo was submitted during and for consideration of agenda item #25, Review of the Order of the City of Goshen Building Commissioner for 511 North 5th Street (Ronald E. Davidhizar, property owner).

EXHIBIT #8: Two documents entered into the record on Dec. 5, 2024 by Assistant City Attorney Don Shuler during consideration of agenda item #26, Review of the Order of the City of Goshen Building Commissioner for 513 North 5th Street (Ronald E. Davidhizar, property owner). The documents were a copy of the notice of the scheduled review hearing that was mailed on Oct. 28, 2024, via regular mail, to Davidhizar and a certificate of service signed by Shuler.

EXHIBIT #9: A Dec. 5, 2024 one-page memorandum and 17 pages of color photographs by City Building Inspector Travis Eash about the condition of 513 North 5th Street. The memo was submitted during and for consideration of agenda item #26, Review of the Order of the City of Goshen Building Commissioner for 513 North 5th Street (Ronald E. Davidhizar, property owner).

APPROVED:

Mayor Gina Leichty

Mike Landis, Member

Orv Myers, Member

Mary Nichols, Member



Barb Swartley, Member

ATTEST:

Richard R. Aguirre, 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

December 12, 2024

To: Board of Public Works and Safety

From: Brandy Toms, Paralegal

Subject: Open sealed quotes for purchase of upfit equipment for 2025 Ford Explorer Hybrid Police Pursuit Vehicles.

On behalf of the Goshen Police Department, the City solicited sealed quotes for the purchase of upfit equipment for 2025 Ford Explorer Hybrid Police Pursuit Vehicles in accordance with Indiana Code § 5-22-8-3. All sealed quotes are now due and final call has been made. Legal asks that the Board of Public Works & Safety open any and all sealed bids submitted for consideration and return all bid packages to Legal for review.

Suggested Motion:

Move to forward all bids received for upfit equipment for 2025 Ford Explorer Hybrid Police Pursuit Vehicles to the Legal Department for review.



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

December 12, 2024

To: Board of Public Works and Safety

From: Brandy Toms, Paralegal

Subject: Open sealed quotes for purchase of a 2024 or newer medium duty dump truck.

The City solicited sealed quotes for the purchase of a 2024 or newer medium duty dump truck in accordance with Indiana Code § 5-22-8-3. All sealed quotes are now due and final call has been made. Legal asks that the Board of Public Works & Safety open any and all sealed bids submitted for consideration and return all bid packages to Legal for review.

Suggested Motion:

Move to forward all quotes received for a 2024 or newer medium duty dump truck to the Legal Department for review.



**Department of Community Development
CITY OF GOSHEN**

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

Phone (574) 537-3824 • Fax (574) 533-8626 • TDD (574) 534-3185
communitydevelopment@goshencity.com • www.goshenindiana.org

Memorandum

TO: Board of Public Works & Safety

FROM: Becky Hutsell, Redevelopment Director

RE: Opening of Proposals for 65719 SR 15

DATE: December 12, 2024

The Redevelopment Commission has issued a Request for Proposals to Purchase Real Property at 65719 SR 15, Goshen. The first deadline for full-priced offers was November 12th and no proposals were received. The second deadline for any other offers is December 12th by 3:30 pm and they will be opened publicly at the Board of Public Works & Safety meeting. We're requesting that any proposals received be opened and the proposer's name and offer amount be read aloud and then referred to Redevelopment for further consideration.



Jose' D. Miller

Chief of Police

111 E Jefferson St
Goshen, Indiana 46528

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

Date: December 5th, 2024

From: Chief Jose' Miller

Reference: The hiring of Tyler D. Smoker for Probationary Patrol Officer

I am requesting that the Board of Public Works and Safety to approve the terms and conditions and ratify the execution of the Conditional Offer of Employment Agreement with Tyler D. Smoker dated September 26th, 2024, and approve the hiring of Tyler D. Smoker as a Probationary Patrol Officer retroactive to Monday, November 11, 2024.

Tyler left Goshen Police Department as a sworn officer to work at the Noble County Sheriff's Office approximately eight (8) months ago. Tyler left our department in good standing and wishes to return to Goshen Police Department. Although he is currently a certified police officer, he is not eligible at this time for the sign-on-bonus. We are thrilled that Tyler wishes to return to Goshen Police and look forward to having him serve our community once again.

Tyler will be present for the Board of Works Meeting

Respectfully,

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

Jose' Miller #116

Chief of Police

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

Telephone: (574) 533-8661

Hearing Impaired: (574) 533-1826

FAX: (574) 533-1826

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

THIS AGREEMENT is made and entered into effective as of the latter date of the signatures hereon, by and between **Tyler D. Smoker** ("Smoker") and **City of Goshen, Indiana** ("City").

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

CONDITIONAL OFFER OF AND PREREQUISITES TO BEGINNING EMPLOYMENT

City conditionally offers Smoker employment as a probationary patrol officer with the Goshen Police Department. Smoker accepts City's conditional offer of employment. City and Smoker understand and agree that the offer of employment is contingent upon the following:

- (1) City may not currently have a personnel vacancy in the Goshen Police Department rank and file. Smoker understands that a personnel vacancy in the rank and file of the Goshen Police Department may not currently exist. Although the Goshen Police Department is initiating the baseline statewide physical examination and baseline statewide mental examination, Smoker understands that actual employment with the City of Goshen and Goshen Police Department will not occur until such time that a personnel vacancy is available and/or positions are being added to increase the number of police officers.
- (2) In accordance with Indiana Code § 36-8-3-21(b), Smoker understands that Smoker must meet the conditions for membership in the Indiana Public Retirement System's (INPRS) 1977 Police Officers' and Firefighters' Pension and Disability Fund (1977 Fund) to be a firefighter with the Goshen Police Department. Smoker agrees to complete the INPRS Application for Membership in the 1977 Fund (State Form 4928). All terms, conditions, and understandings set forth in the Application for Membership in the 1977 Fund are incorporated into this agreement by reference. Smoker understands that the application requires Smoker to authorize the release of medical information, the completion of a comprehensive general medical history and the completion of the baseline statewide physical examination and baseline statewide mental examination.
- (3) City agrees to pay the cost for Smoker to complete the baseline statewide physical examination and baseline statewide mental examination as required by Indiana Code §§ 36-8-8-7(a) and 36-8-8-19. In the event that Smoker has certain preexisting condition(s) that would constitute an excludable medical condition (Class 3 medical condition), any reports or additional testing that may be required concerning the preexisting condition(s) shall be at Smoker's expense. If additional reports and/or testing are required, Smoker may elect to terminate this agreement by providing City notice in writing.
- (4) Smoker understands that Smoker must successfully pass the baseline statewide physical examination and the baseline statewide mental examination. In the event that Smoker does not pass the physical and mental examinations, City withdraws this offer of employment, and Smoker shall accept City's withdrawal and this agreement shall be terminated.
- (5) Smoker understands that the INPRS Board of Trustees must approve Smoker's Application for Membership to the 1977 Fund. If the INPRS Board of Trustees approves the Application for Membership to the 1977 Fund, the Goshen Police Department will request the Goshen Board of Public Works and Safety to ratify the execution of this agreement and approve the hiring of Smoker

in a public meeting when a position opening becomes available in the Goshen Police Department. In the event that the INPRS Board of Trustees does not approve the Application for Membership in the 1977 Fund, and Smoker does not appeal the decision, City withdraws this offer of employment, and Smoker shall accept City's withdrawal and this agreement shall be terminated.

- (6) If Smoker decides to decline employment with the City of Goshen and Goshen Police Department prior to the approved hiring in paragraph (5), Smoker shall provide City notice in writing, and City shall withdraw this offer of employment and this agreement shall be terminated.

AMENDMENT

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

SEVERABILITY

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

INDIANA LAW

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

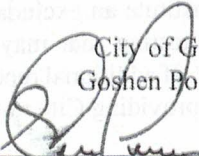
BINDING EFFECT

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

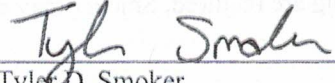
ENTIRE AGREEMENT

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

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

City of Goshen, Indiana
Goshen Police Department


Jose Miller, Police Chief
or
Shawn Turner, Assistant Police Chief
Date: 9/26/24



Tyler D. Smoker
Date: _____



Jose' D. Miller

Chief of Police

111 E Jefferson St
Goshen, Indiana 46528

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

Date: December 5th, 2024

From: Jose' Miller, Chief of Police

Reference: The Promotion of Officer Austin Whitford #228 from Probationary Patrol Officer to Patrol Officer

I am requesting the Goshen Board of Public Works and Safety approve the promotion of Officer Austin Whitford #228 from the position of Probationary Patrol Officer to the rank of Patrol Officer retroactive to December 4th, 2024.

On December 4th, 2024, Officer Whitford had completed his twelve (12) month probationary period. Officer Whitford has demonstrated he will be a great addition to the Goshen Police Department and to this community.

Austin will not be present since he is still attending the police academy (ILEA)

Respectfully,

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

Jose' Miller #116

Chief of Police

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

Telephone: (574) 533-8661

Hearing Impaired: (574) 533-1826

FAX: (574) 533-1826



Jose' D. Miller

Chief of Police

111 E Jefferson St
Goshen, Indiana 46528

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

Date: December 5th, 2024

From: Chief Jose' Miller

Reference: Request to Accept Officer Aaron Dolph #230 Resignation

I am requesting for the Board of Public Works and Safety to approve the resignation of Officer Aaron Dolph #230, effective November 2nd 2024.

Officer Dolph was in his FTO training when he decided to resign from the position of probationary patrol officer. He submitted his resignation letter on November 1st 2024 stating it would be his last day working at the department. I wish Aaron the best in life for whatever career path he chooses in the future.

Respectfully,

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

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

Telephone: (574) 533-8661

Hearing Impaired: (574) 533-1826

FAX: (574) 533-1826

Turner, Shawn

From: Dolph, Aaron
Sent: Friday, November 1, 2024 11:13 AM
To: Turner, Shawn
Subject: Letter of resignation

Good Afternoon Chief Turner

I have thought long and hard about this decision but I have ultimately decided that the best thing for me right now is to resign from the Goshen Police Department. As of today, this 11/1/2024. This will be my last working day at the department. Thank you for the opportunity and the support that you and this department have showed me.

Aaron Dolph 9230



Jose' D. Miller

Chief of Police

111 E Jefferson St
Goshen, Indiana 46528

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

Date: December 5th, 2024

From: Chief Jose' Miller

Reference: Request to Accept Reserve Officer Steven H. Taft #R138 Resignation

I am requesting for the Board of Public Works and Safety to approve the resignation of Reserve Officer Steven H. Taft #R138 effective November 6th, 2024.

Reserve Officer Taft is currently going through physical complications and has not been able to keep up with the mandated training at this time. I wish Reserve Officer Taft the best in his healing and hope he is able to reach his goal of returning back as a reserve police officer in the future.

Respectfully,

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

Jose' Miller #116

Chief of Police

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

Telephone: (574) 533-8661

Hearing Impaired: (574) 533-1826

FAX: (574) 533-1826

11/6/2024

Chief Miller effective immediately please accept my letter of resignation from my position on the GPD Reserve program. I have been dealing with an ongoing illness related to a joint replacement. I anticipate a complete recovery in the very near future without any restrictions. Per my conversation with Chief Turner once the department staffing levels are up to par and the Training Officers are ready, I would like to return to the program.

Thank you so very much for all the time, effort and opportunities you have provided me. I have been truly blessed and honored to have been a small part of your team and I look forward to returning.

Sincerely,

Steve Taft, R138



ANTHONY D. POWELL
FIRE CHIEF
FIRE DEPARTMENT, CITY OF GOSHEN
209 N. 3rd Street Goshen, Indiana 46526
Phone (574) 537-3853
Cell (574) 596-0940
Fax (574) 534-2804
anthonypowell@goshencity.com
www.goshenindiana.org

To the Members of the Goshen City Board of Public Works and Safety:

Dear Board Members,

I am writing to formally inform you that Brian Guerra has successfully obtained his reciprocity from the State of New York, enabling him to work as a Paramedic in the State of Indiana. This is a significant achievement and a testament to his dedication and qualifications in the field of emergency medical services.

In light of this accomplishment, the City of Goshen has amended his conditional offer of employment. The amendment states that, upon completion of his first year of service, Brian Guerra will receive a retention bonus of \$2,500 annually for three consecutive years, totaling \$7,500.

This adjustment reflects the City's commitment to recognizing and rewarding the expertise and dedication of our paramedics while supporting the continued growth and stability of our emergency services team.

Should you have any questions or require additional information regarding this amendment, please do not hesitate to contact me.

Thank you for your consideration and support.

Sincerely,
Anthony

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

THIS AGREEMENT is made and entered into effective as of the latter date of the signatures hereon, by and between **Brian Guerra** (“Guerra”) and **City of Goshen, Indiana** (“City”).

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

CONDITIONAL OFFER OF AND PREREQUISITES TO BEGINNING EMPLOYMENT

City conditionally offers Guerra employment as a probationary firefighter with the Goshen Fire Department. Guerra accepts City’s conditional offer of employment. City and Guerra understand and agree that the offer of employment is contingent upon the following:

- (1) City may not currently have a personnel vacancy in the Goshen Fire Department rank and file. Guerra understands that a personnel vacancy in the rank and file of the Goshen Fire Department may not currently exist. Although the Goshen Fire Department is initiating the baseline statewide physical examination and baseline statewide mental examination, Guerra understands that actual employment with the City of Goshen and Goshen Fire Department will not occur until such time that a personnel vacancy is available and/or positions are being added to increase the number of firefighters.
- (2) In accordance with Indiana Code § 36-8-3-21(b), Guerra understands that Guerra must meet the conditions for membership in the Indiana Public Retirement System’s (INPRS) 1977 Police Officers’ and Firefighters’ Pension and Disability Fund (1977 Fund) to be a firefighter with the Goshen Fire Department. Guerra agrees to complete the INPRS Application for Membership in the 1977 Fund (State Form 4928). All terms, conditions, and understandings set forth in the Application for Membership in the 1977 Fund are incorporated into this agreement by reference. Guerra understands that the application requires Guerra to authorize the release of medical information, the completion of a comprehensive general medical history, and the completion of the baseline statewide physical examination and baseline statewide mental examination.
- (3) City agrees to pay the cost for Guerra to complete the baseline statewide physical examination and baseline statewide mental examination as required by Indiana Code §§ 36-8-8-7(a) and 36-8-8-19. In the event that Guerra has certain preexisting condition(s) that would constitute an excludable medical condition (Class 3 medical condition), any reports or additional testing that may be required concerning the preexisting condition(s) shall be at Guerra’s expense. If additional reports and/or testing are required, Guerra may elect to terminate this agreement by providing City notice in writing.
- (4) Guerra understands that Guerra must successfully pass the baseline statewide physical examination and baseline statewide mental examination. In the event that Guerra does not pass the physical and mental examinations, City withdraws this offer of employment, and Guerra shall accept City’s withdrawal and this agreement shall be terminated.
- (5) Guerra understands that the INPRS Board of Trustees must approve Guerra’s Application for Membership to the 1977 Fund. If the INPRS Board of Trustees approves the Application for Membership to the 1977 Fund, the Goshen Fire Department will request the Goshen Board of Public Works and Safety to ratify the execution of this agreement and approve the hiring of Guerra

in a public meeting when a position opening becomes available in the Goshen Fire Department. In the event that the INPRS Board of Trustees does not approve the Application for Membership in the 1977 Fund, and Guerra does not appeal the decision, City withdraws this offer of employment, and Guerra shall accept City's withdrawal and this agreement shall be terminated.

- (6) If Guerra decides to decline employment with the City of Goshen and Goshen Fire Department prior to the approved hiring in paragraph (5), Guerra shall provide City notice in writing, and City shall withdraw this offer of employment and this agreement shall be terminated.

AGREE TO OBTAIN INDIANA FIREFIGHTER I/II CERTIFICATION

- (1) As a condition of employment with City and the Goshen Fire Department, Guerra is required to successfully complete a Firefighter I/II training program, pass the certification test, and obtain Indiana Firefighter I/II certification within eleven (11) months of Guerra's first day of employment with the Goshen Fire Department. If Guerra is unable to successfully complete the Firefighter I/II training program, pass the certification test, and obtain Indiana Firefighter I/II certification within eleven (11) months of Guerra's first day of employment with the Goshen Fire Department due to program scheduling difficulties, then Guerra will be given eleven (11) months from the first day of the Firefighter I/II training program to successfully complete the Firefighter I/II training program, pass the certification test and obtain Indiana Firefighter I/II certification.
- (2) Guerra agrees to enroll in a Firefighter I/II training program upon commencing employment and/or when instructed to do so by the Fire Chief, attend and successfully complete the training program, pass the certification test, and obtain Indiana Firefighter I/II certification. If Guerra is currently enrolled in and attending a Firefighter I/II training program prior to commencing employment, Guerra agrees to continue to attend and successfully complete the Firefighter I/II training program, pass the certification test, and obtain Indiana Firefighter I/II certification.
- (3) Starting on Guerra's first day of employment, City will pay the cost of the Firefighter I/II training program. If Guerra is currently enrolled in and attending a Firefighting I/II training program prior to commencing employment, City will pay a prorated cost of the training program based on the portion of the training program remaining after Guerra's first day of employment with the Goshen Fire Department. While employed with the Goshen Fire Department, City will pay Guerra for the time to attend the training program. Guerra shall have one (1) opportunity to successfully complete the Firefighter I/II training program, pass the certification test, and obtain Indiana Firefighter I/II certification. City will pay the cost for the Firefighter I/II training program, or prorated portion thereof, and for Guerra's time to attend the Firefighter I/II training program one (1) time.
- (4) If Guerra refuses to attend the Firefighter I/II training program, fails to successfully complete the Firefighter I/II training program, or fails to pass the certification test and obtain Indiana Firefighter I/II certification as required under paragraphs (1) and (2), Guerra's employment with City and the Goshen Fire Department will be terminated for cause.

AGREE TO SERVE AS A PARAMEDIC AND HIRING BONUS

- (1) Guerra currently possesses a paramedic certification and/or license in another state. Guerra agrees to obtain National Registry Paramedic certification and obtain an Indiana paramedic license within eleven (11) months of Guerra's first day of employment with the Goshen Fire Department. If Guerra fails to obtain National Registry Paramedic certification and obtain an Indiana paramedic license within eleven (11) months of Guerra's first day of employment with the Goshen Fire

Department, Guerra's employment with the City and the Goshen Fire Department may be terminated for cause.

- (2) Guerra acknowledges that as a condition of employment, Guerra agrees to serve City and the Goshen Fire Department as an active paramedic in accordance with the requirements set forth in the contract between the City of Goshen and the Goshen Firefighters Association, Local No. 1443, as amended from time to time. Guerra agrees to maintain Guerra's paramedic license as long as Guerra is required to serve City and the Goshen Fire Department as a paramedic.
- (3) Guerra agrees to serve City and the Goshen Fire Department as an active paramedic for a minimum of three (3) full years.
- (4) As a first-time employee of the Goshen Fire Department, and provided Guerra obtains National Registry Paramedic certification and an Indiana paramedic license as required under paragraph (1), City agrees to pay Guerra a bonus payment of Seven Thousand Five Hundred Dollars (\$7,500) payable in equal amounts over Guerra's first three (3) years of employment with City and the Goshen Fire Department. The first payment of Two Thousand Five Hundred Dollars (\$2,500) will be made upon Guerra's first employment anniversary date with City and the Goshen Fire Department and satisfactory completion of the probationary period. The second payment of Two Thousand Five Hundred Dollars (\$2,500) will be made on Guerra's second employment anniversary date with City and the Goshen Fire Department. The third and final payment of Two Thousand Five Hundred Dollars (\$2,500) will be made on Guerra's third employment anniversary date with City and the Goshen Fire Department.
- (5) If Guerra fails to serve City and the Goshen Fire Department as an active paramedic for any of the first three (3) full years of employment, Guerra shall not be entitled to the any portion of the annual bonus payment for a partial year of service.

AMENDMENT

This agreement may be amended only by the mutual written consent of the parties and approval by the Goshen Board of Public Works and Safety. This Amended Agreement replaces the September 10, 2024 Conditional Offer of Employment Agreement originally executed by the parties.

SEVERABILITY

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

INDIANA LAW

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

BINDING EFFECT

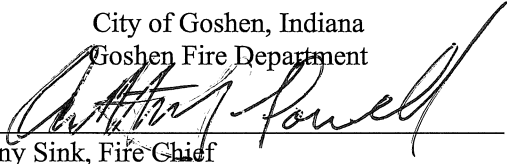
This agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.

ENTIRE AGREEMENT

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

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

City of Goshen, Indiana
Goshen Fire Department



Danny Sink, Fire Chief
or
Anthony Powell, Assistant Fire Chief

Date: 11/25/24



Brian Guerra

Date: 11/25/24



324 S 5th St. Goshen, IN 46528
amanda@eyedart.com
(574) 203-2034 ext. 6

Board of Works Request
Jan 3, 2025

1. What parking spaces/streets do you want to close/use?
East Washington closed from 5th to Main from 1 to 11 pm. First 4 parking spots reserved on East Washington (north side of street) from 8 am to 1 pm for unloading of ice blocks. West Washington closed from the alley to Main from 1 to 11 pm.
2. Why do you want to close them? What activities will take place?
First Fridays Fire and Ice
3. When do you want to start the closure, and when will the closure end?
January 3rd, 2025 | 1 to 11 p.m.
4. Are there any affected businesses, and are they supportive of your request to close the parking spaces?
Yes
5. Do you require any barricades from the Street Department to accomplish the closure of your event?
Barricades and signage

Thank you for your consideration.

Amanda Rose
Director of First Fridays
Eyedart Creative Studios

KAUFFMAN

CONSTRUCTION

5593 Fir Rd. Bremen, IN 46506

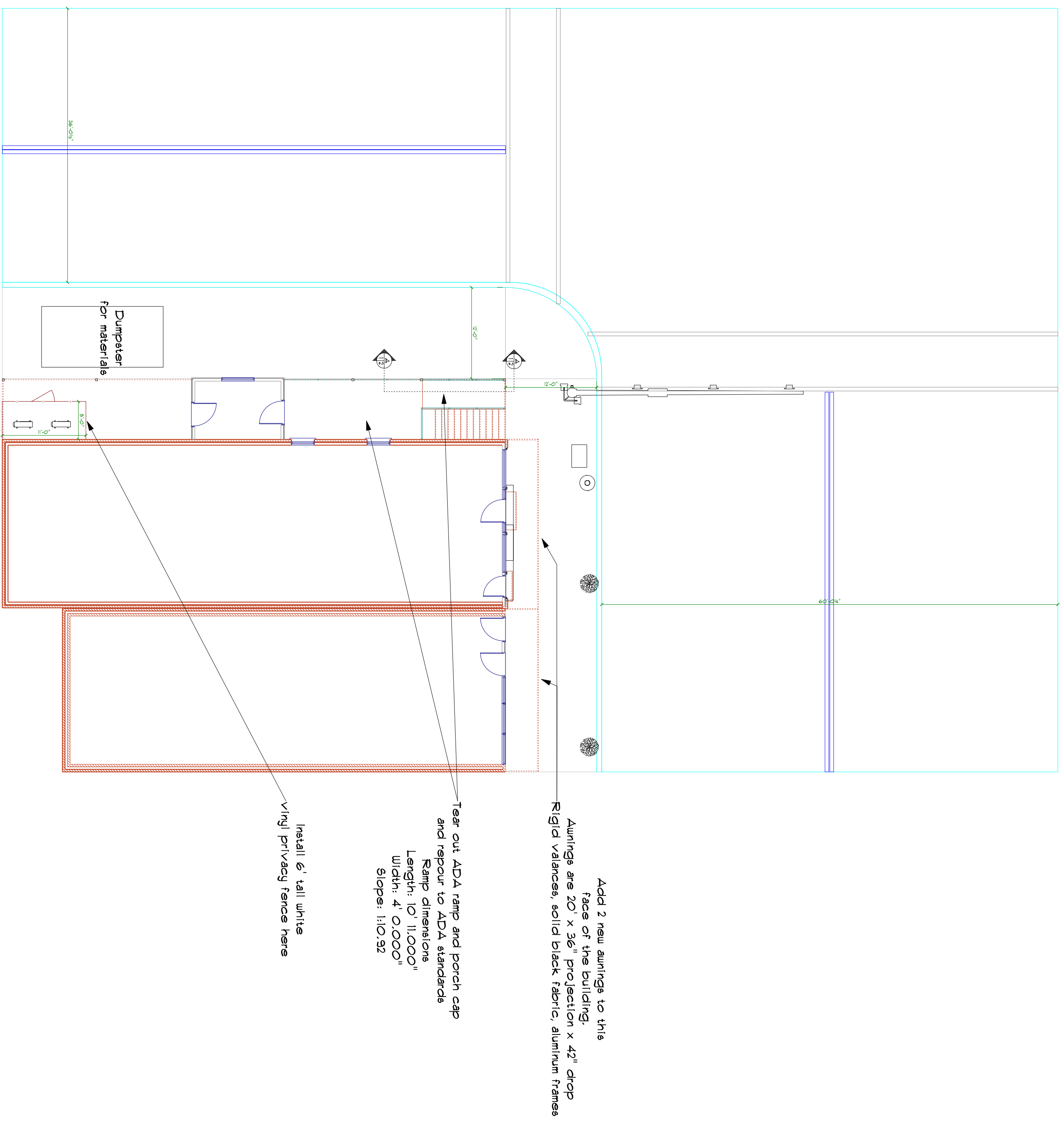
574-354-7395 nate@kauffmanconstructionllc.com

December 9, 2024

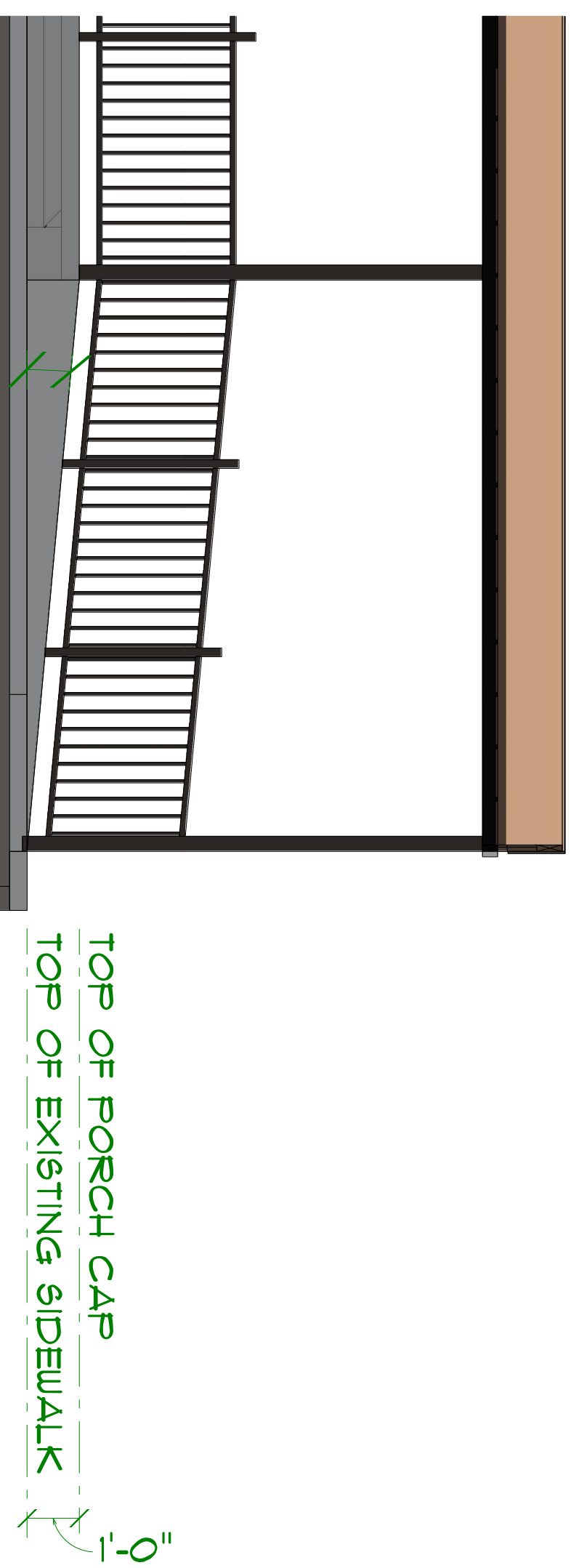
To Goshen City Board of Works,

Kauffman construction is requesting approval for a 16'x8' Dump trailer to be set on the sidewalk of 5th street against the airlock of the former Tony's grill (103 N. 5th St.) for the purpose of throwing demolition trash into it from the apartment above the restaurant as well as from the restaurant itself. The dates it would be located there are from December 6th to February 7th. Kauffman Construction will be providing the dump trailer.

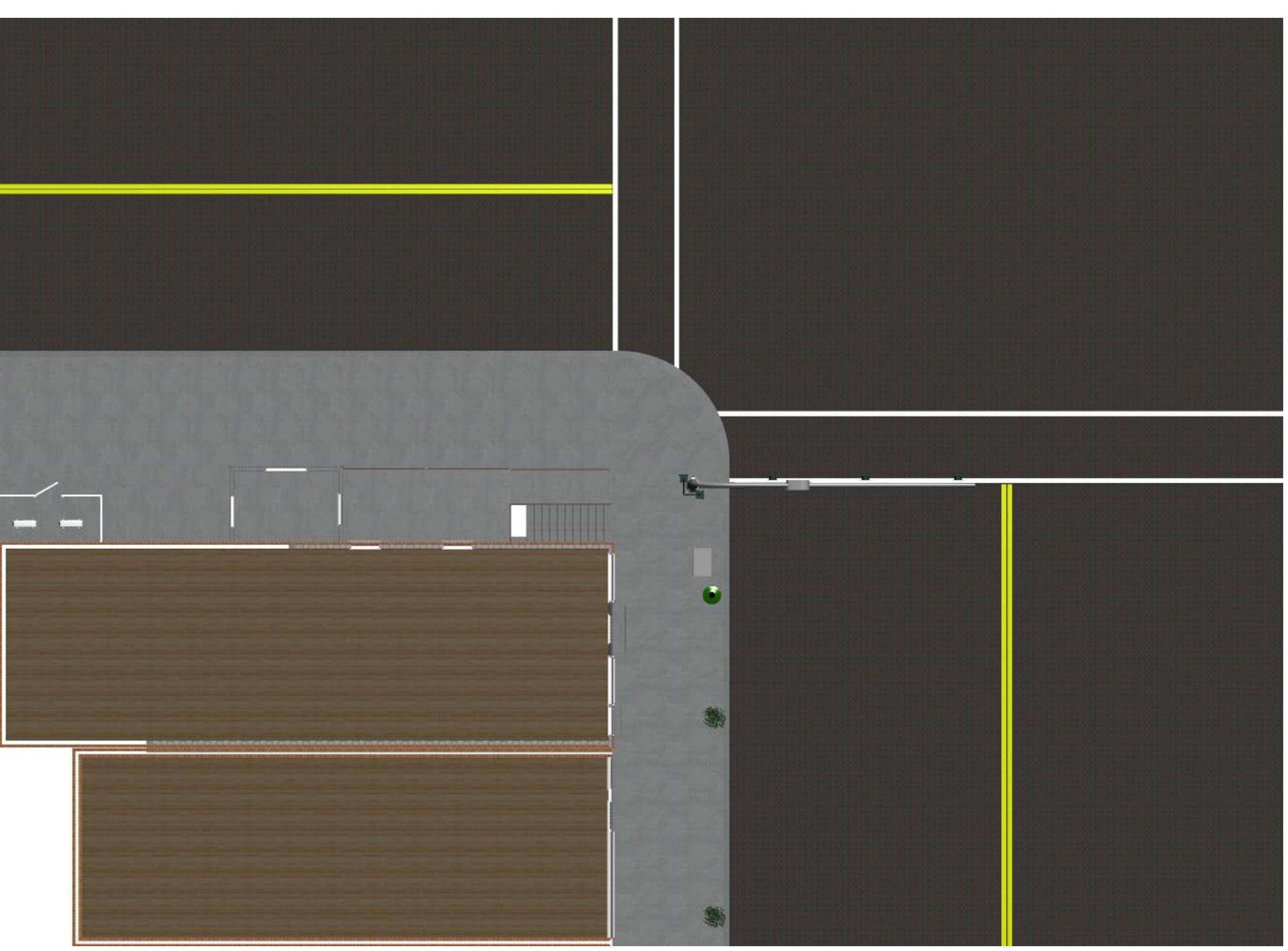
Thank you,
Nate Kauffman
Owner
Kauffman Construction
574-354-7395 (mobile)



Site Plan
SCALE: 1" = 10'-0"



CROSS SECTION OF ADA RAMP
SCALE: 3/8" = 1'-0"



KAUFMAN
CONSTRUCTION
103 N. 5th St.
Goshen, IN 46526

Drawn by: Zoseliani, Kyle

Kyle Stiffney
Phone #

Site Plan

SCALE: As Noted

DATE: Monday, December 9, 2024



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

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

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

To: Goshen Board of Public Works and Safety
From: Bodie J. Stegelmann, City Attorney
Subject: Agreement with DJ Construction Co., Inc. for Annex Renovation Project
Date: December 12, 2024

The City previously solicited sealed proposals seeking proposals and qualifications for the services of a Construction Manager as Constructor for preconstruction and construction services required for the renovation of and improvements to the City Annex Building. Proposals were received and, following interviews with the prospective teams submitting proposals, it was recommended that the City proceed with DJ Construction Co., Inc.

The attached draft Agreement with DJ Construction provides for the reconstruction and improvement of the Annex Building. It includes provisions for selective demolition, renovation of the vacant 2nd floor, selective renovations to the 1st floor, project management responsibilities, and compliance with Indiana public works statutes. The agreement specifies that a guaranteed maximum price (GMP) will be established, with an appropriate contingency; and finalized upon execution of a GMP Amendment following the completion of pre-construction services. The City will pay DJ Construction a lump sum of \$20,000 for pre-construction services. The Agreement requires completion of the Project by April 1, 2026.

Suggested Motion:

Move to approve the Agreement with DJ Construction Co., Inc. as presented, and authorize Mayor Leichthy to execute the Agreement.

AGREEMENT

THIS AGREEMENT (the “Agreement”), executed this _____ day of _____, 2024, by and between the City of Goshen, Indiana, a municipal corporation and political subdivision of the State of Indiana, by and through its Board of Public Works and Safety (“City”) and D-J Construction Co., Inc., an Indiana corporation (the “CMc”), is made pursuant to the terms and conditions set forth herein pursuant to Indiana Code 5-32 and I.C. 36-1-12. In consideration of those mutual undertakings and covenants, the parties agree as follows:

1. Project Description.

- 1.1. The Project involves the reconstruction and improvement to the City of Goshen Annex Building, a public building located at 204 E Jefferson Street. Generally, the scope of the Project is described in the City’s Request for Proposals dated September 25, 2024, and per the 100% Design Development plans titled Goshen Annex Remodel, dated October 1, 2024, as prepared by Kil Architecture/Planning, and includes, but is not necessarily limited to, the following:
 - 1.1.1. Selective demolition of existing materials, equipment and finishes per the demolition plans. This scope includes selective structural demolition, along with salvage of some materials for reinstallation.
 - 1.1.2. Renovation of the presently vacant 2nd floor level (approximately 10,150 GSF) into offices for the Engineering Department and Legal Department, including finishing of upgrades (walls, floors and ceilings) along with M/E/P upgrades (mechanical/electrical/plumbing).
 - 1.1.3. Supply and installation of new partitions and doors to create office and support space for municipal departments as per the proposed developed plans. The intent is to salvage and develop the renovation with respect to the original historic materials, retaining original construction where possible as it relates to the proposed renovated spaces.
 - 1.1.4. Elimination of the existing lift and supply and installation of a new 4-stop elevator to access each level (basement, 1st and 2nd, with half level stop at the northwest entrance).
 - 1.1.5. Reconstruction of the partial flight of the NW stairway removed to install the lift, along with railing upgrades.
 - 1.1.6. Limited renovation of the basement and main level.
 - 1.1.7. Supply and installation of a new fire suppression and alarm systems throughout the building.

- 1.1.8. Construction of other related infrastructural support for the 2nd level renovation (interior electrical, plumbing and mechanical).
- 1.1.9. Exterior window and door renovation and upgrades including new interior storm windows.
- 1.1.10. Construction of new single-user accessible restrooms for the first and second floors
- 1.1.11. Exterior masonry upgrades (cleaning, tuckpointing, etc.).
- 1.1.12. Scope includes some limited site construction.
- 1.2. The roof replacement, gutter upgrades, eaves & fascia restoration and new roof and attic insulation will be bid as a separate project.
- 1.3. The City of Goshen Board of Works has retained Kil Architecture/Planning (“Kil A/P”) for the design of the renovation and improvements of the existing Annex Facility, including construction plans and specifications for the Project.

2. **Definitions.**

- 2.1. “Contract Documents” shall mean and include the following: this Agreement, the Project’s Request for Proposals, any Addenda issued by the City in connection with the Project and prior to the submission of CMc’s Proposal, the CMc’s Proposal and Response, as well as any other documentation submitted by CMc in response to the Request for Proposals. Additionally, when applicable, Contract Documents shall include the Performance Bond and/or Payment Bond.
- 2.2. “Kil Architecture” means Gregory A Kil & Associates, Inc., d/b/a Kil Architecture/Planning, the architect and/or engineer with whom the City has entered into a professional services agreement for the Project.
- 2.3. “Construction Manager as Constructor or CMc” means the person that provides CMc services.
- 2.4. “Guaranteed Maximum Price” or “GMP” means the maximum sum that the City shall be responsible to pay for the completion of the Project, subject to any Contingency.
- 2.5. “Contingency” refers to a designated amount or percentage of the GMP included in the Project budget, reserved to cover unforeseen costs or events that arise during the construction of the Project. The Contingency is not allocated to any specific item of the Project and is to be utilized by the CMc, with the City’s approval, for expenses that are necessary to address issues, refinements, or minor defects within the scope of the Project.

3. **Construction Manager's Responsibilities.**

3.1. Pre-Construction Phase

- 3.1.1. The CMc shall exercise reasonable care in performing its Preconstruction Services. The City and Kil Architecture shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the CMc. The CMc, however, does not warrant or guarantee estimates and schedules except as may be included as part of the GMP. The CMc is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules, and regulations, or lawful orders of public authorities, but the CMc shall promptly report to City and Kil Architecture any nonconformity discovered by or made known to the CMc as a request for information in such form as City or Kil Architecture may require.
- 3.1.2. The CMc shall provide a preliminary evaluation of the City's Project, schedule, and construction budget requirements, each in terms of the other.
- 3.1.3. The CMc shall schedule and conduct meetings with Kil Architecture and City to discuss such matters as procedures, progress, coordination, and scheduling of the Work.
- 3.1.4. The CMc shall advise City and Kil Architecture on proposed site use and improvements, selection of materials, building systems, and equipment. The CMc shall also review design documents for constructability, completeness, accuracy, and proper coordination of disciplines, as well provide recommendations to City and Kil Architecture, consistent the Project requirements, on constructability, availability of materials and labor, time requirements for procurement, installation, and construction, prefabrication, and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The CMc shall consult with Kil Architecture regarding professional services to be provided by the CMc during the Construction Phase.
- 3.1.5. CMc shall develop a detailed construction schedule for the Project, including identification of long lead items and owner supplied equipment and materials. The schedule shall be prepared for Kil Architecture's review and City's acceptance. CMc shall obtain Kil Architecture's approval for the portion of the Project schedule relating

to the performance of Kil Architecture's services. The Project schedule shall coordinate and integrate the CMc's services, Kil Architecture's services, other City consultants' services, and the City's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the GMP proposal; components of the Work; times of commencement and completion required of each subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the City.

- 3.1.6. CMc, in consultation with Kil Architecture, shall provide recommendations with regard to accelerated or fact-track scheduling, procurement, and sequency for phased construction. The CMc shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.
- 3.1.7. Based on the preliminary design and other design criteria prepared by Kil Architecture, CMc shall prepare, for Kil Architecture's review and City's approval, preliminary estimates of the Cost of the Work or the cost of Project requirements using area, volume, or similar conceptual estimating techniques. If Kil Architecture or City suggests alternative materials and systems, the CMc shall provide cost evaluations of those alternative materials and systems.
- 3.1.8. As Kil Architecture progresses with the preparation of the Design Development and Construction Documents, CMc shall prepare and update, at appropriate intervals agreed to by City, CMc, and Kil Architecture, an estimate of the Cost of Work with increasing detail and refinement. CMc shall include in this estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as City and CMc agree on a GMP for the Work. The estimate shall be provided for Kil Architecture's review and City's approval. CMc shall inform the City and Kil Architecture in the event that the estimate of the Cost of Work exceeds the latest approved Project budget, and make recommendations for corrective action.
- 3.1.9. If Kil Architecture is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the CMc's cost estimates and Kil Architecture's cost estimates, CMc and Kil Architecture shall work together to reconcile the cost estimates.

- 3.1.10. As Kil Architecture progresses with the preparation of the Design Development and Construction Documents, CMc shall consult with City and Kil Architecture and make recommendations regarding constructability and schedules, for Kil Architecture's review and City's approval.
 - 3.1.11. CMc shall provide recommendations and information to City and Kil Architecture regarding equipment, materials, services, and temporary Project facilities.
 - 3.1.12. CMc shall provide a staffing plan for Preconstruction Phase services for City's review and approval.
 - 3.1.13. Development of a comprehensive list of subcontractors and suppliers, and shall develop responsible bidders' interest in the Project. CMc shall develop Bid Packages, bid schedules, and conduct pre-bid conferences. CMc shall analyze responses to bid, conduct pre-award conferences and negotiations with successful bidders and recommend responses to be accepted or rejected.
 - 3.1.14. CMc shall prepare, for Kil Architecture's review and City's acceptance, a procurement schedule for items that must be ordered in advance of construction. CMc shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If City agrees to procure any items prior to the establishment of the GMP, the City shall procure items on terms and conditions acceptable to CMc. Upon establishment of the GMP, City shall assign all contracts for these items to CMc and CMc shall thereafter accept responsibility for all obligations arising at the time of, or after, the assignment.
 - 3.1.15. Advertise the bid packages for subcontractors pursuant to the applicable public works statute. Review the bids as required pursuant to the applicable public works statute.
 - 3.1.16. CMc may perform portions of the work only if it complies with the applicable public works statute and if CMc:
 - 3.1.16.1. Is approved by City;
 - 3.1.16.2. Would be awarded a contract for the work under the applicable contract award standard; and
 - 3.1.16.3. Performs only such work that equals not more than twenty percent (20%) of the total value of the Project.
- 3.2. Guaranteed Maximum Price Proposal

- 3.2.1. CMc shall submit to City a GMP proposal for the City's and Kil Architecture's review, and City's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of CMc's estimate for the cost of work, the CMc's contingency described in Section 3.2.4., and the CMc's Management Fee described in Section 5.2.
- 3.2.2. To the extent that the Contract Documents are anticipated to require further development, the GMP includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which shall be incorporated by Contract Amendment.
- 3.2.3. The CMc shall include with the GMP proposal a written statement of its basis, which shall include the following:
 - 3.2.3.1. A list of the Drawings and Specifications, including all Addenda thereto, and the conditions of the Agreement;
 - 3.2.3.2. A list of the clarifications and assumptions made by the CMc in the preparation of the GMP proposal, including assumptions under Section 3.2.2.;
 - 3.2.3.3. A statement of the proposed GMP, including a statement of the estimated Cost of Work organized by trade categories or systems, including allowances; the CMc's contingency set forth in Section 3.2.4., and the CMc's Manager Fee;
 - 3.2.3.4. The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
 - 3.2.3.5. A date by which the City must accept the Guaranteed Maximum Price.
- 3.2.4. Construction Contingency: The Guaranteed Maximum Price will contain a separately identified contingency factor (the "Construction Contingency") in the amount not to exceed Five percent (5%) of the GMP Construction Budget. The Construction Contingency is not allocated to any particular item of the Cost of the Project and is established for the CMc's use as may be required for costs incurred in the work from unforeseen causes or details that should have been anticipated by CMc at the time of the City's approval of the GMP. Such anticipated causes include, but are not limited to, refinement of details of design within the scope of standards, quality and quantities

that are reasonably inferable from the GMP documents, the correction of minor defects not relating to design, delays in receipt of materials due to the fault of the CMc, corrections in the work provided CMc has exhausted all reasonable means to obtain correction of same from the responsible subcontractor, labor and materials overruns, and additional costs relating to subcontractor defaults, provided any such default is not due to the City's actions or failure to act. In the event a subcontractor default is due to the City's actions or failure to act, CMc may be entitled to an appropriate adjustment in the GMP in accordance with the terms of this Agreement. At the conclusion of the Project, any remaining balance in the Construction Contingency shall become the property of City.

- 3.2.5. CMc shall meet with City and Kil Architecture to review the GMP proposal. In the event that City or Kil Architecture discovery any inconsistencies or inaccuracies in the information presented, they shall promptly notify the CMc, who shall make appropriate adjustments to the GMP proposal, its basis, or both.
- 3.2.6. If City notifies CMc that City has accepted the GMP proposal in writing before the date specified in the GMP proposal, the GMP proposal shall be deemed effective without further acceptance from the CMc. Following acceptance of a GMP, the City and CMc shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which City shall provide to Kil Architecture. The Guaranteed Maximum Price Amendment shall set forth the agreed upon the Guaranteed Maximum Price with the information and assumptions upon which it is based.
- 3.2.7. CMc shall not incur any cost to be reimbursed as part of the cost of the work prior to the execution of the Guaranteed Maximum Price Amendment, unless City provides prior written authorization for such costs.

3.3. Construction Phase

- 3.3.1. The Construction Phase shall commence upon the City's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by CMc, and the insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

- 3.3.2. CMc shall monitor the work of the subcontractors and coordinate the work with the activities and responsibilities of the City and Kil Architecture to complete the Project in accordance with City's objectives of cost, time, quality, and safety all of which are enumerated in the Contract Documents for construction.
- 3.3.3. Provide regular monitoring of the schedule as construction progresses. Identify potential variances between scheduled and probable completion dates. Review the schedule for work not started or incomplete and recommend to City adjustments in the schedule to meet the probable completion date. Provide summary reports for each adjustment and document changes in the schedule.
- 3.3.4. Determine the adequacy of the subcontractors' personnel and equipment and the availability of materials and supplied to meet the schedule.
- 3.3.5. Schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. CMc shall prepare and promptly distribute minutes of the meetings to City and Kil Architecture.
- 3.3.6. Record the progress of the Project. On a monthly basis, or otherwise as agreed to by City, CMc shall submit written progress reports to City and Kil Architecture, showing percentages of completion and other information required by City. CMc shall keep, and make available to City and Kil Architecture, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by City.
- 3.3.7. Submit a proposed Project Schedule for City's acceptance. The proposed Project Schedule will include a detailed and comprehensive schedule utilizing a critical path method arrow diagram network that (i) shows all major design, procurement and construction elements and phases of the Project and City furnished items with milestone dates; (ii) breaks down each element or phase by trade; (iii) shows early and late start dates so that all "float" time will be accurately identified; (iv) clearly identifies critical path activities; (v) discloses relationship in number of days and types of linkage between all linked activities; (vi) identifies, coordinates, and integrates design and construction schedules, City's responsibilities, governmental approvals, early access dates for certain portions of the Work by City,

and other activities necessary for the timely completion of the Project in accordance with the scheduled dates of Substantial and Final Completion; and (vii) otherwise is in a form satisfactory to City. City's acceptance is expressly limited to City's acknowledgement that based upon City's limited review, the dates of Substantial Completion and milestone dates are acceptable and the latest dates of City-provided information, materials, approvals and the like identified in the Project Schedule are reasonable.

- 3.3.8. CMc may seek to perform portions of the work as stated in Section 3.1.16 herein so long as CMc submits its bid for those portions of the work in the same manner as all other subcontractors and if the City independently determines that the CMc's bid provides the best value for the City. In the event that the CMc submits a bid for a portion of the work, City will conduct the review without the assistance of the CMc.
- 3.3.9. CMc shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The CMc shall identify variances between actual and estimated costs and report the variances to City and Kil Architecture, and shall provide this information in its monthly reports to City and Kil Architecture, in accordance with Section 3.3.6.
- 3.3.10. Inspect the work of subcontractors for defects and deficiencies in the work and for compliance with the requirements of the Construction Documents.
- 3.3.11. Obtain all building permits and special permits for permanent improvements, excluding permits for inspection or temporary facilities required to be obtained by the various subcontractors.
- 3.4. CMc agrees to comply with all applicable provisions and requirements of I.C. 5-32, governing the employment of construction managers as constructors for public projects. This includes, but is not limited to, adherence to all statutory requirements related to project management, subcontracting, bonding, guaranteed maximum price provisions, and all other obligations as set forth in the Indiana Code.

4. **City's Responsibilities.**

- 4.1. City will provide full information regarding the requirements for this Project.

- 4.2. The City may designate a representative who will be fully acquainted with the Project and who will render decisions and furnish information with reasonable promptness.
- 4.3. Kil Architecture, employed by the City, has provided design services and prepared construction documents for the Project.

5. **Consideration.**

- 5.1. For the CMc's Preconstruction Phase services described in Section 3.1. and 3.2., City shall compensate CMc the sum of Twenty Thousand Dollars (\$20,000.00).
- 5.2. For the CMc's Construction Phase services described in Section 3.3., City shall pay CMc the Contract Sum approved by City for the CMc's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The "Contract Sum" consists of the following components:
 - 5.2.1. CMc's Management Fee: The CMc's Management Fee is not to exceed Five percent (5.0%) of the Cost of Work, as stated in the Guaranteed Maximum Price Amendment to be executed at a later date. The fee shall be between Four percent (4%) and Five percent (5%) and will be determined based upon the conditions present and uncertainties that remain at time of establishment of the GMP. City and CMc acknowledge that the CMc's Management Fee shall be determined prior to or at the time the Guaranteed Maximum Price is determined and shall be included in the Guaranteed Maximum Price Amendment. Included in the Construction Management Fee are salaries and other compensation of the CMc's personnel stationed at the CMc's principal or other offices (excluding project-specific personnel), general operating expenses of the CMc's principal and branch offices, general and administrative costs of any kind, CMc's capital expense, including interest on the CMc's capital employed for the Project, and cost in excess of the GMP.
 - 5.2.2. Cost of Work, which includes all direct costs reasonably incurred by the CMc in the performance of the work, including labor, materials, equipment, subcontractor costs, and project-specific personnel costs (as provided for in Section 5.2.3.).
 - 5.2.3. General conditions, which may include costs related to bonds, insurance, temporary barriers, signage, parking, cleaning, waste disposal, and salaries or wages of project-specific personnel, including project managers, superintendents, engineers, and other staff whose work is directly attributable to the Project. Costs for such personnel

shall be billed at rates agreed upon in the Guaranteed Maximum Price Amendment.

- 5.2.4. Construction Contingency, as defined in Section 3.2.4.
- 5.2.5. Any remaining balance in the Construction Contingency becomes the property of City. It may be returned to City at Project completion through a credit to the contract sum.
- 5.2.6. If there are any savings realized in actual expenditures for the Cost of Work, those savings shall be returned to the City through a credit at Project completion. Returned costs shall include the portion of CMc's Management Fee proportioned to the reduced Cost of Work.
- 5.3. CMc guarantees that the Contract Sum shall not exceed the GMP as agreed to in the Guaranteed Maximum Price Amendment document, subject to the additions and deductions as approved by an amendment or amendments to this Agreement. Costs that would cause the GMP to be exceeded shall be paid by CMc without reimbursement by the City.

6. **Term.**

- 6.1. This Agreement shall become effective on the day of execution and approval by the City of Goshen Board of Public Works and Safety and CMc.
- 6.2. CMc shall begin work on the Project immediately upon execution of the Agreement.
- 6.3. CMc shall carry out all work on Project expeditiously with adequate work forces, with anticipated completion of the Project to permit opening of the reconstruction and improvements to the Annex Building by April 1, 2026.
- 6.4. If CMc does not substantially complete the Project by the completion date, City will incur damages. The parties acknowledge that it will be difficult or impossible to quantify, ascertain, and prove the actual damages sustained by City in the event of and by reason of such delay. Therefore, the parties agree that, in the event that the Project is not substantially completed by the completion date, in lieu of actual damages, City shall be entitled to deduct from the amount due CMc or CMc shall pay to City the sum of One Thousand Dollars (\$1,000.00) per day as liquidated damages and not as a penalty for each calendar day the substantial completion of the Project is delayed, except for delays caused by force majeure events, City-directed changes, delays caused by City or any third party vendor, atypical weather events as defined in Section 6.4.1., or other delays explicitly excused under the terms of this Agreement. The total liquidated damages assessed under this provision shall not exceed Thirty Thousand Dollars (\$30,000.00). However, this cap on liquidated damages shall not limit the City's right to

pursue additional remedies, including but not limited to actual damages or specific performance, in the event that the CMc fails to substantially complete the Project within a reasonable time after the thirty (30) calendar days covered by the liquidated damages cap.

6.4.1. Delays caused by atypical weather events beyond those reasonably anticipated for the time of year and location of the Project site in Northern Indiana shall be excused and not subject to liquidated damages. Atypical weather events include, but are not limited to:

6.4.1.1. Snowfall, rainfall, or flooding exceeding the historical monthly average for the project location by twenty-five percent (25%) or more, as determined using data from the National Weather Service (NWS).

6.4.1.2. Extreme temperatures that deviate from the 30-year historical average for the project location by more than fifteen (15) degrees Fahrenheit for a sustained period of seven (7) or more days.

6.4.2. To qualify for this provision, the CMc must (1) notify the City in writing within five (5) calendar days of the occurrence of an atypical weather event, providing specific details and supporting data from the NWS; and (2) demonstrate that the weather event directly and materially impacted the critical path of the Project Schedule, as documented in the CMc's updated schedule submitted to the City. The City reserves the right to review and approve or deny the CMc's request for an extension of the substantial completion date based on the evidence provided, with said approval to not be unreasonably withheld.

7. Payments for Construction Phase Services.

7.1. Upon receipt of a detailed invoice, City shall pay CMc as work progresses on the Project based on the dollar value of work satisfactorily completed in accordance with the Specifications and Contract Documents. Partial payment(s) under this Agreement will be made no more frequently than once every thirty (30) days.

7.2. CMc shall submit proof to City that CMc has paid all subcontractors, material suppliers, laborers, and those furnishing services for the Project before final payment is made.

7.3. CMc shall submit to City the detailed invoice(s) along with proof of payment for labor and materials furnished for the Project to the following address, or at such other address as City may designate in writing:

Becky Hutsell, Redevelopment Director
204 E. Jefferson Street
Goshen, IN 46526

Email is also acceptable at beckyhutsell@goshencity.com.

- 7.4. Provided there is no dispute on amounts due, including amounts due all subcontractors, material suppliers, laborers, and those furnishing services for the Project, payment will be made to CMc within forty-five (45) days following City's receipt of a detailed invoice. If any dispute arises, the undisputed amount will be paid. Payment is deemed to be made on the date of mailing the check.
- 7.5. Any payment made by City before or after final acceptance of the work shall not affect the obligation of CMc to repair or replace any defective parts or otherwise correct any work.
- 7.6. CMc is required to have a current W-9 form on file with the Goshen Clerk-Treasurer's Office before City will issue payment to CMc.

8. **Payment Bond.**

- 8.1. CMc agrees to provide City an approved payment bond equal to the contract price within fourteen (14) days after execution of the Guaranteed Maximum Price Amendment, as required by I.C. § 5-32-4-2.
- 8.2. The payment bond is binding on CMc, and any first or second tier subcontractor, and their successors and assigns for the payment of all indebtedness to a person for labor and services performed, material furnished, or services rendered. The payment bond must state that it is for the benefit of the subcontractors, laborers, material suppliers, and those performing services. The payment bond must specify that a modification, omission or addition to the terms and conditions of the Agreement, plans, specifications, drawings or profile; a defect in the Agreement; or a defect in the proceedings preliminary to the letting and award of the CMc Agreement does not discharge the surety.
- 8.3. The surety on the payment bond shall not be released until one (1) year after the date of the City's final settlement with CMc.

9. **Performance Bond.**

- 9.1. CMc agrees to provide City an approved performance bond equal to the contract price within fourteen (14) days after execution of the Guaranteed Maximum Price Amendment, as required by I.C. § 5-32-4-2.
- 9.2. The performance bond shall guarantee the faithful and proper performance of the work in accordance with the Specifications and Contract Documents.

The performance bond must specify that a modification, omission or addition to the terms and conditions of the Contract, plans, specifications, drawings or profile; a defect in the Agreement; or a defect in the proceedings preliminary to the letting and award of the CMc Agreement does not discharge the surety.

- 9.3. The surety on the performance bond shall not be released until one (1) year after the date of the City's final settlement with CMc.

10. **Independent Contractor.**

- 10.1. CMc shall operate as a separate entity and independent contractor of the City of Goshen. Any employees, agents or subcontractors of CMc shall be under the sole and exclusive direction and control of CMc 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 CMc and/or CMc's employees, agents or subcontractors.
- 10.2. CMc understands that City will not carry worker's compensation or any other insurance on CMc and/or CMc's employees or subcontractors. CMc 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.

11. **Non-Discrimination.**

- 11.1. In accordance with I.C. § 22-9-1-10, a contractor in any contractor tier shall not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to the employee or applicant's 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, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of the Agreement.
- 11.2. In accordance with I.C. § 5-16-6-1, the CMc agrees:
 - 11.2.1. That in the hiring of employees for the performance of work under this Agreement or any subcontract hereunder, no contractor, or subcontractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, religion, color, sex, national origin or ancestry, discriminate against any citizen of the state of Indiana who is qualified and available to perform the work to which the employment relates;

- 11.2.2. That no contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this Agreement on account of race, religion, color, sex, national origin or ancestry;
- 11.2.3. That there may be deducted from the amount payable to CMc by City under this Agreement, a penalty of Five Dollars (\$5.00) for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the Agreement; and
- 11.2.4. That this Agreement may be cancelled or terminated by City, and all money due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this section of the Agreement.

12. **Employment Eligibility Verification.**

- 12.1. In accordance with I.C. § 22-5-1.7 et seq., CMc shall enroll in and verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program as defined in I.C. § 22-5-1.7-3. CMc is not required to participate in the E-Verify program should the program cease to exist. CMc is not required to participate in the E-Verify program if CMc is self-employed and does not employ any employees.
- 12.2. CMc shall not knowingly employ or contract with an unauthorized alien, and CMc shall not retain an employee or continue to contract with an individual that CMc subsequently learns is an unauthorized alien. By execution of the Agreement, CMc affirms that CMc does not knowingly employ an unauthorized alien.
- 12.3. CMc shall require their subcontractors, who perform work under this Agreement, to certify to CMc 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. CMc agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.
- 12.4. City may terminate the Agreement if CMc fails to cure a breach of this provision no later than thirty (30) days after being notified by City of a breach.
- 12.5. In accordance with I.C. § 5-16-13-11(1), before an individual who is required to be verified under I.C. § 22-5-1.7 begins work on the Project, CMc shall submit to City the E-Verify case verification number for the individual. An

individual who is required to be verified under I.C. § 22-5-1.7 whose final case result is final non-confirmation may not be employed on the Project.

13. **Employee Drug Testing Program.**

- 13.1. CMc must implement the employee drug testing program that complies with the requirements of I.C. § 4-13-18-1 through I.C. § 4-13-18-7 as described in CMc's written plan submitted with their proposal.
- 13.2. City may cancel or terminate this Agreement in the event CMc fails to implement the employee drug testing program during the term of the Agreement for this Project; fails to provide information regarding the implementation of CMc's employee drug testing program at the request of City; or provides City false information regarding the employee drug testing program.

14. **Contractor Compliance with Other Laws.**

- 14.1. In accordance with I.C. § 5-16-13-11, CMc agrees:
 - 14.1.1. A contractor shall not pay cash to any individual employed by CMc for work done by the individual on the Project.
 - 14.1.2. A contractor is and shall remain in compliance with the federal Fair Labor Standards Act of 1938, as amended (29 USC 201-209) and the state Minimum Wage Law of 1965 (I.C. § 22-2-2-1 through I.C. § 22-2-2-8).
 - 14.1.3. A contractor is and shall remain in compliance with the worker's compensation or occupational diseases requirements under I.C. § 22-3-5-1 and I.C. § 22-3-7-34.
 - 14.1.4. A contractor is and shall remain in compliance with the unemployment insurance under I.C. § 22-4-1 through I.C. § 22-4-39.5.
 - 14.1.5. A contractor is and shall remain in compliance with the training program requirements under I.C. § 5-16-13-12 as applicable.
- 14.2. In accordance with I.C. § 5-16-13-13, a contractor shall preserve all payroll and related records of a contractor for a period of three (3) years after completion of the Project; and shall open such records to inspection by the department of workforce development.

15. **Indemnification.**

CMc 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, injuries, or accidental deaths caused by any intentional, reckless, or negligent act or omission by CMc or any of CMc's agents,

officers, and employees during the performance of this Agreement. Such indemnity shall include reasonable attorney's fees and other expenses incurred by City, and shall not be limited by reason of insurance coverage required by this Agreement.

16. **Insurance.**

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

17. **Force Majeure.**

In the event that either party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party affected shall immediately provide written notice to the other party. 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) days from receipt of the notice of the Force Majeure Event, the party whose ability to perform has not been affected may, by giving written notice, terminate the Agreement and the other party shall have no recourse.

18. **Termination for Default.**

- 18.1. With the provision of thirty (30) days' notice to CMc, City may terminate this Agreement in whole or in part if:
 - 18.1.1. CMc fails to correct or cure any breach of this Agreement; the time to correct or cure the breach may be extended beyond thirty (30) days if

the City determines progress is being made and the extension is agreed to by the parties;

18.1.2. CMc fails to deliver the supplies or perform the services within the time specified in this Agreement or any extension;

18.1.3. CMc is adjudged bankrupt or makes an assignment for the benefit of creditors;

18.1.4. CMc becomes insolvent or in an unsound financial condition so as to endanger performance under the Agreement;

18.1.5. CMc becomes the subject of any proceeding under law relating to bankruptcy, insolvency or reorganization, or relief from creditor and/or debtors;

18.1.6. A receiver, trustee, or similar official is appointed for CMc or any of CMc's property;

18.1.7. CMc is determined to be in violation of federal, state, or local laws or regulations and that such determination renders CMc unable to perform the work required under the Agreement;

18.1.8. CMc fails to make progress so as to endanger performance of this Agreement; or

18.1.9. CMc fails to perform any of the other provisions of this Agreement.

18.2. If the City terminates this Agreement in whole or in part, it may acquire, under the terms and in the manner, City considers appropriate, supplies or services similar to those terminated, and the CMc will be liable to the City for any excess costs for those supplies or services. However, the CMc shall continue the work not terminated.

18.3. The City shall pay the contract price for completed supplies delivered and services accepted. The CMc and the City shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. The City may withhold from these amounts any sum the City determines to be necessary to protect the City against loss because of outstanding liens or claims of former lien holders.

18.4. The rights and remedies of the City in this clause are in addition to any other rights and remedies provided by law or equity or under this Agreement.

19. **Termination for Convenience.**

This Agreement may be terminated, in whole or in part, by the City whenever, for any reason, the City determines that such termination is in its best interest. Termination of

services shall be affected by delivery to the CMc of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The CMc shall be compensated for services properly rendered prior to the effective date of termination. The City will not be liable for services performed after the effective date of termination. The CMc shall be compensated for services herein provided but in no case shall total payment made to the CMc exceed the original contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date.

20. **Subcontracting or Assignment of Contract.**

CMc 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 CMc to subcontract or assign any portion of the Agreement shall not be construed to relieve CMc from any responsibility to fulfill all contractual obligations.

21. **Waiver.**

No right conferred on either party under this Agreement shall be deemed waiver, and no breach of this Agreement excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the City's review, approval, or acceptance of, nor payment for, the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and the CMc shall be and remain liable to the City in accordance with applicable law for all damages to the City and caused by the CMc's negligent performance of any of the services furnished under this Agreement.

22. **Disputes.**

- 22.1. Should any disputes arise with respect to this Agreement, the CMc and the City agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.
- 22.2. CMc agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Agreement that are not affected by the dispute. Should the CMc fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the City or the CMc as a result of such failure to proceed shall be borne by the CMc, and the CMc shall make no claim against City for such costs.
- 22.3. If the parties are unable to resolve a contract dispute between them after good faith efforts to do so, the parties acknowledge that such dispute may benefit from resolution through mediation. Accordingly, either party may propose mediation as a voluntary means to resolve any disagreement before pursuing litigation or other remedies.

- 22.3.1. If both parties agree to mediation, the parties shall work together in good faith to select a mutually acceptable mediator with experience in construction-related matters. The mediation shall take place at a location agreed upon by both parties or virtually if both parties consent.
- 22.3.2. Each party shall bear its own costs associated with mediation, and the mediator's fees shall be shared equally, unless otherwise agreed.
- 22.3.3. This mediation clause is option, and neither party is obligated to initiate or participate in mediation before seeking any other legal or equitable remedy, including litigation.
- 22.3.4. If mediation occurs, all discussions, offers, and documents exchanged shall remain confidential and shall not be admissible in any subsequent legal proceedings, except as required by law or to enforce a settlement agreement reached in mediation.

23. **Ownership of Documents and Materials.**

- 23.1. All documents, records, programs, applications, data, algorithms, film, tape, articles, memoranda, and other materials (the "Materials") not developed or licensed by CMc prior to execution of this Agreement, but specifically developed under this Agreement shall be considered "work for hire" and the CMc hereby transfers and assigns any ownership claims to City so that all Materials will be the property of the City. If ownership interest in the Materials cannot be assigned to City, the CMc grants the City a non-exclusive, non-cancelable, perpetual, world-wide royalty-free license to use the Materials and to use, modify, copy, and create derivative works of the Materials.
- 23.2. Use of the Materials, other than related to contract performance by the CMc, without the prior written consent of the City, is prohibited. During the performance of this Agreement, the CMc shall be responsible for any loss of or damage to the Materials developed for or supplied by the City and used to develop or assist in the services provided while the Materials are in the possession of the CMc. Any loss or damage thereto shall be restored at the CMc's expense. The CMc shall provide the State full, immediate, and unrestricted access to the Materials and to CMc's work product during the term of this Agreement.

24. **Notice to Parties.**

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. Either party may also email the notice to the other party in addition to delivering personally or sending by regular first-class mail.

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

CMc: D-J Construction Co., Inc.
Attn: Jason Pippenger, Registered Agent
3414 Elkhart Road
Goshen, Indiana 46526
Email:

25. **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.

26. **Miscellaneous.**

- 26.1. 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.
- 26.2. In the event of a conflict between these documents and applicable laws, rules, regulations, or ordinances, the most stringent or legally binding requirements shall govern.
- 26.3. These documents 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.
- 26.4. In the event legal action is brought to enforce or interpret the terms and conditions of these documents, the prevailing party of such action shall be entitled to recover all costs of that action, including reasonable attorneys' fees.
- 26.5. 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.

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

26.7. The undersign affirm that all steps have been taken to authorized 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 set forth below.

City of Goshen, Indiana

D-J Construction Co., Inc.

Goshen Board of Public Works and Safety

Gina M. Leichty, Mayor

Dated: _____

Printed:_____

Title:_____

Dated:_____



**ENGINEERING DEPARTMENT
CITY OF GOSHEN**

204 East Jefferson Street, Suite 1 • Goshen, IN 46528-3405
Phone (574) 534-2201 • Fax (574) 533-8626
engineering@goshencity.com • www.goshenindiana.org

MEMORANDUM

TO: Goshen Board of Public Works & Safety

FROM: Goshen Engineering

RE: **ALLEY 141 – REQUEST FOR SIGNAGE FOR ADEC CLIENTS AND SHOOTERS RESIDENTS CROSSING ALLEY (JN 2024-0007)**

DATE: December 12, 2024

The Street Department received a request from the manager and staff at the ADEC Goshen Day Program at the Shoots Building (114 E Lincoln Avenue). Clients attending the Day Program utilize the side alley door, as shown in the attached map. Staff have noticed drivers speeding down the alley and are requesting additional signage be installed to remind people to slow down, to help protect the safety of clients crossing the alley, as well as Shoots residents.

Engineering staff recommended relocating an existing pedestrian crossing warning sign (W11-2) that was farther south along Alley 141 to the entrance of the alley off of Lincoln Avenue. Staff also advised against marking a crosswalk at the side alley door or installing a pedestrian crossing sign with an arrow at this point – both of these would draw attention to a specific crossing “location” and drivers may have less regard for pedestrians crossing at other points from the parking lot to the Shoots building. It was recommended that the ADEC Day Program invest in a movable sign that could be placed in advance of the side door during times when clients are arriving or leaving, and stored inside at other times, similar to methods used for some school crossings.

The request was brought to the November 21 Traffic Commission meeting. The Commission voted unanimously with a positive recommendation to approve relocation of the existing sign and re-mounting it at the entrance to the alley.

Requested Motion: Move to approve the relocation of the existing pedestrian crossing warning sign and re-mounting it at the Lincoln Avenue entrance to Alley 141.

**APPROVED:
BOARD OF PUBLIC WORKS & SAFETY
CITY OF GOSHEN, INDIANA**

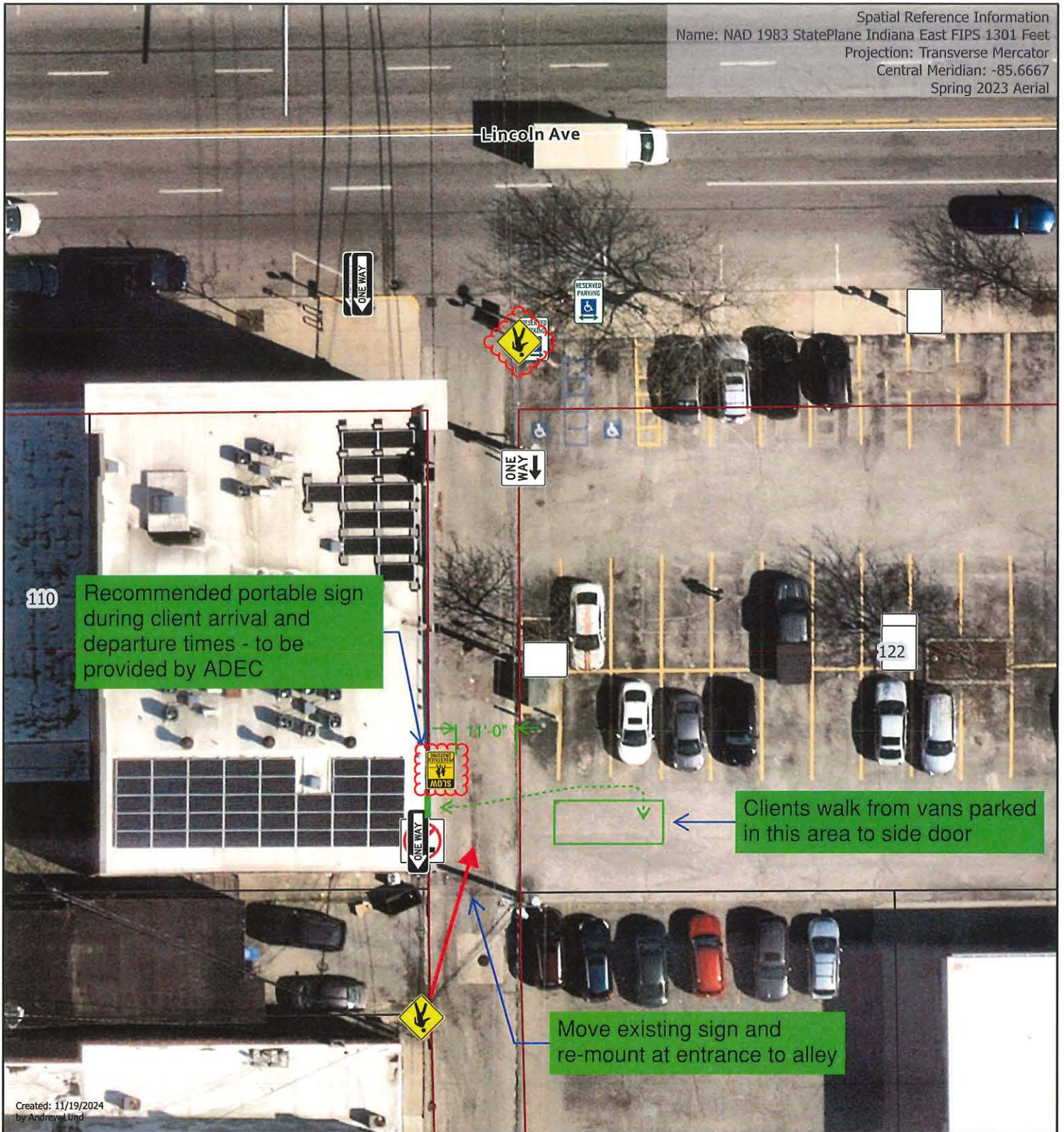
Gina Leichty, Mayor

Barb Swartley, Member

Mary Nichols, Member

Orv Myers, Member

Michael Landis, Member



110

Recommended portable sign during client arrival and departure times - to be provided by ADEC

122

Clients walk from vans parked in this area to side door

Move existing sign and re-mount at entrance to alley

Created: 11/19/2024
 by Andrew Lund

City of Goshen

Shoots Building - Client Loading / Unloading across Alley



0 5 10
 US Feet

The City of Goshen's Digital Data is the property of the City of Goshen and Elkhart County, Indiana. All graphic data supplied by the city and county has been derived from public records that are constantly undergoing change and is not warranted for content or accuracy. The city and county do not guarantee the positional or thematic accuracy of the data. The cartographic digital files are not a legal representation of any of the features depicted, and the city and county disclaim any assumption of the legal status they represent. Any implied warranties, including warranties of merchantability or fitness for a particular purpose, shall be expressly excluded. The data represents an actual reproduction of data contained in the city's or county's computer files. This data may be incomplete or inaccurate, and is subject to modifications and changes. City of Goshen and Elkhart County cannot be held liable for errors or omissions in the data. The recipient's use and reliance upon such data is at the recipient's risk. By using this data, the recipient agrees to protect, hold harmless and indemnify the City of Goshen and Elkhart County and its employees and officers. This indemnity covers reasonable attorney fees and all court costs associated with the defense of the city and county arising out of this disclaimer.

The City of Goshen
 Department of Public Works &
 Safety Office of Engineering
 204 East Jefferson Street, Goshen, Indiana 46528
 Phone: 574-534-2201 Fax: 574-533-8626



**ENGINEERING DEPARTMENT
CITY OF GOSHEN**

204 East Jefferson Street, Suite 1 • Goshen, IN 46528-3405
Phone (574) 534-2201 • Fax (574) 533-8626
engineering@goshencity.com • www.goshenindiana.org

MEMORANDUM

TO: Goshen Board of Public Works & Safety

FROM: Goshen Engineering

RE: **HARRISON RIDGE & WEAVER WOODS – RESERVED PARKING AREA
(JN 2024-0007)**

DATE: December 12, 2024

In 2019, Engineering received a request was from Ms. Sheila Miller to install a reserved parking for persons with disabilities sign (R7-8) in front of her home at 1622 Harrison Ridge Lane. The sign was intended to maintain access for her daughter, who uses an accessible landing connected to the sidewalk.

The minutes from the April 2019 Traffic Commission meeting mention tabling the request to find out more information regarding why the accessible landing was being used instead of the driveway; however, no record can be found of a resulting action. During a recent conversation with Ms. Miller, she explained that she does not use the driveway because of the steepness of the approach. An existing platform had previously been constructed adjacent to the drive for accessible loading and unloading. Ms. Miller contacted Engineering this past summer about the status of her requests. Since then, Engineering staff has been looking into the request history.

The request was brought to the October 17 Traffic Commission meeting. The Commission voted unanimously with a positive recommendation for the installation of a sign for reserved parking for persons with disabilities and pavement markings for a 23-foot accessible parking space near the driveway of 1622 Harrison Ridge Lane, with the requirement that the resident renew the request annually.

Requested Motion: Move to approve the installation of a sign for reserved parking for persons with disabilities with pavement markings for a 23-foot accessible parking space, to be renewed on an annual basis.

**APPROVED:
BOARD OF PUBLIC WORKS & SAFETY
CITY OF GOSHEN, INDIANA**

Gina Leichty, Mayor

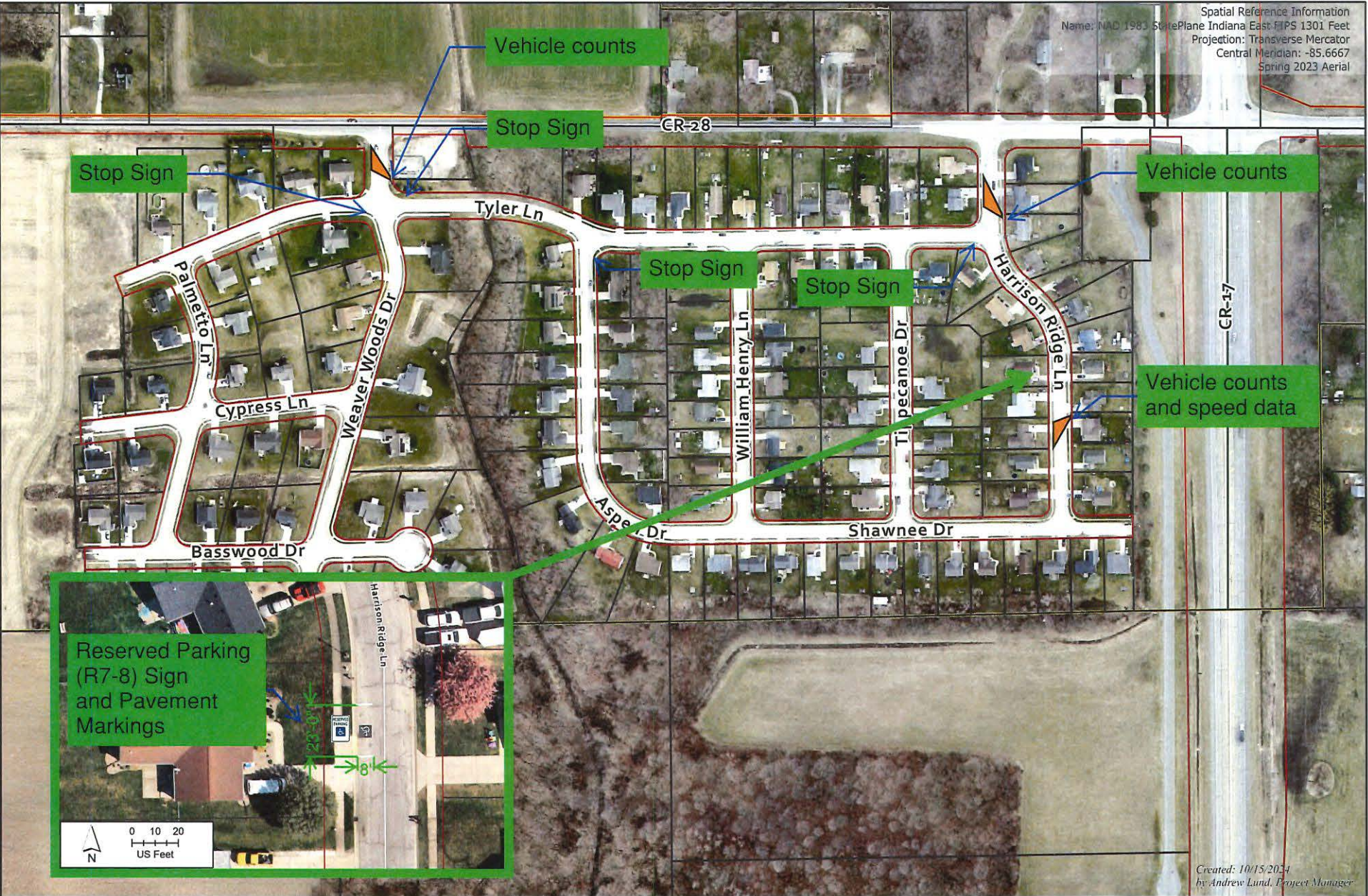
Barb Swartley, Member

Mary Nichols, Member

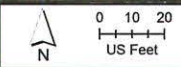
Orv Myers, Member

Michael Landis, Member

Spatial Reference Information
 Name: NAD 1983 StatePlane Indiana East-FIPS 1301 Feet
 Projection: Transverse Mercator
 Central Meridian: -85.6667
 Spring 2023 Aerial

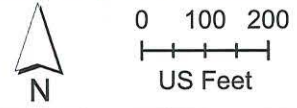


Reserved Parking
 (R7-8) Sign
 and Pavement
 Markings



Created: 10/15/2024
 by Andrew Lund, Project Manager

City of Goshen
 Harrison Ridge, Weaver Woods - Stop Signs, Reserved Parking Sign, Speeding Concerns



The City of Goshen's Digital Data is the property of the City of Goshen and Elkhart County, Indiana. All graphic data supplied by the city and county has been derived from public records that are constantly undergoing change and is not warranted for content or accuracy. The city and county do not guarantee the positional or thematic accuracy of the data. The cartographic digital files are not a legal representation of any of the features depicted, and the city and county disclaim any assumption of the legal status they represent. Any implied warranties, including warranties of merchantability or fitness for a particular purpose, shall be expressly excluded. The data represents an actual reproduction of data contained in the city's or county's computer files. This data may be incomplete or inaccurate, and is subject to modifications and changes. City of Goshen and Elkhart County cannot be held liable for errors or omissions in the data. The recipient's use and reliance upon such data is at the recipient's risk. By using this data, the recipient agrees to protect, hold harmless and indemnify the City of Goshen and Elkhart County and its employees and officers. This indemnity covers reasonable attorney fees and all court costs associated with the defense of the city and county arising out of this disclaimer.

The City of Goshen
 Department of Public Works &
 Safety Office of Engineering
 204 East Jefferson Street, Goshen, Indiana 46528
 Phone: 574-534-2201 Fax: 574-533-8626



**ENGINEERING DEPARTMENT
CITY OF GOSHEN**

204 East Jefferson Street, Suite 1 • Goshen, IN 46528-3405
Phone (574) 534-2201 • Fax (574) 533-8626
engineering@goshencity.com • www.goshenindiana.org

MEMORANDUM

TO: Goshen Board of Public Works & Safety

FROM: Goshen Engineering

RE: **KERCHER ROAD – REQUEST TO INSTALL CURVE WARNING SIGN
(JN 2024-0007)**

DATE: December 12, 2024

The Engineering Department was forwarded concerns from two residents about eastbound vehicle traffic leaving the roadway or crashing at the horizontal roadway curves just east of the Elkhart River bridge (Elkhart County Bridge 409) on W Kercher Road. One of the residents requested the installation of a curve warning sign on Bridge 409 to alert eastbound traffic of the upcoming curves.

Engineering staff recommended installing a reverse curve warning sign along the eastbound lane of Kercher Road, at the west end of the Bridge 409, with a 30-mph advisory speed plaque. The request was brought to the November 21 Traffic Commission meeting. The Commission voted unanimously with a positive recommendation to install the curve warning sign and plaque, as well as a solar-powered flashing yellow warning beacon at the location proposed by Engineering.

Requested Motion: Move to approve the installation of a reverse curve warning ahead sign with speed advisory plaque and flashing yellow warning beacon for eastbound traffic on West Kercher Road.

**APPROVED:
BOARD OF PUBLIC WORKS & SAFETY
CITY OF GOSHEN, INDIANA**

Gina Leichty, Mayor

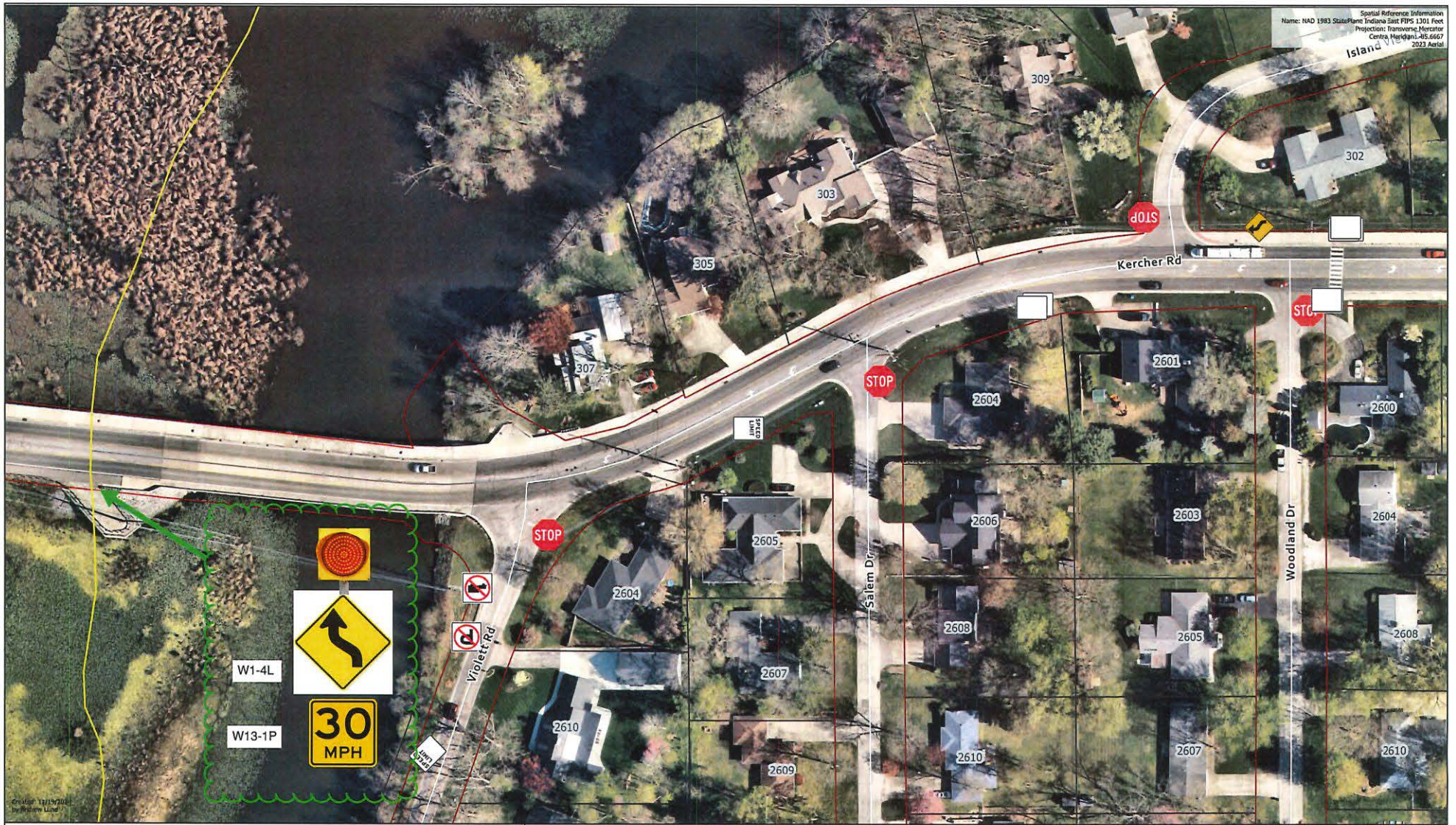
Barb Swartley, Member

Mary Nichols, Member

Orv Myers, Member

Michael Landis, Member

Spatial Reference Information
 Name: NAD 1983 StatePlane Indiana East FIPS 1201 Feet
 Projection: Transverse Mercator
 Central Meridian: -85.6667
 2023 Aerial



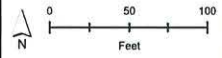
W1-4L
 W13-1P



- Legend**
- Address
 - ROW
 - ▭ Parcels
 - ▭ City Limits

City of Goshen
 Kercher Avenue - Horizontal Curves

The City of Goshen
 Department of Public Works &
 Safety Office of Engineering
 204 East Jefferson Street, Goshen, Indiana 46528
 Phone: 574-534-2201 Fax: 574-533-8626



The City of Goshen's Digital Data is the property of the City of Goshen and Elkhart County, Indiana. All graphic data supplied by the city and county has been derived from public records that are constantly undergoing change and is not warranted for content or accuracy. The city and county do not guarantee the positional or thematic accuracy of the data. The cartographic digital files are not a legal representation of any of the features displayed, and the city and county disclaim any assumption of the legal status they represent. Any implied warranties, including warranties of merchantability or fitness for a particular purpose, shall be expressly excluded. The data represents an actual reproduction of data contained in the city's or county's computer files. This data may be incomplete or inaccurate, and is subject to modifications and changes. City of Goshen and Elkhart County cannot be held liable for errors or omissions in the data. The recipient's use and reliance upon such data is at the recipient's risk. By using this data, the recipient agrees to protect, hold harmless and indemnify the City of Goshen and Elkhart County and its employees and officers. This indemnity covers reasonable attorney fees and all court costs associated with the defense of the city and county arising out of this disclaimer.



**ENGINEERING DEPARTMENT
CITY OF GOSHEN**

204 East Jefferson Street, Suite I • Goshen, IN 46528-3405
Phone (574) 534-2201 • Fax (574) 533-8626
engineering@goshencity.com • www.goshenindiana.org

MEMORANDUM

TO: Goshen Board of Public Works & Safety

FROM: Goshen Engineering

RE: **REQUEST FOR STOP SIGN AT LEROY STREET & 13TH STREET
(JN 2024-0007)**

DATE: December 12, 2024

The Engineering Department received a request from a family member of a resident on Leroy for stop signs to be installed at Leroy Street and 13th Street. The family member was concerned for children's safety, due to traffic he observed coming from the Goshen Industrial Park, using Leroy Street to bypass the traffic signal at College Avenue. The request was brought to the October 17 Traffic Commission meeting. Engineering staff advised that the addition of a stop sign on the Leroy Street would have resulted in an all-way stop, according to the current MUTCD. Having reviewed vehicle and pedestrian volume warrants for stop signs, Commission members familiar with the intersection did not believe traffic would meet those requirements. The Commission voted unanimously with a recommendation to deny the request of stop signs, which would have made the intersection an all-way stop.

There are no reports of traffic accidents in the last five years at the intersection, nor along Leroy Street.

Requested Motion: Move to deny the installation of stop signs, making the intersection of Leroy Street and 13th Street an all-way stop.

**APPROVED:
BOARD OF PUBLIC WORKS & SAFETY
CITY OF GOSHEN, INDIANA**

Gina Leichty, Mayor

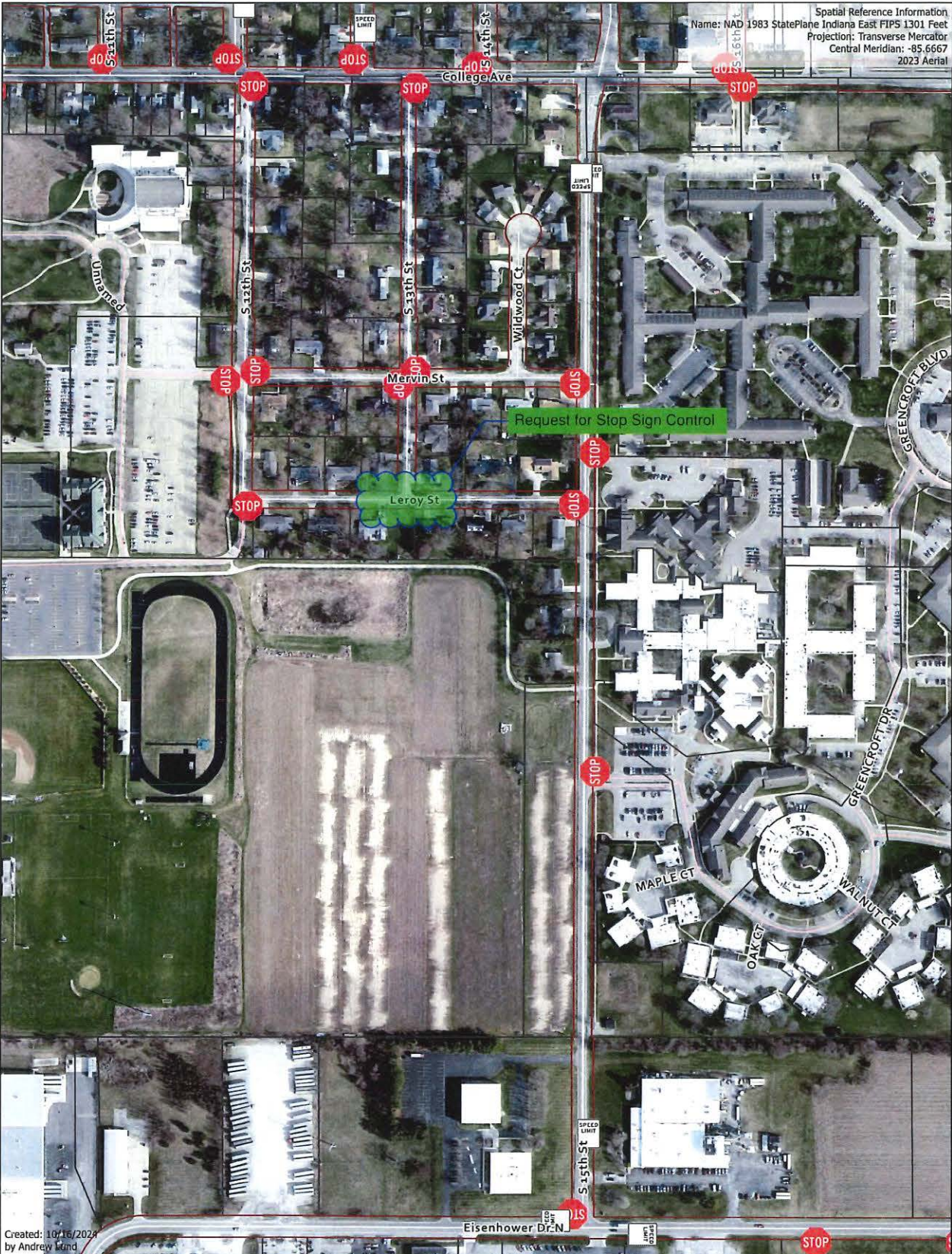
Barb Swartley, Member

Mary Nichols, Member

Orv Myers, Member

Michael Landis, Member

Spatial Reference Information
 Name: NAD 1983 StatePlane Indiana East FIPS 1301 Feet
 Projection: Transverse Mercator
 Central Meridian: -85.6667
 2023 Aerial

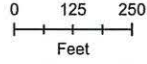


Created: 10/16/2024
 by Andrew Wind

- Legend**
- ROW
 - ▭ Parcels
 - ▭ City Limits
 - Road Segments
 - Goshen Road Class
 - Public Road
 - Private Road
 - State Road/US Highway
 - <all other values>
 - Signs
 - ▭ All Other Signs
 - ▭ All Other Signs

City of Goshen
**Request for Stop Sign for
 Leroy Street at 13th Street**


 N


 0 125 250
 Feet

The City of Goshen
 Department of Public Works &
 Safety Office of Engineering
 204 East Jefferson Street, Goshen, Indiana 46528
 Phone: 574-534-2201 Fax: 574-533-8626

The City of Goshen's Digital Data is the property of the City of Goshen and Elkhart County, Indiana. All graphic data supplied by the city and county has been derived from public records that are constantly undergoing change and is not warranted for content or accuracy. The city and county do not guarantee the positional or thematic accuracy of the data. The cartographic digital files are not a legal representation of any of the features depicted, and the city and county disclaim any assumption of the legal status they represent. Any implied warranties, including warranties of merchantability or fitness for a particular purpose, shall be expressly excluded. The data represents an actual reproduction of data contained in the city's or county's computer files. This data may be incomplete or inaccurate, and is subject to modifications and changes. City of Goshen and Elkhart County cannot be held liable for errors or omissions in the data. The recipient's use and reliance upon such data is at the recipient's risk. By using this data, the recipient agrees to protect, hold harmless and indemnify the City of Goshen and Elkhart County and its employees and officers. This indemnity covers reasonable attorney fees and all court costs associated with the defense of the city and county arising out of this disclaimer.



**ENGINEERING DEPARTMENT
CITY OF GOSHEN**

204 East Jefferson Street, Suite 1 • Goshen, IN 46528-3405
Phone (574) 534-2201 • Fax (574) 533-8626
engineering@goshencity.com • www.goshenindiana.org

MEMORANDUM

TO: Goshen Board of Public Works & Safety

FROM: Goshen Engineering

RE: **HARRISON RIDGE & WEAVER WOODS – STOP SIGNS
(JN 2024-0007)**

DATE: December 12, 2024

In 2019, Engineering received a request was from Ms. Sheila Miller for the installation of stop signs at two intersections within the Harrison Ridge subdivision and one intersection within the Weaver Woods subdivision. Ms. Miller explained her concerns that the neighborhood was not safe for her daughter, or other kids, to go outside on their own, due to people speeding and not stopping at intersections. At the time, Ms. Miller obtained signatures from over 50 neighbors in favor of installing stop signs, with half of these residents in support of installing speed bumps and half against installing them.

The minutes from the April 2019 Traffic Commission meeting tabling the request to find out more information; however, no record can be found of an action regarding stop signs. A similar request for stop signs was received in 2023, but this was tabled until the Engineering Department could reach out to the resident requesting signatures of other area residents. Ms. Miller contacted Engineering this past summer about the status of her requests. Since then, Engineering staff had been looking into the request history.

Engineering staff performed preliminary traffic counts on the north approaches of the intersections of Weaver Woods Drive and Tyler Lane, as well as Harrison Ridge Lane and Tyler Lane. Findings show that stop control is not warranted based on traffic volumes or the history of vehicle accidents. The request was brought to the October 17 Traffic Commission meeting. The Commission voted unanimously with a recommendation to deny the request for stop signs.

Requested Motion: Move to deny the installation of stop signs in Harrison Ridge Subdivision and Weaver Woods Subdivision.

**APPROVED:
BOARD OF PUBLIC WORKS & SAFETY
CITY OF GOSHEN, INDIANA**

Gina Leichty, Mayor

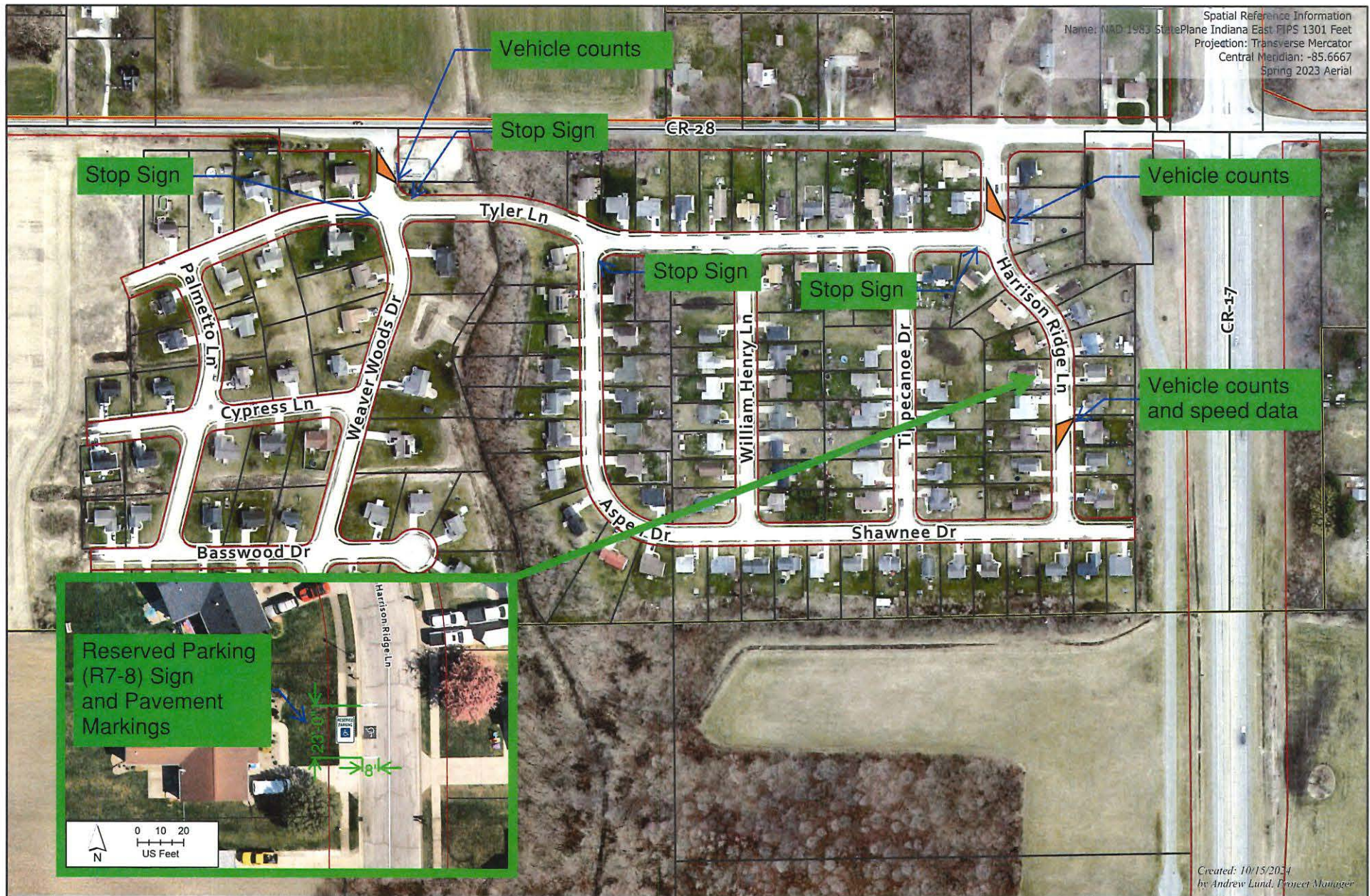
Barb Swartley, Member

Mary Nichols, Member

Orv Myers, Member

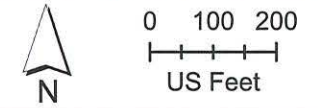
Michael Landis, Member

Spatial Reference Information
 Name: NAD 1983 StatePlane Indiana East FIPS 1301 Feet
 Projection: Transverse Mercator
 Central Meridian: -85.6667
 Spring 2023 Aerial



Created: 10/15/2024
 by Andrew Lund, Project Manager

City of Goshen
 Harrison Ridge, Weaver Woods - Stop Signs, Reserved Parking Sign, Speeding Concerns



The City of Goshen's Digital Data is the property of the City of Goshen and Elkhart County, Indiana. All graphic data supplied by the city and county has been derived from public records that are constantly undergoing change and is not warranted for content or accuracy. The city and county do not guarantee the positional or thematic accuracy of the data. The cartographic digital files are not a legal representation of any of the features depicted, and the city and county disclaim any assumption of the legal status they represent. Any implied warranties, including warranties of merchantability or fitness for a particular purpose, shall be expressly excluded. The data represents an actual reproduction of data contained in the city's or county's computer files. This data may be incomplete or inaccurate, and is subject to modifications and changes. City of Goshen and Elkhart County cannot be held liable for errors or omissions in the data. The recipient's use and reliance upon such data is at the recipient's risk. By using this data, the recipient agrees to protect, hold harmless and indemnify the City of Goshen and Elkhart County and its employees and officers. This indemnity covers reasonable attorney fees and all court costs associated with the defense of the city and county arising out of this disclaimer.

The City of Goshen
 Department of Public Works &
 Safety Office of Engineering
 204 East Jefferson Street, Goshen, Indiana 46528
 Phone: 574-534-2201 Fax: 574-533-8626



**ENGINEERING DEPARTMENT
CITY OF GOSHEN**

204 East Jefferson Street, Suite 1 • Goshen, IN 46528-3405
Phone (574) 534-2201 • Fax (574) 533-8626
engineering@goshencity.com • www.goshenindiana.org

MEMORANDUM

TO: Goshen Board of Public Works & Safety

FROM: Goshen Engineering

RE: **PREMIUM SERVICES LANE RESTRICTION REQUEST – W LINCOLN AVE
(JN: STREETS)**

DATE: December 12, 2024

Premium Services has requested permission to restrict the south lane of W Lincoln Avenue west of the intersection at Chicago Avenue for Monday, December 16, 2024. The lane restriction will allow them to complete restoration of the sidewalk following NIPSCO's gas line repairs completed in May. Appropriate traffic control devices will be utilized.

Requested Motion: Move to approve Premium Services request to perform daytime lane restrictions on W Lincoln Avenue on Monday, December 16, 2024.

**APPROVED:
BOARD OF PUBLIC WORKS & SAFETY
CITY OF GOSHEN, INDIANA**

Gina Leichty, Mayor

Barb Swartley, Member

Mary Nichols, Member

Orv Myers, Member

Michael Landis, Member



Engineering Department
CITY OF GOSHEN

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

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

MEMORANDUM

TO: Board of Works and Safety and Stormwater Board

FROM: Dustin Sailor, P.E., Utilities Engineer

RE: **CIVIL CITY ELECTRICAL MAINTENANCE CONTRACT – (JN: 2025-0005)**

DATE: December 9, 2024

L&M Electric has provided excellent electrical service to Goshen's street lights, traffic signals, school flashers and Airport, and we request the Board of Works and Safety and Stormwater Board accept L&M Electric's quote of \$41,950.00 per year to continue maintenance and enter into an agreement with them.

Requested Motion: Approve Agreement with L&M Electric for the 2025 Civil City Electrical Maintenance in the amount of \$41,950.00 per year for three years.

AGREEMENT

WITH L&M ELECTRIC, INC. FOR ELECTRICAL MAINTENANCE SERVICE FOR THE TRAFFIC SIGNALS, FLASHERS, LIGHTING, CITY BUILDINGS AND AIRPORT

THIS AGREEMENT is entered into on _____, 2024, which is the last signature date set forth below, by and between **L&M Electric, Inc.** (“Contractor”), whose mailing address is 2702 Elkhart Road, Goshen, Indiana 46526, and **City of Goshen, Indiana**, a municipal corporation and political subdivision of the State of Indiana acting through the Goshen Board of Public Works and Safety (“City”).

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

Section 1. Contractor Duties

Contractor shall provide City the following services which shall include the provision of all labor, supplies, materials, tools, equipment, supervision, insurance and all other items necessary for electrical maintenance of the City’s traffic signals, lighting, buildings and airport lighting on a 24 hours/7 days a week on-call basis, (hereinafter referred to as “Duties”).

The most recent Indiana state adopted edition of National Electric Code, prepared by:

National Fire Protection Association, Inc.
1 Batterymarch Park
Quincy, Massachusetts 02169-7471

Is hereby incorporated into these Specification Documents and shall apply to all electrical work.

Section 2. Effective Date; Term

- (A) The agreement shall become effective on the day of execution and approval by both parties.
- (B) This agreement shall be effective for a period of three (3) calendar years, starting January 2025 and continue on through and including December 31, 2027.
- (C) Contractor acknowledges that time is of the essence and that the timely performance of its Duties is an important element of this agreement. Contractor shall perform all Duties as expeditiously as is consistent with professional skill and care in the orderly progress of the Duties.
- (D) The agreement shall be automatically renewed under the same terms and conditions for one (1) additional three (3) year period unless written notice of the intent to terminate the agreement is delivered by either party to the other party at least ninety (90) days before the expiration of the term of the original agreement. The term of the renewal shall not be longer than the term of the original agreement.

Section 3. Compensation

(A) City will compensate Contractor for the materials and labor based on the standard hourly rates set forth below and the actual hours worked, but in no event will the total compensation exceed \$41,950.00 for the performance of these Duties during the term of Agreement.

Item No.	Estimated Quantity	Unit	Description	Unit Price	Amount
1	150	HRS	Yearly electrical & associated equipment repair and maintenance, traffic signals, school zone flashers, and lighting at signalized intersections	\$125.00	\$18,750.00
2	150	HRS	Yearly electrical and associated equipment repair and maintenance, ornamental street lights	\$75.00	\$11,250.00
3	50	HRS	Yearly electrical & associated equipment repair and maintenance, City Buildings	\$75.00	\$3,750.00
4	50	HRS	Yearly electrical & associated equipment repair and maintenance, Airport	\$75.00	\$3,750.00
5	1	HRS	Minimum Service Charge Fee, 1 st hour of service	\$100.00	\$100.00
6	1	HRS	Boom truck, 35 feet and lower	\$75.00	\$75.00
7	1	HRS	Boom truck, 36 to 50 feet and lower	\$75.00	\$75.00
8	30	HRS	811 utility locating	\$75.00	\$2,250.00
9	13	EA	Traffic signal controller (Year-One) Evaluation & report	\$150.00	\$1,950.00
Total Contract Amount Only:					\$41,950.00

(B) A price adjustment may be considered upon contract renewal and only upon written notice to the City no less than ninety (90) days in advance. The annual percentage increase of the Contract will not exceed five percent (5%) of the current rate.

Section 4. Payment

(A) City shall pay Contractor for each phase of Duties satisfactorily completed under this agreement upon completion of Duties.

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

City of Goshen
 c/o Goshen Engineering Department
 204 East Jefferson Street, Suite 1
 Goshen, IN 46528

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

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

Section 5. Ownership of Documents

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

Section 6. Licensing/Certification Standards

Contractor certifies that Contractor possesses and agrees to maintain any and all licenses, certifications, or accreditations as required for the 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 services 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. Insurance

- (A) Prior to commencing work, the Contractor shall furnish City a certificate of insurance in accordance with the following minimum requirements, shall maintain the insurance in full force and effect, and shall keep on deposit at all times during the term of the contract with City the certificates of proof issued by the insurance carrier that such insurance is in full force and effect. Contractor shall

specifically include coverage for the City of Goshen as an additional insured for Employer's Liability, General Liability and Automobile Liability.

- (B) Each certificate shall require that written notice be given to the City at least thirty (30) days prior to the cancellation or a material change in the policy.
- (C) Contractor shall at least include the following types of insurance with the following minimum limits of liability:
 - (1) Workers Compensation and Employer's Liability - Statutory Limits
 - (2) General Liability - Combined Bodily Injury and Property Damage, \$1,000,000 each occurrence and aggregate
 - (3) Automobile Liability - Combined Bodily Injury and Property Damage, \$1,000,000 each occurrence and aggregate
 - (4) Professional Liability - Combined Bodily Injury and Property Damage, \$1,000,000 each occurrence and aggregate
 - (5) Excess Umbrella Coverage - \$1,000,000 each occurrence

Section 14. 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 15. Default

- (A) If Contractor fails to perform the services 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 services 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 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 services described under these Specification Documents.
- (7) The contract or any right, monies or claims are assigned by Contractor without the consent of the City.

Section 16. 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 17. 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:
L&M Electric, Inc.
Attention: Cory Fowler
2702 Elkhart Road
Goshen, IN 46526

Section 18. 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 19. 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 20. 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 21. Applicable Laws

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

Section 22. 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 23. 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 24. 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 25. Entire Agreement

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

Section 26. Authority to Execute

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

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

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

L&M Electric, Inc.

Gina Leichty, Mayor

Cory Fowler, President

Date Signed: _____

Date Signed: _____



**Engineering Department
CITY OF GOSHEN**

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

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

MEMORANDUM

TO: Board of Public Works and Safety

FROM: Goshen Engineering Department

RE: **CHANGE ORDER NO. 4 FOR COUNTY COURTS CONSOLIDATION
ROADWAY IMPROVEMENTS
(JN: 2021-0014)**

DATE: December 12, 2024

Attached, find Change Order No. 4 for the County Courts Consolidation Roadway Improvements project.

Due to an existing high-pressure gas main on the northeast corner of the intersection of US 33 and Reliance Road, the contractor must vacuum excavate to enable the installation of the foundations for the traffic signal poles to be installed within a few feet from the gas main. This work is above the original scope of work.

The original contract amount was \$4,165,762.30. The vacuum excavation around the high-pressure gas main will increase the contract by \$6,863.56, for a revised contract amount of \$4,256,342.56, an increase of 2.17%.

Requested motion: Move to approve Change Order No. 4 to vacuum excavate around the high-pressure gas main for an increase of \$6,863.56.

**CITY OF GOSHEN, INDIANA
OFFICE OF THE CITY ENGINEER
204 E. Jefferson Street, Suite 1
Goshen, IN 46528**

OWNER: City of Goshen
PROJECT NAME: Court Consolidation Roadway Improvements
PROJECT NUMBER: 2021-0014
CONTRACTOR: Niblock Excavating, Inc.

I. DESCRIPTION OF WORK INVOLVED (Use additional sheets if needed)

Due to an existing high pressure gas main on the northeast corner of the intersection of US 33 and Reliance Road, the contractor must vacuum excavate to enable the installation of the foundations for the traffic signal poles to be installed within a few feet from the gas main. This work is above the original scope of work.

4.1 Vacuum Excavation 1 LUM @ \$6,863.56 ----- \$6,863.56

Subtotal - \$6,863.56


II. ADJUSTMENTS IN AMOUNT OF CONTRACT

1. Amount of original contract		\$4,165,762.30
2. Net (Addition/ Reduction) due to all Previous Contract Supplements Numbers	2 to <u>3</u>	\$83,716.26
3. Amount of Contract, not including this supplement		\$4,249,478.56
4. Addition/ Reduction to Contract due to this supplement		\$6,863.56
5. Amount of Contract, including this supplemental		\$4,256,342.12
6. Total (Addition/ Reduction) due to all Change Orders (Line 2 + Line 4)		\$90,579.82
7. Total percent of change in the original contract price (Line 6 divided by Line 1)		2.17%
Includes Change Order No.	2 to <u>4</u>	

III. CONTRACT SUPPLEMENT CONDITIONS

- The contract completion date established in the original contract or as modified by previous Contract Supplement(s) is hereby extended/~~reduced~~ by 0 calendar days.
- Any additional work to be performed under this Contract supplement will be carried out in compliance with the specifications included in the preceding Description of Work Involved, with the supplemental contract drawing designed as X-2431, and under the provisions of the original contract including compliance with applicable equipment specifications, general specifications and project specifications for the same type of work.
- This Contract Supplement, unless otherwise provided herein, does not relieve the contractor from strict compliance with the guarantee provisions of the original contract, particularly those pertaining to performance and operation of equipment.
- The contractor expressly agrees that he will place under coverage of his Performance and Payment Bonds and contractor's insurance, all work covered by this Contract Supplement. The contractor will furnish to the owner evidence of increased coverage of this Performance and Payments bonds for the accrued value of all contract supplements, which exceed the original contract price by two (2.17) percent.

RECOMMENDED FOR ACCEPTANCE



 Dustin K. Sailor, P.E.
 Director of Public Works

ACCEPTED: REDEVELOPMENT
CITY OF GOSHEN, INDIANA

BY: _____
Becky Hutsell, Redevelopment Director

ACCEPTED: BOARD OF PUBLIC WORKS AND SAFETY
CITY OF GOSHEN, INDIANA

Mayor

Member

Member

Member

Member

ACCEPTED: CONTRACTOR

Niblock Excavating, Inc.

BY: _____
Signature of authorized representative

Printed

Title



**Engineering Department
CITY OF GOSHEN**

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

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

MEMORANDUM

TO: Goshen Board of Public Works & Safety

FROM: Goshen Engineering

RE: **2024 ASPHALT PAVING PROJECT
(JN: 2024-0002)**

DATE: December 12, 2024

On December 5, 2024, we received proposals for the above referenced project. Following are the results:

Niblock Excavating - \$2,055,649.40
DC Construction - \$2,127,961.24
Phend & Brown - \$2,170,483.40

The itemized bid tab is attached for your reference.

The Engineering Department is requesting the Board of Public Works and Safety to award the contract to Niblock Excavating as the lowest responsive and responsible bidder.

Requested Motion: Approve the Agreement with Niblock Excavating for the 2024 Asphalt Paving project in the amount of \$2,055,649.40.

**2024 ASPHALT PAVING PROJECT
MATERIAL BID TAB
BID DUE DATE - DECEMBER 5, 2024**

BASE BID				Niblock Excavating		DC Construction		Phend & Brown	
Item No.	Est. Qty.	Unit	Description	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
1	1	LSUM	Mobilization & Demobilization	\$55,000.00	\$55,000.00	\$65,000.00	\$65,000.00	\$65,000.00	\$65,000.00
2	1	LSUM	Construction Engineering	\$7,000.00	\$7,000.00	\$12,000.00	\$12,000.00	\$7,500.00	\$7,500.00
3	1	LSUM	Temporary Maintenance of Traffic	\$70,000.00	\$70,000.00	\$22,000.00	\$22,000.00	#####	\$115,500.00
4	1	LSUM	Erosion Control	\$7,000.00	\$7,000.00	\$10,000.00	\$10,000.00	\$22,000.00	\$22,000.00
5	6,699	SYD	Pavement Removal	\$8.00	\$53,592.00	\$6.00	\$40,194.00	\$9.30	\$62,300.70
6	30	LFT	Concrete Removal, Curb & Gutter	\$21.00	\$630.00	\$20.00	\$600.00	\$30.00	\$900.00
7	300	CYD	Common Excavation	\$37.50	\$11,250.00	\$35.00	\$10,500.00	\$33.00	\$9,900.00
8	1	LSUM	Linear Grading	\$20,000.00	\$20,000.00	\$1,000.00	\$1,000.00	\$5,100.00	\$5,100.00
9	30	LFT	Concrete Curb & Gutter	\$80.00	\$2,400.00	\$40.00	\$1,200.00	\$115.00	\$3,450.00
10	6,944	SYD	Milling, 3.0"	\$4.00	\$27,776.00	\$5.93	\$41,177.92	\$5.00	\$34,720.00
11	22,635	SYD	Milling, 2.0"	\$3.00	\$67,905.00	\$3.73	\$84,428.55	\$4.00	\$90,540.00
12	14,919	SYD	Milling, 1.5"	\$2.80	\$41,773.20	\$2.89	\$43,115.91	\$3.50	\$52,216.50
13	5,740	TON	HMA, Type B, Surface, 9.5 mm	\$105.50	\$605,570.00	\$113.84	\$653,441.60	\$82.00	\$470,680.00
14	490	TON	HMA, Type B, Binder, 12.5mm	\$91.00	\$44,590.00	\$120.12	\$58,858.80	\$69.00	\$33,810.00
15	1,685	TON	HMA, Type B, Base, 19.0 mm	\$82.00	\$138,170.00	\$111.23	\$187,422.55	\$77.00	\$129,745.00
16	22	TON	Tack Coat	\$825.00	\$18,150.00	\$750.00	\$16,500.00	\$805.00	\$17,710.00
17	370	TON	No. 53 Crushed/Recycled Concrete	\$45.50	\$16,835.00	\$35.00	\$12,950.00	\$51.00	\$18,870.00
18	6,944	SYD	Geosynthetic Reinforcing Paving Mat	\$7.00	\$48,608.00	\$7.50	\$52,080.00	\$7.50	\$52,080.00
19	1,497	SYD	Full Depth Patching	\$59.00	\$88,323.00	\$60.00	\$89,820.00	\$72.00	\$107,784.00
20	25	EA	Manhole Chimney Reconstruction	\$2,250.00	\$56,250.00	\$2,000.00	\$50,000.00	\$2,800.00	\$70,000.00
21	18	EA	Valve Box Adjustment	\$850.00	\$15,300.00	\$300.00	\$5,400.00	\$1,300.00	\$23,400.00
22	112	LFT	Thermoplastic, White, Stop Bar, 24"	\$20.00	\$2,240.00	\$16.50	\$1,848.00	\$15.75	\$1,764.00
23	8,800	LFT	Thermoplastic, White, Single Line, 4"	\$0.85	\$7,480.00	\$0.83	\$7,304.00	\$0.80	\$7,040.00
24	8,940	LFT	Thermoplastic, Yellow, Single Line, 4"	\$0.85	\$7,599.00	\$0.83	\$7,420.20	\$0.80	\$7,152.00
25	256	LFT	Thermoplastic, White, Single Line, 6"	\$1.20	\$307.20	\$6.50	\$1,664.00	\$6.30	\$1,612.80
26	2	EA	Thermoplastic, White, Arrow, LT	\$290.00	\$580.00	\$225.00	\$450.00	\$210.00	\$420.00
27	1	LSUM	Landscape Restoration	\$13,000.00	\$13,000.00	\$10,000.00	\$10,000.00	\$8,000.00	\$8,000.00
TOTAL BASE BID AMOUNT					\$1,427,328.40		\$1,486,375.53		\$1,419,195.00

ALTERNATE No. 1 - Johnston (E of Hackett) & W. Hackett				Niblock Excavating		DC Construction		Phend & Brown	
Item No.	Est. Qty.	Unit	Description	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
1	1	LSUM	Mobilization & Demobilization	\$15,000.00	\$15,000.00	\$20,000.00	\$20,000.00	\$37,500.00	\$37,500.00
2	1	LSUM	Construction Engineering	\$3,500.00	\$3,500.00	\$9,500.00	\$9,500.00	\$15,000.00	\$15,000.00
3	1	LSUM	Temporary Maintenance of Traffic	\$10,000.00	\$10,000.00	\$12,000.00	\$12,000.00	\$38,000.00	\$38,000.00
4	1	LSUM	Erosion Control	\$2,700.00	\$2,700.00	\$2,000.00	\$2,000.00	\$17,500.00	\$17,500.00
5	1	LSUM	Clearing of Right-of-Way	\$2,500.00	\$2,500.00	\$10,000.00	\$10,000.00	\$12,500.00	\$12,500.00
6	2,000	CYD	Common Excavation (Undistributed)	\$22.75	\$45,500.00	\$30.00	\$60,000.00	\$34.00	\$68,000.00
7	4,677	SYD	Pavement Removal (All Types)	\$6.50	\$30,400.50	\$10.00	\$46,770.00	\$8.00	\$37,416.00
8	123	SYD	Sidewalk Removal (All Types)	\$45.00	\$5,535.00	\$35.00	\$4,305.00	\$55.00	\$6,765.00
9	195	SYD	Drive Approach Removal (All Types)	\$21.50	\$4,192.50	\$10.00	\$1,950.00	\$30.00	\$5,850.00
10	485	LFT	Concrete Removal, Curb & Gutter	\$17.00	\$8,245.00	\$15.00	\$7,275.00	\$15.00	\$7,275.00
11	15	CYD	Flowable Mortar Pipe Abandonment	\$350.00	\$5,250.00	\$200.00	\$3,000.00	\$700.00	\$10,500.00
12	1	LSUM	Linear Grading	\$11,000.00	\$11,000.00	\$3,750.00	\$3,750.00	\$6,500.00	\$6,500.00
13	485	LFT	Concrete Curb & Gutter	\$45.00	\$21,825.00	\$35.00	\$16,975.00	\$52.00	\$25,220.00
14	195	SYD	Concrete Drive Approach (Commercial), 9"	\$155.00	\$30,225.00	\$110.00	\$21,450.00	\$215.00	\$41,925.00
15	235	SYD	Concrete Sidewalk, 4"	\$130.00	\$30,550.00	\$90.00	\$21,150.00	\$125.00	\$29,375.00
16	50	SYD	ADA Ramp with Truncated Domes, 4"	\$175.00	\$8,750.00	\$200.00	\$10,000.00	\$310.00	\$15,500.00
17	1	EA	Storm Manhole, 4'	\$4,000.00	\$4,000.00	\$5,000.00	\$5,000.00	\$6,000.00	\$6,000.00
18	3	EA	Storm Catch Basin & Casting, 30" diameter	\$3,250.00	\$9,750.00	\$3,000.00	\$9,000.00	\$4,200.00	\$12,600.00
19	3	EA	Manhole Chimney Reconstruction	\$2,425.00	\$7,275.00	\$2,000.00	\$6,000.00	\$3,000.00	\$9,000.00
20	50	LFT	PVC Pipe, 6" SDR 35 Solid Wall	\$118.00	\$5,900.00	\$52.00	\$2,600.00	\$30.00	\$1,500.00
21	94	LFT	PVC Pipe, 6" SDR 35 Perforated	\$57.00	\$5,358.00	\$48.00	\$4,512.00	\$100.00	\$9,400.00
22	7	EA	PVC Fitting, 6" Cap	\$75.00	\$525.00	\$100.00	\$700.00	\$100.00	\$700.00
23	7	LFT	PVC Fitting, 6", 45 degree, Elbow	\$80.00	\$560.00	\$37.00	\$259.00	\$115.00	\$805.00
24	3	LFT	PVC Fitting, 12"x12"x6" Sweeping Wye	\$400.00	\$1,200.00	\$89.00	\$267.00	\$1,000.00	\$3,000.00
25	50	LFT	PVC, 12" SDR 35 Solid Wall	\$70.00	\$3,500.00	\$64.00	\$3,200.00	\$170.00	\$8,500.00
26	410	TON	HMA, Type B, Surface, 9.5 mm	\$116.00	\$47,560.00	\$113.84	\$46,674.40	\$95.00	\$38,950.00
27	1,085	TON	HMA, Type B, Base, 19.0 mm	\$85.00	\$92,225.00	\$111.23	\$120,684.55	\$82.00	\$88,970.00
28	3	TON	Tack Coat	\$450.00	\$1,350.00	\$750.00	\$2,250.00	\$805.00	\$2,415.00
29	1,100	TON	Aggregate, INDOT No. 53 Limestone	\$54.00	\$59,400.00	\$40.00	\$44,000.00	\$50.00	\$55,000.00
30	1,450	TON	Aggregate, INDOT No. 8 (Clean)	\$64.00	\$92,800.00	\$60.00	\$87,000.00	\$50.00	\$72,500.00
31	4,677	SYD	TENSAR NX750-FG	\$10.00	\$46,770.00	\$9.63	\$45,039.51	\$8.50	\$39,754.50
32	48	LFT	Thermoplastic, White, Stop Bar, 24"	\$20.00	\$960.00	\$16.50	\$792.00	\$15.80	\$758.40
33	175	LFT	Thermoplastic, White, Line, 4"	\$0.85	\$148.75	\$0.83	\$145.25	\$0.80	\$140.00
34	375	LFT	Thermoplastic, White, Line, 6"	\$0.85	\$318.75	\$6.50	\$2,437.50	\$6.30	\$2,362.50
35	445	LFT	Thermoplastic, Yellow, Line, 6"	\$1.20	\$534.00	\$6.50	\$2,892.50	\$6.30	\$2,803.50
36	87	LFT	Thermoplastic, Yellow, Line, 12"	\$10.50	\$913.50	\$11.00	\$957.00	\$10.50	\$913.50
37	4	EA	Thermoplastic, White, Arrow, LT	\$300.00	\$1,200.00	\$225.00	\$900.00	\$210.00	\$840.00
38	2	EA	Thermoplastic, White, Arrow, RT	\$300.00	\$600.00	\$225.00	\$450.00	\$210.00	\$420.00
39	2	EA	Thermoplastic, White, Double Arrow, RT	\$400.00	\$800.00	\$350.00	\$700.00	\$315.00	\$630.00
40	1	LSUM	Landscape Restoration	\$9,500.00	\$9,500.00	\$5,000.00	\$5,000.00	\$18,500.00	\$18,500.00
ALTERNATE No. 1 TOTAL:					\$628,321.00		\$641,585.71		\$751,288.40
TOTAL AMOUNT OF BASE BID + ALTERNATE No. 1:					\$2,055,649.40		\$2,127,961.24		\$2,170,483.40

I certify that this bid tab is true and accurate, and the contractors submitted all the required bid information.


 Dustin Sailor, P.E.
 Director of Public Works
 City of Goshen, Indiana
 Date: 12.06.24



CITY OF GOSHEN, INDIANA
CONTRACT FOR PUBLIC WORKS PROJECT
PROJECT: 2024 Asphalt Paving Project
PROJECT NUMBER: JN: 2024-0002

THIS CONTRACT FOR PUBLIC WORKS CONSTRUCTION PROJECT (“Contract”) is entered into on _____, 2024, which is date of the last signature set forth on the signature page, by and between **Niblock Excavating** (“Contractor”), whose mailing address is P.O. Box 211, Bristol, Indiana 46507, and **City of Goshen, Indiana** (“City”), a municipal corporation and political subdivision of the State of Indiana acting through the Goshen Board of Public Works and Safety.

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

1. Component Parts of this Contract.

(A) This Contract shall include these terms and conditions, as well as the terms and conditions set forth in the following documents:

- (1) City of Goshen, Indiana Specifications and Contract Documents for the public works Project and Project Number set forth in the heading above.
- (2) Contractor’s Proposal as submitted to City, including all submittals and attachments prepared by Contractor.
- (3) Notice to Proceed issued by City to Contractor.
- (4) Amendments and/or change orders that may be subsequently executed by City and Contractor.
- (5) Contractor’s performance bond, payment bond, and maintenance bond.
- (6) Contractor’s certificate of insurance.

The above documents are specifically incorporated into this Contract by reference.

(B) Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order:

- (1) This Contract, and any Amendments and/or change orders;
- (2) The Specifications and Contract Documents; and
- (3) Contractor’s Proposal.

2. Duties of Contractor.

(A) Contractor shall provide all supervision, labor, materials, equipment, services, permits and other components necessary for the successful completion of the Project in accordance with this Contract, including any incidentals whether or not specifically called for in these documents.

(B) In accordance with Indiana Code § 5-16-13-9, Contractor, as a tier 1 contractor as defined by Indiana Code § 5-16-13-4(1), agrees that not less than fifteen percent (15%) of the total Contract price, as determined at the time the Contract is awarded, will be contributed by work performed by Contractor’s employees, materials supplied directly by Contractor, and/or services supplied directly by Contractor’s employees.

- (D) If the Project is for the construction, improvement, alteration, repair, or maintenance of a highway, street, road or alley, upon Contractor's completion of the Project in accordance with the Specifications and Contract Documents, the final inspection and acceptance by City, and provided Contractor has submitted proof that Contractor has paid all subcontractors, material suppliers, laborers, or those furnishing services under this Contract, City shall pay Contractor the final payment within one hundred twenty (120) days after such completion, inspection, acceptance, and delivery of acceptable evidence. Final payment will not be made on any amounts that are in dispute.
- (E) Contractor shall submit to City the detailed invoice(s) along with proof of payment for labor and materials furnished for the Project to the following address, or at such other address as City may designate in writing:

City of Goshen
c/o Goshen Engineering Department
204 East Jefferson Street
Goshen, IN 46528
Email is also acceptable at Engineering@goshencity.com.
- (F) Provided there is no dispute on amounts due, including amounts due all subcontractors, material suppliers, laborers, and those furnishing services for the Project, payment will be made to Contractor within forty-five (45) days following City's receipt of a detailed invoice, except for final payment under paragraph (D). If any dispute arises, the undisputed amount will be paid. Payment is deemed to be made on the date of mailing the check.
- (G) Any payment made by City before or after final acceptance of the work shall not affect the obligation of Contractor to repair or replace any defective parts or otherwise correct any work.
- (H) Contractor is required to have a current W-9 form on file with the Goshen Clerk-Treasurer's Office before City will issue payment to Contractor.

6. **Payment Bond.**

- (A) Contractor agrees to provide City an approved payment bond equal to the contract price within fourteen (14) days after award of the Contract.
- (B) The payment bond is binding on Contractor, and a contractor in any contractor tier, and their successors and assigns for the payment of all indebtedness to a person for labor and services performed, material furnished, or services rendered. The payment bond must state that it is for the benefit of the subcontractors, laborers, material suppliers, and those performing services. The payment bond must specify that a modification, omission or addition to the terms and conditions of the Contract, plans, specifications, drawings or profile; a defect in the public work Contract; or a defect in the proceedings preliminary to the letting and award of the public work Contract does not discharge the surety.
- (C) The surety on the payment bond shall not be released until one (1) year after the date of the City's final settlement with Contractor.

7. **Performance Bond.**

- (A) Contractor agrees to provide City an approved performance bond equal to the contract price within fourteen (14) days after award of the contract.
- (B) The performance bond shall guarantee the faithful and proper performance of the work in accordance with the Specifications and Contract Documents. The performance bond must specify that a modification, omission or addition to the terms and conditions of the Contract, plans, specifications, drawings or profile; a defect in the Contract; or a defect in the proceedings preliminary to the letting and award of the public work Contract does not discharge the surety.
- (C) The surety on the performance bond shall not be released until one (1) year after the date of the City's final settlement with Contractor.

8. Construction Schedule.

- (A) After being awarded the Contract, Contractor shall update the proposed construction schedule that was submitted with the Contractor's Proposal for approval by City. Contractor agrees to adhere to the construction schedule so that the Project is completed on or before the substantial completion date.
- (B) If Contractor fails to adhere to the construction schedule, Contractor shall adopt other or additional means and methods of construction and commit additional labor, equipment and other resources as necessary to make up for the time lost and to assure completion of the Project on or before the substantial completion date.
- (C) Contractor agrees that no modification to the construction schedule is permitted that will delay the completion of the Project by the substantial completion date without a formal amendment to this Contract.

9. Project Safety.

- (A) Contractor shall be responsible for initiating, maintaining, supervising and enforcing all safety precautions and programs in connection with the Project, and shall comply with any protective measures indicated in these Specifications and Contract Documents and as required by local, state and federal rules and regulations.
- (B) Pursuant to Indiana Code § 36-1-12-20, if the performance of work for this Project requires the creation of a trench of at least five (5) feet in depth, Contractor and/or any a contractor in any contractor tier shall perform such work in accordance with IOSHA regulations 29 CFR 1926, Subpart F, for trench safety systems. 29 CFR 1926, Subpart F, are incorporated into these Specifications and Contract Documents by reference. The cost for trench safety systems, if required, shall be paid for as a separate pay item, or if not a separate pay item, in the pay item of the principal work with which the safety systems are associated.

10. Materials and Workmanship; Inspection.

- (A) All products, materials, components, equipment, supplies or workmanship provided in the performance of this Contract shall be as specified in the project specifications of these Specifications and Contract Documents, be of the best grade and free of defects, and subject to the City's observation, inspection and testing.
- (B) In accordance with Indiana Code § 5-16-8-2 et seq., if any steel or foundry products are to be used or supplied in the performance of this Contract, Contractor shall use only steel or foundry products made in the United States unless the City has determined, in writing, that the cost of the steel or foundry products manufactured in the United States is considered unreasonable.
- (C) Upon request of City, Contractor shall furnish to City for approval full information concerning products, materials, components, equipment, or supplies that Contractor contemplates using in the Project.
- (D) City shall be afforded complete and unhindered access to the work for observation, inspecting and testing. Contractor shall provide proper and safe conditions for such access.
- (E) City shall have the right to reject materials and/or workmanship and require the correction or replacement of products, materials, components, equipment, supplies or workmanship which are defective or do not conform to the requirements of the project specifications in these Specifications and Contract Documents. Contractor shall correct, at Contractor's expense, any defects, omissions or nonconformance after written notice from City.
- (F) In the event Contractor fails, refuses or neglects to correct any defects, omission or nonconformance, City may correct the same and Contractor agrees to pay on demand the cost and expense for making the correction.

11. Warranty; Maintenance Bond.

- (A) Contractor shall warrant all products, materials, components, equipment, and/or supplies furnished under this Contract to be new unless otherwise specified, and all workmanship to be of the highest quality, free from faults and defects, and to conform to the requirements of the project specifications in these Specifications and Contract Documents. This warranty period shall be as specified in the project specifications, or if no warranty period is specified, the warranty period shall be a minimum of one (1) year after substantial completion of the Project. This warranty shall survive any inspection, testing, acceptance, or payment by the City.
- (B) Under this guarantee, Contractor agrees to correct or replace without delay and at Contractor's expense, the products, materials, components, equipment, supplies or workmanship which are defective or do not conform to the requirements of the project specifications in these Specifications and Contract Documents.
- (C) Any work required as a result of erroneous site preparation due to the fault or negligence of Contractor shall also be provided by Contractor at no additional charge to City.
- (D) Contractor agrees to provide City an approved maintenance bond in an amount equal to ten percent (10%) of the contract price upon completion of the Project and acceptance by the City.
- (E) The maintenance bond shall guarantee that all workmanship and materials used in the Project are in accordance with the Specifications and Contract Documents. Contractor shall be responsible for removing and correcting all defects due to faulty workmanship and/or materials and shall pay for any damages to other work resulting therefrom which shall be discovered within the guarantee period.
- (F) The maintenance bond shall not be released until one (1) year after the acceptance of the work by City.

12. 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. 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.

13. Non-Discrimination.

- (A) In accordance with Indiana Code § 22-9-1-10, a contractor in any contractor tier shall not discriminate against any employee or applicant for employment to be employed in the performance of this Contract, with respect to the employee or applicant's 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, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of the Contract.
- (B) In accordance with Indiana Code § 5-16-6-1, the Contractor agrees:
 - (1) That in the hiring of employees for the performance of work under this Contract or any subcontract hereunder, no contractor, or subcontractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, religion, color, sex, national

origin or ancestry, discriminate against any citizen of the state of Indiana who is qualified and available to perform the work to which the employment relates;

- (2) That no contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this Contract on account of race, religion, color, sex, national origin or ancestry;
- (3) That there may be deducted from the amount payable to Contractor by City under this Contract, a penalty of Five Dollars (\$5.00) for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the Contract; and
- (4) That this Contract may be cancelled or terminated by City, and all money due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this section of the Contract.

(C) This section shall also apply to a contractor in any contractor tier.

14. Employment Eligibility Verification.

- (A) In accordance with Indiana Code § 22-5-1.7 et seq., Contractor shall enroll in and verify the work eligibility status of all newly hired employees of the contractor 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 an individual that Contractor subsequently learns is an unauthorized alien. By execution of the Contract, Contractor affirms that Contractor does not knowingly employ an unauthorized alien.
- (C) Contractor shall require their subcontractors, who perform work under this Contract, to certify to 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.
- (E) In accordance with Indiana Code § 5-16-13-11(1), before an individual who is required to be verified under Indiana Code § 22-5-1.7 begins work on the Project, Contractor shall submit to City the E-Verify case verification number for the individual. An individual who is required to be verified under Indiana Code § 22-5-1.7 whose final case result is final non-confirmation may not be employed on the Project.
- (F) This section shall also apply to a contractor in any contractor tier.

15. Employee Drug Testing Program.

- (A) Contractor must implement the employee drug testing program that complies with the requirements of Indiana Code § 4-13-18-1 through Indiana Code § 4-13-18-7 as described in Contractor's written plan submitted with their proposal.
- (B) City may cancel or terminate this Contract in the event Contractor fails to implement the employee drug testing program during the term of the Contract for this Project; fails to provide information regarding the implementation of Contractor's employee drug testing program at the request of City; or provides City false information regarding the employee drug testing program.
- (C) This section also applies to a contractor in any contractor tier.

16. Contractor Compliance with Other Laws.

- (A) In accordance with Indiana Code § 5-16-13-11, Contractor agrees:
 - (1) A contractor shall not pay cash to any individual employed by Contractor for work done by the individual on the Project.
 - (2) A contractor is and shall remain in compliance with the federal Fair Labor Standards Act of 1938, as amended (29 USC 201-209) and the state Minimum Wage Law of 1965 (Indiana Code § 22-2-2-1 through Indiana Code § 22-2-2-8).
 - (3) A contractor is and shall remain in compliance with the worker's compensation or occupational diseases requirements under Indiana Code § 22-3-5-1 and Indiana Code § 22-3-7-34.
 - (4) A contractor is and shall remain in compliance with the unemployment insurance under Indiana Code § 22-4-1 through Indiana Code § 22-4-39.5.
 - (5) A contractor is and shall remain in compliance with the training program requirements under Indiana Code § 5-16-13-12 as applicable.
- (B) In accordance with Indiana Code § 5-16-13-13, a contractor shall preserve all payroll and related records of a contractor for a period of three (3) years after completion of the Project; and shall open such records to inspection by the department of workforce development.
- (C) This section shall also apply to a contractor in any contractor tier.

17. 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, injuries, or accidental deaths caused by any intentional, reckless, or negligent act or omission by Contractor or any of Contractor's agents, officers, and employees during the performance of this Contract. Such indemnity shall include reasonable attorney's fees and other expenses incurred by City, and shall not be limited by reason of insurance coverage required by this Contract.

18. Insurance.

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

19. Force Majeure. In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party affected shall immediately provide written notice to the other party. 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) days from receipt of the notice of the Force Majeure Event, 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.

20. Default.

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

21. Termination.

- (A) The Contract may be terminated in whole or in part, at any time, by mutual written consent of both parties. Contractor shall be paid for all work performed and expenses reasonably incurred prior to notice of termination.
- (B) City may terminate this Contract, 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 Contract.

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

23. Change Orders.

- (A) If in the course of the work it becomes necessary to change or alter the original specifications, City may issue a change order to add, delete or change an item(s) in the original Contract, with the

Contract price and/or substantial completion date, being adjusted accordingly. The change order shall be prepared by the licensed architect or engineer assigned to the Project.

- (B) If the change order requires an increase or decrease in units of materials that are included in the original Contract, the cost of these units must be the same as shown in the original Contract.
- (C) Except in the case of an emergency, Contractor shall not commence any additional work or change in scope of the work until the change order is authorized in writing and signed by both parties. Contractor shall make no claim for additional compensation in the absence of a prior written and authorized change order signed by both parties.

24. **Amendments.** Any modification or amendment to the terms and conditions of the Contract, including a change order, shall not be binding unless made in writing and signed by both parties. Any verbal representations or modifications concerning the Contract shall be of no force and effect.

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

26. **Applicable Laws.**

- (A) Contractor agrees to comply with all applicable federal, state, and local laws, rules, regulations and ordinances, and all contractual provisions required to be included in this Contract are incorporated by reference.
- (B) The provisions of Indiana Code § 5-16-13 et seq., Requirement of Contractors on Public Works Projects, are specifically incorporated into this Contract by reference.
- (C) 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 Project. Failure to do so may be deemed a material breach of Contract.

27. **Miscellaneous.**

- (A) Any provision of this Contract 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 Contract.
- (B) 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.
- (C) These documents 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.
- (D) In the event legal action is brought to enforce or interpret the terms and conditions of these documents, the prevailing party of such action shall be entitled to recover all costs of that action, including reasonable attorneys' fees.

28. **Severability.** In the event that any provision of the Contract 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 Contract shall not affect the validity or enforceability of any other provision of the Contract.

29. **Notice.** Any notice required or desired to be given under this Contract 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. Either party may also email the notice to the other party in addition to delivering personally or sending by regular first-class mail.

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

Contractor: Niblock Excavating
Attention: Jacob Hoeger
P.O. Box 211
Bristol, IN 46507
Email: jhoeger@niblockexc.com

30. **Binding Effect.** All provisions, covenants, terms and conditions of this Contract apply to and bind the parties and their legal heirs, representatives, successors and assigns.
31. **Authority to Execute.** The undersigned affirm that all steps have been taken to authorize execution of this Contract, and upon the undersigned's execution, bind their respective organizations to the terms of the Contract.

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

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

Niblock Excavating

Gina M. Leichty, Mayor

Chad Niblock, President

Date: _____

Date: _____

CITY OF GOSHEN, INDIANA
 PROJECT: 2024 Asphalt Paving Project
 PROJECT NUMBER: JN: 2024-0002

WORK ITEMS - BASE BID

Streets **Included:** Wakefield Cir., Wilden Ave., Johnston Street (west of W. Hackett Rd.), Highland Park Ave.,
 Woodward Pl., Mayflower Pl., Dierdorff Rd., Keystone Dr., Berkshire Dr., Ashburn Dr., Crosshaven Ct.,
 Abbingtion Ct., Leana Dr., E. Kercher Rd.

This completed form must be included with the Contractor's Proposal for the above referenced Project. Transfer the sum of the work items for the Base Bid and Alternates. if any, to PART 2-PROPOSED CONTRACT PRICE.

Contractor Name:					
ITEM NO.	DESCRIPTION	EST. QTY.	UNIT	UNIT COST	TOTAL COST
1	Mobilization and Demobilization	1	LSUM	55,000.00	55,000.00
2	Construction Engineering	1	LSUM	7,000.00	7,000.00
3	Temporary Maintenance of Traffic	1	LSUM	70,000.00	70,000.00
4	Erosion Control <i>(Added Addendum No. 1)</i>	1	LSUM	7,000.00	7,000.00
5	Pavement Removal (All Types)	6,699	SYD	8.00	53,592.00
6	Concrete Removal, Curb & Gutter	30	LFT	21.00	630.00
7	Common Excavation (Undistributed)	300	CYD	37.50	11,250.00
8	Linear Grading	1	LSUM	20,000.00	20,000.00
9	Concrete Curb & Gutter	30	LFT	80.00	2,400.00
10	Milling, 3.0"	6,944	SYD	4.00	27,776.00
11	Milling, 2.0"	22,635	SYD	3.00	67,905.00
12	Milling, 1.5"	14,919	SYD	2.80	41,773.20
13	HMA, Type B, Surface, 9.5 mm	5,740	TONS	105.50	605,570.00
14	HMA, Type B, Binder, 12.5 mm	490	TONS	91.00	44,590.00

CITY OF GOSHEN, INDIANA
PROJECT: 2024 Asphalt Paving Project
PROJECT NUMBER: JN: 2024-0002

ITEM NO.	DESCRIPTION	EST. QTY.	UNIT	UNIT COST	TOTAL COST
15	HMA Type B, Base, 19.0	1.685	TONS	82.00	138,170.00
16	Tack Coat	22	TONS	825.00	18,150.00
17	No. 53 Crushed/Recycled Concrete	370	TONS	45.50	16,835.00
18	Geosynthetic Reinforcing Paving Mat	6,944	SYD	7.00	48,608.00
19	Full Depth Patching	1,497	SYD	59.00	88,323.00
20	Manhole Chimney Reconstruction	25	EA	2,250.00	56,250.00
21	Valve Box Adjustment	18	EA	850.00	15,300.00
22	Thermoplastic, White, Stop Bar, 24"	112	LFT	20.00	2,240.00
23	Thermoplastic, White, Single Line, 4"	8,800	LFT	0.85	7,480.00
24	Thermoplastic, Yellow, Single Line, 4"	8,940	LFT	0.85	7,599.00
25	Thermoplastic, White, Single Line, 6"	256	LFT	1.20	307.20
26	Thermoplastic, White, A1mw, LT	2	EA	290.00	580.00
27	Landscape Restoration	1	LSUM	13,000.00	13,000.00
TOTAL BASE BID (Transfer to PART 2-PROPOSED CONTRACT PRICE)				\$1,427,328.40	

CITY OF GOSHEN, INDIANA
 PROJECT: 2024 Asphalt Paving Project
 PROJECT NUMBER: JN: 2024-0002

WORK ITEMS - BID ALTERNATE NO. 1

Streets Included: Johnston Street (east of W. Hackett Rd.), & W. Hackett Rd.

This completed form must be included with the Contractor's Proposal for the above referenced Project. Transfer the sum of the work items for the Base Bid and Alternates, if any, to PART 2-PROPOSED CONTRACT PRICE.

Contractor Name:					
ITEM NO.	DESCRIPTION	EST. QTY.	UNIT	UNIT COST	TOTAL COST
1	Mobilization and Demobilization	1	LSUM	15,000.00	15,000.00
2	Construction Engineering	1	LSUM	3,500.00	3,500.00
3	Temporary Maintenance of Traffic	1	LSUM	10,000.00	10,000.00
4	Erosion Control	1	LSUM	2,700.00	2,700.00
5	Clearing of Right-of-Way	1	LSUM	2,500.00	2,500.00
6	Common Excavation (Undistributed)	2,000	CYD	22.75	45,500.00
7	Pavement Removal (All Types)	4,677	SYD	6.50	30,400.50
8	Sidewalk Removal (All Types)	123	SYD	45.00	5,535.00
9	Drive Approach Removal (All Types)	195	SYD	21.50	4,192.50
10	Concrete Removal, Curb & Gutter	485	LFT	17.00	8,245.00
11	Flowable Mortar Pipe Abandonment	15	CYD	350.00	5,250.00
12	Linear Grading	1	LSUM	11,000.00	11,000.00
13	Concrete Curb and Gutter	485	LFT	45.00	21,825.00

CITY OF GOSHEN, INDIANA
PROJECT: 2024 Asphalt Paving Project
PROJECT NUMBER: JN: 2024-0002

ITEM NO.	DESCRIPTION	EST. QTY.	UNIT	UNIT COST	TOTAL COST
14	Concrete Drive Approach (Commercial), 9"	195	SYD	155.00	30,225.00
15	Concrete Sidewalk, 4"	235	SYD	130.00	30,550.00
16	ADA Ramp with Truncated Domes, 4"	50	SYD	175.00	8,750.00
17	Storm Manhole, 4'0 (<i>Addendum No. 2</i>)	1	EA	4,000.00	4,000.00
18	Storm Catch Basin & Casting, 30" dia.	3	EA	3,250.00	9,750.00
19	Manhole Chimney Reconstruction	3	EA	2,425.00	7,275.00
20	PVC Pipe, 6" SDR 35 Solid Wall	50	LFT	118.00	5,900.00
21	PVC Pipe, 6" SDR 35 Perforated	94	LFT	57.00	5,358.00
22	PVC Fitting, 6" Cap	7	EA	75.00	525.00
23	PVC Fitting, 6"-45 deg. Elbow	7	LFT	80.00	560.00
24	PVC Fitting, 12"x12"x6" Sweeping Wye	3	LFT	400.00	1,200.00
25	PVC, 12" SDR 35 Solid Wall	50	LFT	70.00	3,500.00
26	HMA, Type B, Surface, 9.5 <small> </small>	410	TONS	116.00	47,560.00
27	HMA Type B, Base, 19.0 <small> </small>	1,085	TONS	85.00	92,225.00
28	Tack Coat	3	TONS	450.00	1,350.00
29	Aggregate, INDOT No. 53 Limestone (<i>Addendum No. 2</i>)	1,100	TONS	54.00	59,400.00
30	Aggregate, INDOT No. 8 (Clean) (<i>Addendum No. 2</i>)	1,450	TONS	64.00	92,800.00
31	TENSAR NX750-FG	4,677	SYD	10.00	46,770.00
32	Thermoplastic, White, Stop Bar, 24"	48	LFT	20.00	960.00

CITY OF GOSHEN, INDIANA
PROJECT: 2024 Asphalt Paving Project
PROJECT NUMBER: JN: 2024-0002

ITEM NO.	DESCRIPTION	EST. QTY.	UNIT	UNIT COST	TOTAL COST
33	Thermoplastic, White, Line, 4"	175	LFT	0.85	148.75
34	Thermoplastic, White, Line, 6"	375	LFT	0.85	318.75
35	Thermoplastic, Yellow, Line, 6"	445	LFT	1.20	534.00
36	Thermoplastic, Yellow, Line, 12"	87	LFT	10.50	913.50
37	Thermoplastic, White, Arrow, LT	4	EA	300.00	1,200.00
38	Thermoplastic, White, Arrow, RT	2	EA	300.00	600.00
39	Thermoplastic, White, Double Arrow, RT	2	EA	400.00	800.00
40	Landscape Restoration	1	LSUM	9,500.00	9,500.00
TOTAL BID ALTERNATE NO. 1 (Transfer to PART 2-PROPOSED CONTRACT PRICE)					\$628,321.00

CITY OF GOSHEN, INDIANA
PROJECT: 2024 Asphalt Paving Project
PROJECT NUMBER: IN: 2024-0002

WORK ITEMS

This completed form must be included with the Contractor's Proposal for the above referenced Project. Transfer the sum of the work items for the Base Bid and Alternates, if any, to **PART 2-PROPOSED CONTRACT PRICE**

Contractor Name: Niblock Excavating



Engineering Department
CITY OF GOSHEN

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

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

MEMORANDUM

TO: Goshen Board of Public Works & Safety

FROM: Goshen Engineering

RE: **WWTP TRAILER-MOUNTED BYPASS PUMP
(JN: 2024-0033)**

DATE: December 12, 2024

On November 14, 2024, we received proposals for the above referenced equipment. Following are the results:

MWI Pumps	\$61,378.00 (with Option 2)
B.L. Anderson	\$64,550.00 (No Bid Option 2)
The Henry P. Thompson Co.	\$69,408.54 (No Bid Option 2)

The itemized bid tab is attached for your reference.

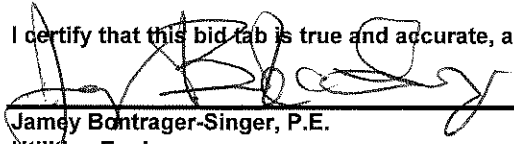
The Engineering Department is requesting the Board of Public Works and Safety to award the contract to MWI Pumps as the lowest responsive and responsible bidder.

Requested Motion: **Award the bid to MWI Pumps as the lowest responsive and responsible bidder and authorize the Mayor to sign the Agreement with MWI Pumps for the WWTP Trailer-Mounted Bypass Pump in the amount of \$61,378.00.**

TRAILER MOUNTED BYPASS PUMP - JN: 2024-0033
 ITEMIZED BID TAB
 BID DUE DATE - November 14, 2024

Item No.	Estimated		Description	MWI Pumps		B.L. Anderson		The Henry P. Thompson Co.	
	Quantity	Unit		Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
Option 1	1	LSUM	Trailer Mounted Bypass Pump with Manual Stationary Tongue Jack	\$60,680.00	\$60,680.00	\$64,550.00	\$64,550.00	\$69,408.54	\$69,408.54
Option 2	1	LSUM	Trailer Mounted Bypass Pump with Electric Powered Stationary Tongue Jack	\$698.00	\$698.00	No Bid	No Bid	No Bid	No Bid
BID AMOUNT TOTAL:					\$61,378.00		\$64,550.00		\$69,408.54
Option 1	1	LSUM	Voluntary Alternate with Manual Stationary Tongue Jack	\$46,340.00	\$46,340.00				
Option 2	1	LSUM	Voluntary Alternate with Electric Stationary Tongue Jack	\$648.00	\$648.00				
VOLUNTARY ALT. BID AMOUNT TOTAL:					\$46,988.00				

I certify that this bid tab is true and accurate, and the contractors submitted all the required bid information.



 Jamey Bontrager-Singer, P.E.
 Utilities Engineer
 City of Goshen

PURCHASE AGREEMENT FOR TRAILER-MOUNTED BY-PASS PUMP

THIS PURCHASE AGREEMENT (“Agreement”) is entered into on _____, 2024, which is the last signature date set forth below, by and between **MWI Corporation** (“Supplier”), whose mailing address is 33 NW 2nd Street, Deerfield Beach, Florida 33441, 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. Effective Date

The Agreement shall become effective on the day of execution and approval by both parties.

Section 2. Purchase

- (A) Subject to the terms and conditions set forth in this Agreement, Supplier shall provide to City the items, goods, materials, or equipment (hereinafter referred to as “Supplies”) as specified in accordance with the attached Specifications entitled “Detailed Specifications” attached as Attachment A.
- (B) In the event of any conflict between the terms of this Agreement and the terms contained in the Specifications (Attachment A) or Supplier’s Proposal (Attachment B), the documents shall be given precedence in order as listed (this Agreement first, Specifications second, and Proposal third).

Section 3. Delivery

- (A) Supplier agrees to deliver all supplies within thirty (30) calendar weeks from the effective date of this agreement.
- (B) The Supplies shall be delivered FOB Destination to the following address:
 - City of Goshen Wastewater Treatment
 - c/o Central Garage
 - 320 Steury Avenue
 - Goshen, IN 46528

All deliveries shall be made Monday through Friday, excluding holidays, during normal business hours unless other prior arrangements are made with City.

- (C) Delivery date shall be the date the complete items, goods, materials, or equipment (“Supplies”), installed and/or ready to operate (if applicable), has been delivered to City. To be accepted, the Supplies must successfully pass an inspection by City. The inspection shall include an operational test (if applicable) to ensure the Supplies meet both the specifications and are operable. Unless otherwise noted in the specifications, the inspection will be completed within fifteen (15) calendar days of the delivery date. Unless otherwise noted in the specifications, the warranty for the Supplies shall become effective

on the date of acceptance. Acceptance also requires the delivery of all manuals, ownership papers, and a certificate of origin, if required, for the Supplies.

Section 4. Purchase Price; Payment

- (A) City agrees to compensate Supplier for the Supplies provided in accordance with Supplier's proposal, Option 2, in the sum of \$61,378.
- (B) The invoice shall be sent to the following address, or at such other address as City may designate in writing.

City of Goshen Wastewater Treatment
Attention: Jim Kerezman,
1000 W. Wilden Avenue
Goshen, IN 46528
- (C) Payment will be made within forty-five (45) days following City's receipt of the invoice. If any dispute arises, the undisputed amount will be paid. Payment is deemed to be made on the date of mailing the check.
- (D) Supplier 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. Inspection

- (A) Supplier shall conduct final inspections on all Supplies prior to delivery to City. City has the right to inspect the Supplies to the extent practicable, at any time and place. If City determines as a result of inspection that the Supplies do not conform to all requirements of this Agreement, City may at City's sole option and discretion:
 - (1) require Supplier, at Supplier's sole cost, promptly to correct the defects to the non-conforming Supplies where practicable; or
 - (2) reject the non-conforming Supplies and require Supplier, at Supplier's sole cost, to complete the order by delivering conforming Supplies.
- (B) When the defects for any Supplies cannot be corrected practicably, City may at City's sole option and discretion:
 - (1) by contract or otherwise, correct the defects and charge Supplier any costs incurred by City directly related to the cost of correcting the defects; or
 - (2) reduce the Agreement compensation to reflect the reduced value of the Supplies.
- (C) If Supplier fails to correct performance or take necessary action to ensure future performance, in conformity with Agreement requirements, or when the defects for any Supplies cannot be corrected practicably, City may:
 - (1) require Supplier to take necessary action to ensure that future performance conforms to Agreement requirements; and/or
 - (2) terminate the Agreement for default.
- (D) If, for any reason, City rejects the Supplies delivered by Supplier, City shall not be responsible for any shipping, restocking, or similar charges incurred by Supplier.
- (E) Any remedy provided by this section shall not limit City's other remedies available under this Agreement or as provided by applicable law.

Section 6. Workmanship and Quality; Warranty

Unless otherwise stated in the Specifications, Supplier shall guarantee the Supplies for a period of one hundred eighty (180) days from date of acceptance. Failure of any portion of the Supplies due to improper materials or workmanship, materials of construction or design may result, at City's option, in a refund to City of the purchase price of that portion which failed or, in the alternative, in replacement of that portion which failed at no cost to City, in addition to all other remedies provided by law and by this Agreement. City shall be the sole judge of the sufficiency of workmanship and quality of materials.

Section 7. Independent Contractor

Supplier shall operate as a separate entity and independent contractor of the City of Goshen. Any employees, agents or subcontractors of Supplier shall be under the sole and exclusive direction and control of Supplier and shall not be considered employees, agents or subcontractors of City. As such, Supplier is solely responsible for all taxes and none shall be withheld from the sums paid to Supplier. Supplier acknowledges that Supplier is not insured in any manner by City for any loss of any kind whatsoever. Supplier has no authority, express or implied, to bind or obligate City in any way.

Section 8. Non-Discrimination

Supplier agrees to comply with all federal and Indiana civil rights laws, including, but not limited to Indiana Code 22-9-1-10. Supplier or any subcontractors, or any other person acting on behalf of Supplier 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) Supplier shall enroll in and verify the work eligibility status of all Supplier's newly hired employees through the E-Verify program as defined in Indiana Code § 22-5-1.7-3. Supplier is not required to participate in the E-Verify program should the program cease to exist. Supplier is not required to participate in the E-Verify program if Supplier is self-employed and does not employ any employees.
- (B) Supplier shall not knowingly employ or contract with an unauthorized alien, and Supplier shall not retain an employee or continue to contract with a person that the Supplier subsequently learns is an unauthorized alien.
- (C) Supplier shall require their subcontractors, who perform work under this contract, to certify to the Supplier 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. Supplier agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.
- (D) City may terminate the contract if Supplier 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 Supplier 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 Supplier certifies that Supplier 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, Supplier certifies that Supplier does not engage in investment activities in Iran as defined by Indiana Code § 5-22-16.5-8.

Section 12. Indemnification

Supplier shall indemnify and hold harmless the City of Goshen and City's agents, officers, and employees from and against (1) 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 Supplier or any of Supplier's agents, officers and employees; or (2) any defect in materials or workmanship of any supply, material, mechanism, or other product or service which Supplier or any of Supplier's officers, agents, employees, or subcontractors has supplied to City or has used in connection with this Agreement. Such indemnity shall include reasonable attorney's fees and all reasonable litigation costs and other expenses incurred by City only if Supplier 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, if any, under this Agreement.

Section 13. Insurance

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

Section 14. 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 15. Default

- (A) If Supplier fails to provide the Supplies or comply with the provisions of this Agreement, then Supplier may be considered in default.
- (C) It shall be mutually agreed that if Supplier fails to provide the Supplies or comply with the provisions of this Agreement, City may procure the same or similar items, goods, materials, or equipment from the open market. If the market price of those items, goods, materials, or equipment is greater than the Agreement price, Supplier shall be liable to City for the difference between the market price and the Agreement price, plus Supplier shall be liable to City for any incidental or consequential damages incurred by City as a result of Supplier's breach.
- (D) Supplier may also be considered in default by the City if any of the following occur:
 - (1) There is a substantive breach by Supplier of any obligation or duty owed under the provisions of this contract.
 - (2) Supplier is adjudged bankrupt or makes an assignment for the benefit of creditors.
 - (3) Supplier becomes insolvent or in an unsound financial condition so as to endanger performance under the Agreement.
 - (4) Supplier 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 Supplier or any of Supplier's property.
 - (6) Supplier is determined to be in violation of federal, state, or local laws or regulations and that such determination renders Supplier unable to provide the Supplies described under this contract.
 - (7) The contract or any right, monies or claims are assigned by Supplier without the consent of City.

Section 16. Termination

- (A) The Agreement may be terminated in whole or in part, at any time, by mutual written consent of both parties.
- (B) City may terminate this Agreement, in whole or in part, in the event of default by Supplier.
- (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 17. 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:	Supplier:
City of Goshen, Indiana Attention: Goshen Legal Department 204 East Jefferson St., Suite 2 Goshen, IN 46528	MWI Corporation Attention: Kelby Morgan, Regional Sales Manager 33 NW 2 nd Street Deerfield Beach, FL 33441

Section 18. Subcontracting or Assignment

- (A) Supplier 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 Supplier to subcontract or assign any portion of the Agreement shall not be construed to relieve Supplier from any responsibility to fulfill all contractual obligations.
- (D) In the event that City approves of any such subcontracting, assignment or delegation, Supplier shall remain solely responsible for managing, directing and paying the person or persons to whom such responsibilities or obligations are sublet, assigned or delegated. City shall have no obligation whatsoever toward such persons. Supplier shall take sole responsibility for the quality and quantity of any services rendered by such persons. Any consent given in accordance with this provision shall not be construed to relieve Supplier from any responsibility to fulfill all contractual obligations.

Section 19. 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 20. 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 21. Applicable Laws

- (A) Supplier 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) Supplier agrees to obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental rules or regulations in the performance of the services. Failure to do so may be deemed a material breach of agreement.

Section 22. 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 23. 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 24. 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 25. Entire Agreement

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

Section 26. Authority to Bind Supplier

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
Board of Public Works and Safety**

MWI Corporation

By:
Gina Leichty, Mayor

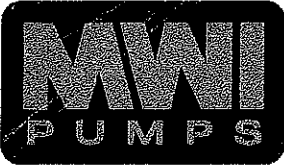
Kelby Morgan, Regional Sales Manager

Date

Date

DETAILED SPECIFICATION

Diesel Engine Powered By-Pass Pump Specifications & Selection Criteria	No	Yes
Trailer Mounted By-pass Pump Unit:		
Trailer to meet all FMVSS and DOT Regulations		X
All lighting to LED type which includes Stop/Tail/Turn and clearance lights		X
Trailer to be equipped with brakes and break away for emergency braking		X
Stationary Tongue Jack		X
*OPTION 1- Manual Stationary Tongue Jack		X
*OPTION 2- Electric Powered Stationary Tongue Jack		X
Equipped with Pintle style hitch in lieu of standard coupler		X
7-Pin Bargeman style connector wired to standard wiring		X
Heavy-duty steel frame		X
Lifting structure (Single Point for Lifting Unit with Crane or Equal)		X
Spare Tire and Wheel		X
Silencing enclosure (≤ 70 dbA at 7m) (all sides)		X
Pump: Pump Performance must be in accordance with the standards set forth by the Contractors Pump Bureau (CPB.)		
Plot the following data points on a pump curve and submit with your bid.		
<i>Design Condition – Min. 550 gpm @ 60 ft TDH / 25 ft Suction Lift</i>		X
Is Pump a Type M, "Dry-prime" pump.		X
Does pump have the following characteristics and materials		
Self-Priming		X
Non-clogging		X
Capable of passing ≥ 3 " solids		X
Back Pullout Casing for ease of maintenance		X
Mechanical Seal capable of running dry for extended periods of time		X
Air compressor for pump prime		X
4" Suction, 4" Discharge (Connections to be Cam-Over Style) ?		X
Provide the pump package with 6" suction strainer and two 6" x 4" adapters, (1) suction, and (1) discharge adapter		X
Diesel Engine:		
4 Cyl. Turbo Rated ≤ 74 Hp		X
Engine equipped with low oil pressure and high temperature shutdown		X
Tier 4 Emissions Compliant		X
Direct Drive		X
Engine and Pump shall be capable of continuous duty while operating at the Design Condition Selection point.		X
Fuel tank must be sized for ≥ 24 hours of operation at design condition		X
Controls:		
Auto Dial System – Capable of calling an on-call telephone at a minimum in the event of High-Level Alarm or engine fail to start		X
Manually Adjustable Engine Speed Control from control panel.		X
Manually Adjustable Discharge Flow Volume Control at the discharge valve.		X
Level controls – Float Type, Auto Start & Auto Shut-off		X



Manufacturers

Moving Water Worldwide - Reliably and Efficiently

Established 1926

To: City of Goshen

November 7, 2024

Re: Trailer Mounted, Diesel Powered Bypass Pump Project No.: 2024-0033

Thank you for the opportunity to submit for bid our MWI Primerite CT004A, 4" self-priming portable bypass pump. MWI is an American manufacturer of construction, industrial, mining, and custom engineered pumps. Florida based, in business since 1926.

Option #1 The following equipment is included in our bid proposal:

- One (1) MWI Primerite model CT004A automatic dry self-priming pump with Deutz D2.9 Tier 4 Final Diesel engine rated 49hp and sound attenuated enclosure. Wholly mounted on a DOT approved trailer, with brakes, lights, leveling jacks and integrated 78-gallon fuel tank. Operated by a Controls Inc digital control panel with temperature and low fluid safety shutdowns and on/off control floats. The pumping unit includes remote monitoring and communications with the first-year of data plan cost included. *See remaining sheets for specification compliance and product brochure.

Total Price: \$60,680.00

Option #2 Electric Powered Stationary Tongue Jack:

- Total Price Adder: +\$698.00

Our bid also includes:

- MWI's one (1) year warranty
- Deutz 2-year or 2,000-hour engine warranty
- Freight to Goshen, IN.

Specifically not included:

- Unloading or installation
- Start-up services
- Diesel fuel
- Anything not specifically listed above

If bid is accepted, freight prepaid to Goshen, IN with contractor to unload. Price valid for 45 days from bid date. Terms are Net 30 days after delivery. Delivery estimated to 16-18 weeks after receipt of purchase order/notice to proceed. We appreciate the opportunity to quote our equipment and look forward to your favorable consideration.

MWI CORPORATION

Kelby Morgan

Regional Sales Manager

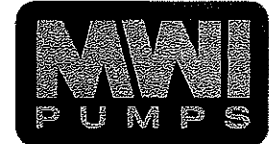
772-321-3425

kelbym@mwipumps.com

- Trailer Mounted Spare?
 - Data Plan? who?
 - specific Model Control Panel
 - Priming Comp Direct Drive?
 - Cost for Start-up Assistance?
 - Remote Assistance?
 X Selection doesn't meet design reqs?
 Need to throttle with gate valve but efficiency is good and pump has higher head capacity than others.

PRIMERITE™ CT004A

4" X 4" AUTOMATIC DRY SELF-PRIMING TRASH PUMP



The Power to Move Water®

The Primerite™ is the perfect pump for contractors, pump rental companies, mining operators and general industrial or municipal use. The pump's oil-filled bearing box and a mechanical seal in an oil bath enable it to run dry all day long for up to 24 hours, making it the right choice for handling inconsistent flows found in sewage bypass pumping and job site dewatering. This pump is completely self contained in either skid or trailer configurations with integral lifting bail, tie downs and fuel tank.

FEATURES

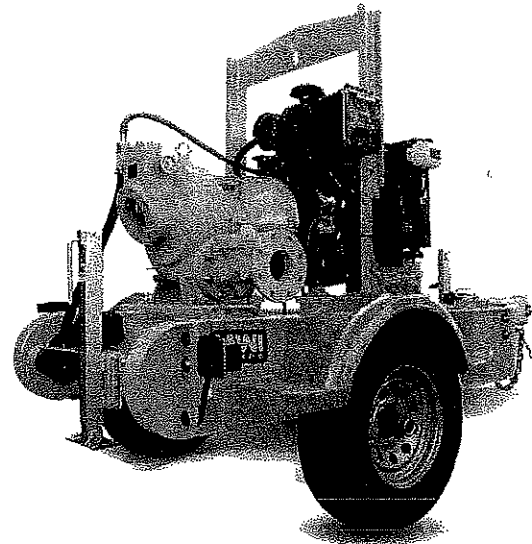
- Primes and reprimed automatically
- Solids handling up to 3"
- Engine driven compressor
- Vacuum and discharge pressure gauge
- Lockable fuel cap
- Forklift slots (skid models)
- Torsion bar axle
- Integral 78 fuel tank with gauge
- Skid or optional trailer-mounted
- DOT light kit available
- Hydraulic surge brakes standard, electric brakes available
- Front and rear stabilizing jacks
- 3" Lunette ring for pintle hitch – Other options available
- Lifting bail
- Volute drain

APPLICATIONS

- Heavy-duty truck tie downs
- Engines – Caterpillar, Perkins, John Deere and Deutz available
- Flexible flywheel coupling
- 4" ANSI Pattern flanges – Suction and discharge
- Optional float activated, auto start/stop controls
- Manufactured in the USA
- Construction Dewatering
- Sewage Bypass
- Flood Drainage
- Mining/Quarries
- Municipal
- General Industrial

QUICK SPECIFICATIONS

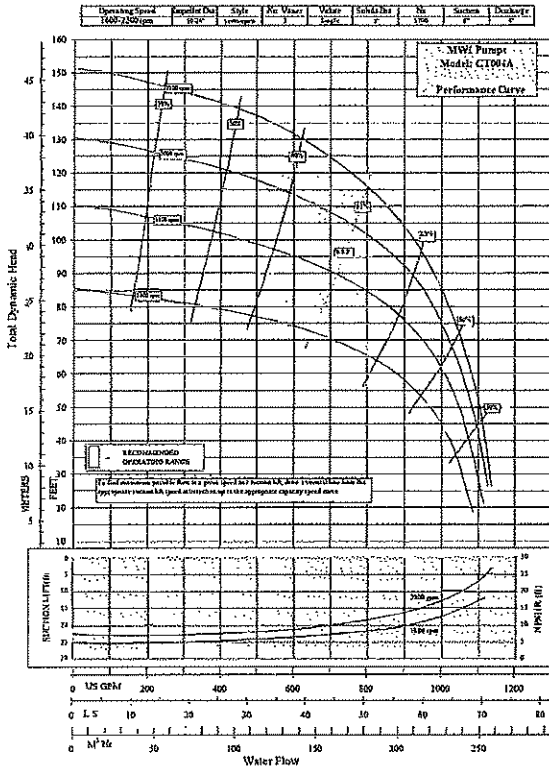
Suction connection	4" 150# ANSI B16.5
Delivery connection	4" 150# ANSI B16.5
Max capacity	1300 GPM
Max solids handling	3"
Max impeller diameter	10.2"
Max head (TDH)	152'
Max operating speed	2200 RPM
Max suction lift	28'
Dimensions	65 x 93 x 132"
Sound levels w/ enclosure	67 dBA at 7M / 23'
Max fuel consumption	At 50 HP; up to 24 hr run time



PRIMERITE™ CT004A

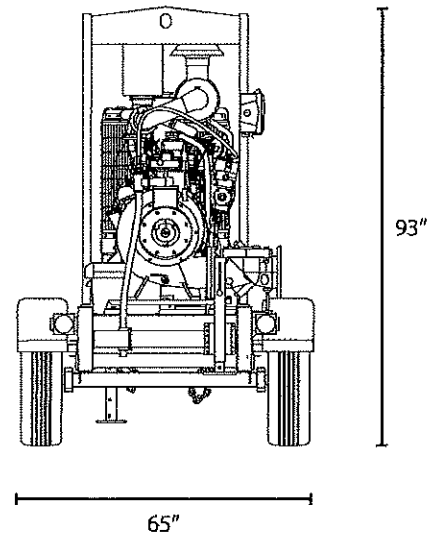
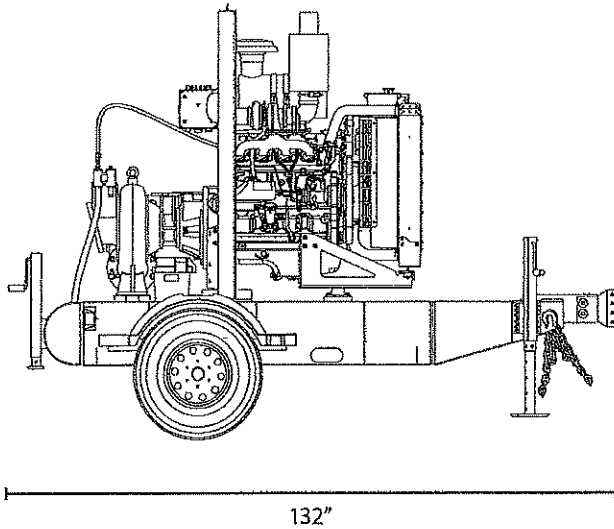
PERFORMANCE CURVE

TOTAL DYNAMIC HEAD



WATER FLOW

DIMENSIONS



MATERIALS & SPECIFICATIONS

Standard engine Deutz D2.9

Max HP 50 HP / 2600 RPM

Fuel capacity 78 Gal

Drive type Flywheel direct drive flexible element

Impeller CA-40 Corrosion resistant iron/chromium alloy

Volute Ductile cast iron ASTM A536 grade 70-50-05

Pump shaft 1045 Steel; Stainless steel option

Compressor Engine-driven, oil lubricated and water-cooled

Priming assembly 304 Stainless steel venturi

Control panel Tach and hour meter, including shutdowns for low oil pressure, high coolant temperature, Plug-N-Play and float-ready

Discharge non-return valve Swing flex check valve ASTM A536 grade 65-45-12

Mechanical seal Stainless steel with silicon carbide faces; Buna elastomers

Weight of trailer mounted unit 2650 lbs (dry)

MWI Pumps Headquarters

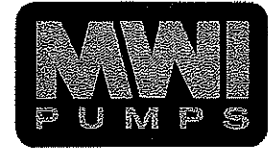
33 NW 2nd St | Deerfield Beach, FL 33441

Copyright © 2024 MWI Pumps | All rights reserved. Subject to change without notice.

Inquiries: 954-426-1500 | Email: info@mwipumps.com | mwipumps.com

SILENT PARTNER

HEAVY-DUTY SOUND ATTENUATION ENCLOSURE WITH NOISE-ABSORBING INSULATION



The Power to Move Water®

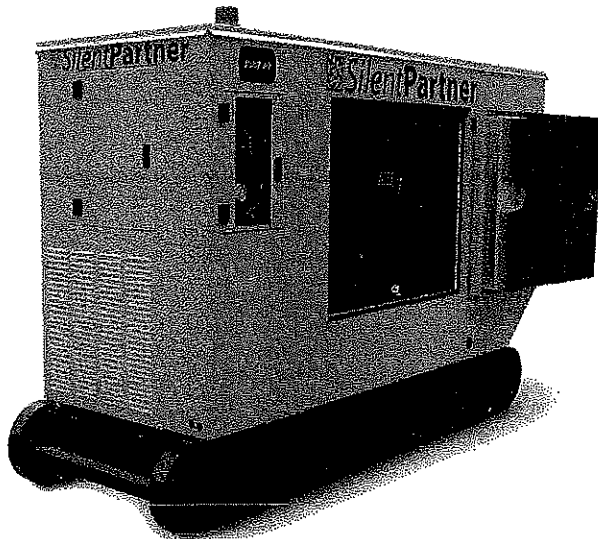
The Silent Partner™ is a heavy-duty sound attenuation, quiet pack enclosure that fits the high-performance, automatic-priming, run-dry Primerite™ as well as Hydraflo™, Duraflo™, and Rotoflo™ pumps. This system includes noise-absorbing insulation, which allows the high-performance pumps to run cool and quieter while in sensitive areas such as residential neighborhoods, near hospitals, schools or government buildings. The enclosure also provides easy access to all components no matter what pump is inside.

FEATURES

- Quiet for sensitive areas – with sound levels as low as 67dB at 7M / 23' operating at full rated capacity (based on CPB standards)
- Critically silent pump system – includes engine vibration Isolators, priming exhaust muffler and cowl silencer for quiet, trouble free operation
- Runs cool for long engine life
- Fast, easy and safe on-site access to critical components with multiple large access panels, lockable and side-swinging doors to avoid injury and prevent vandalism
- Easy and modular transport – bolt-together design for portability and complete access to components
- Available in skid or DOT highway trailer with lifting bail included

APPLICATIONS

- Radiator access port for external topping off
- External engine oil drain to facilitate oil changes
- Exhaust in secondary enclosure to reduce temperature and keep the inside clean
- Easily remove or add lifting bail, tow bar, axle and bumpers to go from skid to portable or vice versa
- Manufactured in the USA
- Residential Areas
- Hospitals
- Government Buildings
- Schools
- Religious Facilities
- *Or wherever else quiet operations are needed*



SILENT PARTNER™ COMPATIBILITY

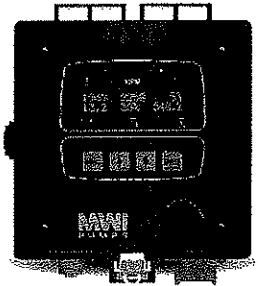
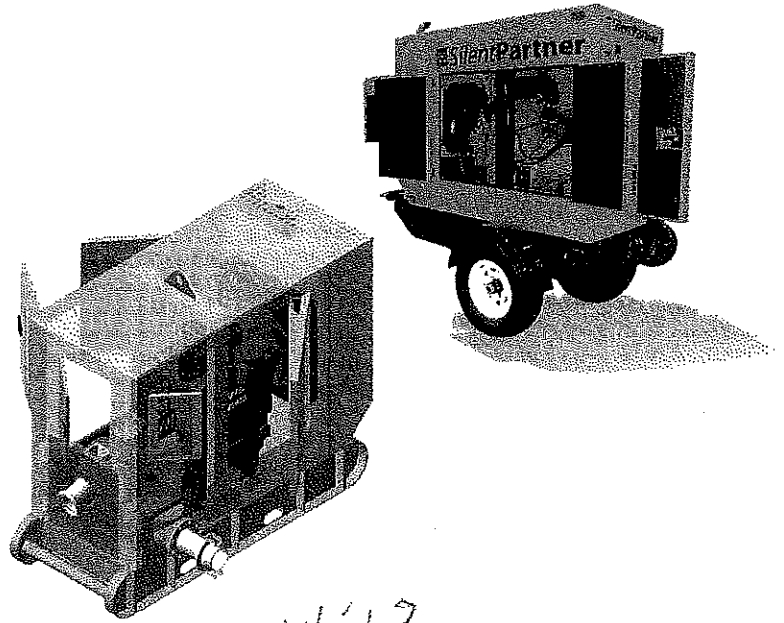
Primerite™	Automatic Dry Self-Priming Trash Pump
Hydraflo™ (Drive Unit)	Hydraulically-Driven, Large-Volume Submersible Water Pump
Duraflo™ (Drive Unit)	Submersible Hydraulic Trash Pump
Rotoflo™	Wellpoint Dewatering Pump

SILENT PARTNER™

INSIDE THE BOX

Ideal for use in residential areas or wherever quiet operations are required, the Silent Partner™ is highly favored for a wide range of applications. Because of their heavy-duty design, these pumps can run hard while staying quieter in the most difficult of environments.

Choose from a wide selection of engine control panels for your exclusive quiet pump system. Each panel is designed for fully automated operation and includes fault indicator lights, auto start-stop, and telemetry. The Silent Partner™ can house Primerite™ or Rotoflo™ pumps in its enclosure as well as the drive units for the Hydraflo™ or Duraflo™ pumps.

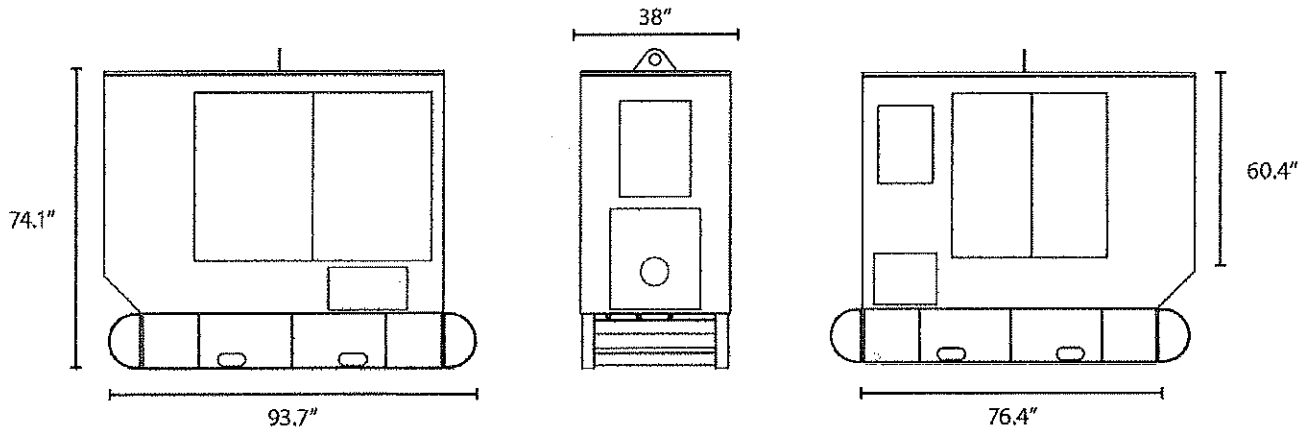


CONTROL PANEL

MWI offers a wide selection of engine control panels. The engine control panel is protected behind a lockable clear window that provides easy access when needed. The panels are designed for fully automated operation, including fault indicator lights, auto start-stop and telemetry.

Which?

DIMENSIONS



MWI Pumps Headquarters

33 NW 2nd St | Deerfield Beach, FL 33441

Copyright © 2024 MWI Pumps | All rights reserved. Subject to change without notice.

Inquiries: 954-426-1500 | Email: info@mwipumps.com | mwipumps.com

ITEMIZED BID

Purchase of Trailer-Mounted By-Pass Pump

The original signed proposal must be submitted to the City of Goshen Clerk-Treasurer's Office, 202 South 5th Street, Goshen, Indiana 46528, by the specified due date and time to receive consideration. The Supplier certifies that the information provided by it in its offer is accurate and complete. The execution of this proposal is certification that the undersigned individual represents the Supplier and has read and understands the instructions, terms, conditions and specifications of this solicitation, and agrees to fulfill the requirements of any awarded contract at the prices offered. By executing this offer, the undersigned individual further certifies that they are duly authorized to execute contracts on behalf of the Supplier and have obtained all necessary or applicable approvals to make this contract fully binding upon the Supplier.

MWI Corporation
Company Name

Kelby Morgan *Regional Sales Manager* *Kelby Morgan*
Print Name Title Signature

Address:
33 NW 2nd St, Deerfield Beach, FL 33441

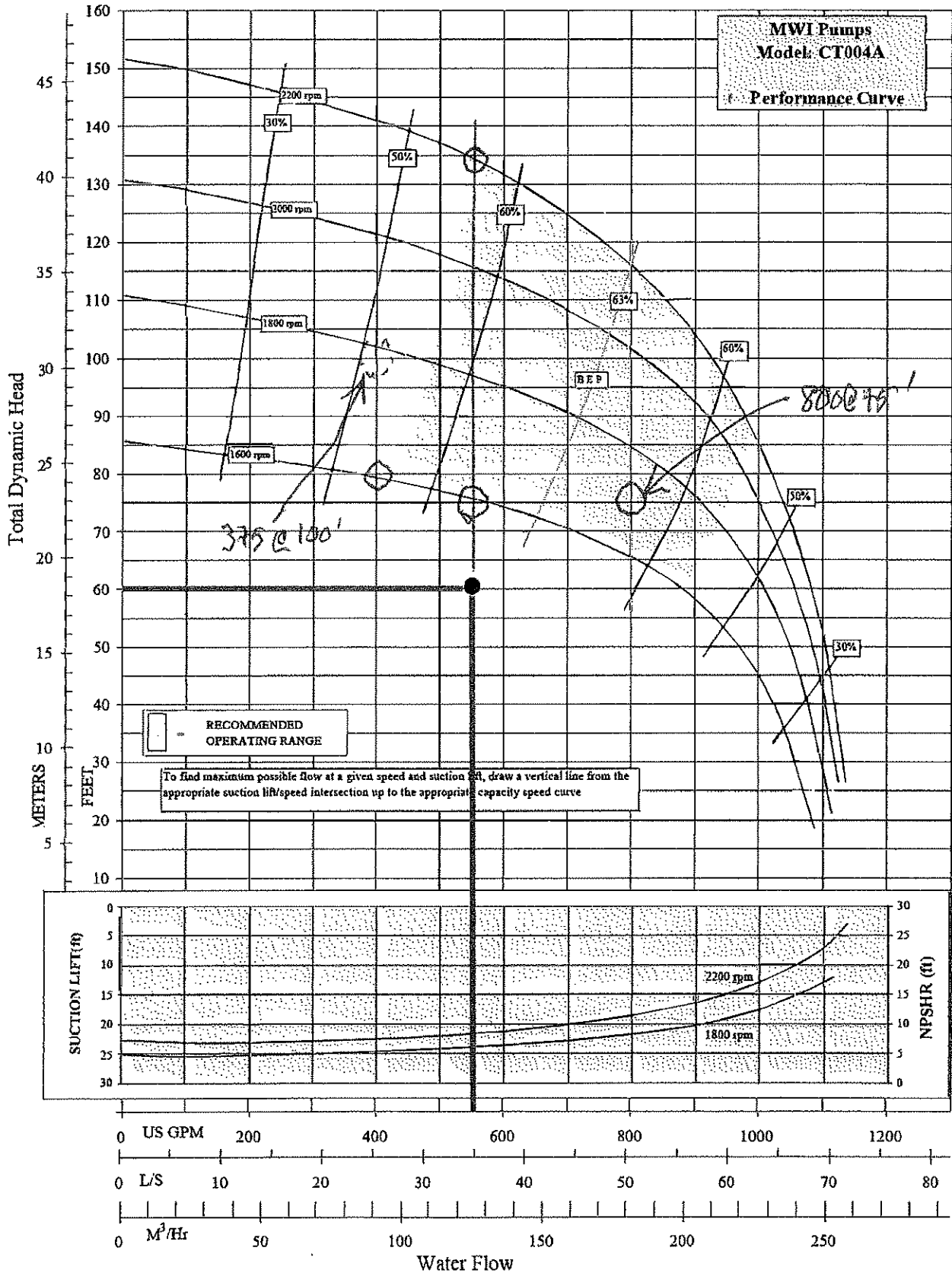
Telephone Number (s): *Business: 954-834-1006* *Cell: 772-321-3425*

Acknowledgement of Addenda Number(s): _____

The above Quoter hereby submits the following offer to meet all of the requirements in the Specification Documents for the following cost:

ITEM NO:	ITEM NAME	QTY	TOTAL BID:
Option 1	Trailer-Mounted By-Pass Pump with manual stationary tongue jack.	1	\$60,680.00
Option 2	Trailer-Mounted By-Pass Pump with electric powered stationary tongue jack.	1	\$61,378.00
Total Bid			\$122,058.00

Operating Speed	Impeller Dia.	Style	No. Vanes	Volute	Solids Dia.	Ns	Suction	Discharge
1600-2200 rpm	10 24"	semi-open	3	Single	3"	1700	6"	4"





**Engineering Department
CITY OF GOSHEN**

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

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

MEMORANDUM

TO: Board of Public Works

FROM: Engineering Department

RE: **DESIGN SERVICES AGREEMENT WITH JPR FOR THE CENTURY DRIVE RECONSTRUCTION PROJECT (JN: 2024-0030)**

DATE: December 12, 2024

Goshen Engineering is requesting the approval of the attached agreement with JPR for design services and the creation of project bid documents for the reconstruction of Century Drive from Kercher Road to College Avenue. This project will include full pavement replacement. Limited drainage improvements may also be necessary. The construction project is expected in 2025.

The project, including design services, will be funded by Goshen Redevelopment Commission. Redevelopment selected JPR as the consultant and approved the amount of \$241,975 for design services. It was intended for the Agreement to be brought before the Board of Works on October 10 for approval following Redevelopment Commission approval on October 8, but due to an oversight this did not occur. The Agreement is presented for the Board's ratification.

Requested Motion: **Approve and ratify the Mayor's execution of the attached agreement with JPR in the amount of \$241,975 to provide design and bid support services for the Century Drive Reconstruction project.**

AGREEMENT

Design and Bid Support Services

THIS AGREEMENT is entered into on October 8, 2024, by and between **Jones Petrie Rafinski, Corp.** ("Contractor" or "JPR"), whose mailing address is 325 S. Lafayette Blvd., South Bend, Indiana 46601, and **City of Goshen, Indiana**, a municipal corporation and political subdivision of the State of Indiana acting through the Goshen Redevelopment Commission and 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. Scope of Services.

Contractor shall provide the following services under this agreement, which shall include the provision of all labor, supplies, materials, tools, equipment, supervision, insurance and all other items necessary to provide a comprehensive design, including construction plans and documents for the reconstruction of Century Drive, from College Avenue to Kercher Road. The professional design shall include the design of the proposed roadway reconstruction described herein and all surveying, geotechnical investigations, utility coordination, and permitting necessary to accommodate construction. A schematic of the proposed roadway construction is included as Exhibit A to this Agreement. Contractor's services shall include all services as listed or described in Attachment 1 to this Agreement.

Section 2. Effective Date; Schedule; and Term.

- 2.1 The agreement shall become effective on the day of execution and approval by both parties.
- 2.2 Contractor acknowledges that time is of the essence and that the timely performance of its services is an important element of this agreement. Contractor shall perform all services as expeditiously as is consistent with professional skill and care in the orderly progress of the services. Contractor shall complete the services in accordance with the following schedule:
 - 2.2.1 Survey Work to be completed by December 1, 2024;
 - 2.2.2 Geotechnical investigation to be completed by January 1, 2025;
 - 2.2.3 Thirty percent (30%) Construction Plans completed by January 1, 2025;
 - 2.2.4 Sixty percent (60%) Construction Plans completed by March 1, 2025;
 - 2.2.5 Ninety percent (90%) Construction Plans completed by May 1, 2025.
- 2.3 Contractor shall complete all services, excluding the Bidding Phase/Construction Phase Services, by May 15, 2025, unless otherwise terminated by either party in accordance with the terms and conditions of the agreement.

- 2.4 City anticipates beginning the bid solicitation process in May 2025 with construction occurring in the 2025 construction season. JPR shall provide the Bidding Phase/Construction Phase Services through the end of the City's bid solicitation process and project construction.

Section 3. Compensation.

- 3.1 City agrees to compensate Contractor for the services under this Agreement as follows:
- 3.1.1 The sum of Two Hundred Twenty-One Thousand One Hundred Dollars (\$221,100.00) for Design and Engineering Costs. Said services and costs include JPR's Pre-Design Services, Schematic Design Services, Design Development, Construction Documents, Bidding and Pre-Construction Services, Permitting, and Construction Administration.
- 3.1.2 Compensation to JPR for Geotechnical Investigation, as required, provided by GME, based on the actual invoice for the services perform, but not to exceed the sum of Twenty Thousand Eight Hundred Seventy-Five Dollars (\$20,875.00).

Section 4. Payment.

- 4.1 City shall pay Contractor for services satisfactorily completed under this agreement as services progress based on the amounts set forth in Section 3.
- 4.2 Payment for services rendered shall be upon City's receipt of a detailed invoice from Contractor for services completed. 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 Engineering Department
204 E. Jefferson Street
Goshen, IN 46528

- 4.3 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.
- 4.4 Contractor is required to have a current W9 form on file with the Goshen Clerk-Treasurer's Office before City will issue payment.

Section 5. Ownership of Documents.

- 5.1 City acknowledges Contractor's documents, plans, drawings, specifications, including electronic files, as instruments of professional service. Nevertheless, the final documents prepared under this agreement shall become the property of City upon completion of the

services and payment in full of all monies due to Contractor. Contractor shall be allowed to retain copies.

Section 6. Independent Contractor Status.

- 6.1 Contractor shall be deemed an independent Contractor operating as a separate entity from the City of Goshen. 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 the Contractor and/or the Contractor's agents, employees or subcontractors.

Section 7. Non-Discrimination.

- 7.1 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 8. Employment Eligibility Verification.

- 8.1 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.
- 8.2 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.
- 8.3 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.
- 8.4 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 9. Contracting with Relatives.

- 9.1 Pursuant to Indiana Code § 36-1-21, if the Contractor is wholly or partially owned by a relative of a City of Goshen elected official, the Contractor certifies that the Contractor has notified both the elected official and the City's Legal Department prior to entering

into this agreement that an elected official of the City of Goshen is a relative of an owner of the Contractor.

Section 10. Indemnification.

- 10.1 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 to the proportionate extent caused by any willful misconduct, reckless or negligent act or omission by Contractor or any of Contractor's agents, officers and employees during the performance of services 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 willful misconduct, 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 11. Insurance.

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

Section 12. Force Majeure.

- 12.1 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.
- 12.2 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 13. Default.

- 13.1 If Contractor fails to perform the services or comply with the provisions of this agreement, then Contractor may be considered in default.
- 13.2 It shall be mutually agreed that if Contractor fails to perform the services 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 services in any manner deemed proper by the City, and Contractor shall be liable to the City for any excess costs incurred
- 13.3 Contractor may also be considered in default by the City if any of the following occur:
 - 13.3.1 There is a substantive breach by Contractor of any obligation or duty owed under the provisions of this contract.
 - 13.3.2 Contractor is adjudged bankrupt or makes an assignment for the benefit of creditors.
 - 13.3.3 Contractor becomes insolvent or in an unsound financial condition so as to endanger performance under the contract.
 - 13.3.4 Contractor becomes the subject of any proceeding under law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors.
 - 13.3.5 A receiver, trustee, or similar official is appointed for Contractor or any of Contractor's property.
 - 13.3.6 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 services described under this Agreement.

13.3.7 The Agreement or any right, monies or claims are assigned by Contractor without the consent of the City.

Section 14. Termination.

- 14.1 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.
- 14.2 City may terminate this Agreement, in whole or in part, in the event of default by Contractor. In such event, the City may issue a written notice of default and provide a period of time in which Contractor shall have the opportunity to cure. If the default is not cured within the time period allowed, the Agreement may be terminated by the City. In the event of default and failure to satisfactorily remedy the default after receipt of written notice, the City may secure similar work in any manner deemed proper by the City, and Contractor shall be liable to the City for any excess costs incurred.
- 14.3 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 15. Notice.

- 15.1 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: Jones Petrie Rafinski Corp.
Attn: Kenneth Jones, President
325 S. Lafayette Blvd.
South Bend, Indiana 46601

Section 16. Subcontracting or Assignment.

- 16.1 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 17. Amendments.

- 17.1 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 18. Waiver of Rights.

- 18.1 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 19. Applicable Laws.

- 19.1 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.
- 19.2 Contractor agrees to obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental rules or regulations in the performance of the services. Failure to do so maybe deemed a material breach of Agreement.

Section 20. Miscellaneous.

- 20.1 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.
- 20.2 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.
- 20.3 These documents 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.
- 20.4 In the event legal action is brought to enforce or interpret the terms and conditions of these documents, the prevailing party of such action shall be entitled to recover all costs of that action, including reasonable attorneys' fees.

Section 21. Severability.

- 21.1 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 22. Binding Effect.

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

Section 23. Entire Agreement.

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

Section 24. Authority to Execute.

24.1 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 by its
Board of Public Works and Safety

By: 
Gina M. Leichty, Mayor

Dated: 10/11/24


Jones Petrie Rafinski Corp.

By: 
Printed: Andrew Cunningham

Title: Vice President

Dated: October 25, 2024

Goshen Redevelopment Commission

By: 
Brian Garber, President

Dated: 10-9-24

Attachment 1 – Scope of Services

- Survey
 - Topography
 - Location of buildings and accessory structures when located within the defined survey limits;
 - Property addresses, when appropriate shall be labeled in model space, text height to be 1.6 for 20 scale, 3.2 for 40 scale or equivalent to .08 in paper space;
 - Right-of-way as determined from the record information and identified property corners (i.e. iron pipes, iron pins, etc.);
 - All utilities, which also includes all utility markers, valves, manholes, catch basins, hydrants, culverts, and cleanouts. Specify material type of structures and pipes;
 - Label all existing surface types with 'Ex.', for example Ex. Concrete Sidewalk, (i.e. gravel, concrete, grass, asphalt, brick, and pavers);
 - All pavements, which include pavement markings, centerline markings, edge of pavement, curbs, sidewalks, service walks, retaining walls, and driveways;
 - All landscaping, which includes trees and their diameters, landscape areas, bushes, shrubs, and other decorative amenities;
 - Surface utility information, which includes, but may not be limited to, septic tank lids, sewer cleanouts, pedestals, utility poles with notes regarding underground power drops, and utility reference/warning posts; and
 - The rim, inverts, and bottom of structure for sewer structures, utility manholes, and vaults.
 - Structure numbers that are the same as the survey point shall be labeled on the drawing in AutoCAD as part of the labeling of the rim, inverts, size, material of pipes inside of the structure, diameter of the inside of the structure.
 - Measure downs to top of water valve nuts.
 - Gather information 100' in each direction at all intersections.
 - Cross section spacing no greater than 25', and at each drive approach
 - Collect topo information 15' beyond right-of-way.
 - Topographical survey to include diameter, material, and invert elevation at ends of culvert pipes. A visual inspection of culvert pipe from ends shall also be performed, or any pipe failure or damage observed.
 - Vertical Control and Documentation
 - Tie survey to established benchmarks. No assumed benchmarks.
 - Benchmarks are to be located every 300' along the identified corridor with the first benchmark being set at the point of commencement and the last point being set at the end of the survey. Benchmarks are to be established with spike and enumerated tag (i.e., Benchmark number and elevation). When benchmarks are established on utility poles, the line number and pole number shall be provided as accessory information. Copies of the bench loop field notes are to be provided as part of the deliverables.

- Utility elevations for all manholes, catch basins, inlets and pipes including rim, invert, sump, bottom of structures, and material of pipes shall be provided. Pipe elevations taken on angle measure downs shall be angle corrected. Copies of the utility survey notes are to be provided as part of the deliverables.
 - Roadway elevations shall consist of centerline, edge of pavement, gutters, top of curbs, sidewalks, service walks, drive approaches and retaining walls. Cross section spacing no greater than 25', and at each drive approach. Collect points 15' beyond ROW to generate contours.
 - Locate scuppers with elevation at end of gutter turn-out and 2' beyond this point.
 - In locations without curb-and-gutter, cross sections shall have sufficient detail to show elevation of existing grade adjacent to roadway shoulder and edge of pavement, in order to assess localized ponding.
 - The intent of locating and surveying elevation at scuppers / curb turn-outs is to assess whether positive drainage is still occurring at these locations, or if limited grading and/or relocation of turn-out may be necessary.
 - Vertical Datum shall be NAVD 88.
- Horizontal Control and Documentation
 - A centerline with bearing and distance information shall be established from the right-of-way. Field control shall be established for defined centerline for the start of survey, PC, PT, and end of survey.
 - Copies of the horizontal control field notes shall be provided as part of the deliverables.
 - Temporary Control points shall be established with ½" rebar and cap.
 - Horizontal control shall be witness tied.
- Coordinate System
 - NAD 1983 StatePlane Indiana East FIPS 1301 (US Feet)
- Right-of-Entry
 - Surveyor shall be responsible for acquiring right-of-entry, as needed.
- Incorporation of Reference Information
 - The City will provide available sewer lateral and water service cards (water and sewer card) for each customer inside the survey area.
 - This information shall be included as part of the final survey drawing.
- Survey Deliverables
 - Survey field notes.
 - Utilities survey field notes (measure downs on sewer structures with structure number that are the same point number from the survey, shall include rim, invert, material, and size of any pipe inside the structure, along with the bottom elevation of the structure).
 - Electronic processed .txt file from survey (points).

- Copies of the private utility markups.
 - Copy of bench loop notes.
 - Copy of horizontal control.
 - Copy of any deeds, plats, and easements.
 - The completed survey may be emailed to jasonhoffman@goshenCity.com or downloaded to the City's ftp site (directions provided upon request) in AutoCAD Civil 3D 2019 or better, but not to exceed AutoCAD Civil 3D 2022. Reduced information shall be scaled for a 20-scale drawing.
 - No custom line types.
 - One hard copy.
 - A copy of the consultants AutoCAD *.ctb file to allow the City to reproduce plotted line weights.
 - Legend for the consultant's line types and symbols.
 - TIN file with generated contours and labels.
- Geotechnical investigation
 - Borings are required to determine existing pavement section, soil types, and groundwater level.
 - Proposed borings are shown in Exhibit C.
 - Boring locations shall be confirmed by City staff; Additional locations may be requested
 - Borings shall utilize continuous sampling to minimum depth of 15' below existing pavement elevation.
 - A City representative shall be on-site for each boring.
 - Traffic Control in accordance with Indiana MUTCD shall be provided for the boring operations.
 - Seal top 12" of soil borings with bag cement to prevent failure of existing pavement section.
 - The report shall be sealed by a Indiana-licensed professional engineer, present findings of the subsurface explorations, and include recommendations for subsurface stabilization recommendations, if necessary, and recommended pavement cross-sections.
 - Note: The geotechnical report shall consider the following alternatives:
 - Full-Depth Reconstruction
 - Proposed pavement section to incorporate geogrid material, and the report should provide a recommendation as to exact geogrid type and placement
 - Proposed pavement material shall be Hot Mix Asphalt
 - If geogrid is not deemed suitable for subgrade treatment, this shall be clearly stated and other subgrade treatment to be recommended
 - Alternate 1, Full-Depth Reclamation
 - Pavement cores and their results shall be included with the soil boring locations
 - Geotechnical investigation and report to be performed by a firm that specializes in subsurface exploration and geotechnical analysis. A statement of consultant's ability, capacity, and skill to be included in the proposal, along with the experience of the technicians and professional engineering completing the report.

- Preliminary study and alternatives report
 - The preliminary study and alternatives report serves to provide comprehensive consideration of reasonable improvement options and should include, but not be limited to, the following items:
 - Collect additional relevant background information
 - Procure essential project data in addition to the geotechnical investigation (e.g., traffic projections, construction traffic load requirements, hydraulics). Traffic counts are available from MACOG;
 - Establish fundamental design criteria – particular consideration should be given to long-term maintenance requirements;
 - Identify and assess alternatives, including Alternate 1, based on design criteria and total project costs;
 - Provide viable alternatives and identify optimal alternative for design; and
 - Evaluate the risk and viability of the project
 - There is no preferred typical roadway section; City is looking for recommendation based on geotechnical investigation and traffic counts.
 - The City is not intending to add additional curb-and-gutter along Century Drive
 - An evaluation of the intersection of Century Drive with College Avenue to assess the need for designated turn lanes on Century Drive

- All necessary permitting
 - The Consultant is responsible for all necessary construction permits including the Construction Stormwater General Permit (CSGP) submission. The consultant shall ensure the conditions of each permit are consistent with the plans, specifications and cost estimate and shall submit copies of all permits with the final bid documents.

- Utility coordination
 - Utility relocations are not anticipated as a part of this project; however, the consultant should provide a contingency for utility coordination
 - Utility coordination, as needed, shall include the following:
 - Identification of utilities within the project limits
 - City can provide ROW permit records, if needed
 - Field investigations, including locates on survey
 - Conflict analysis between Utility and proposed project
 - Provide 30-day notice to City if potholing of Utility infrastructure needed
 - Notice to Utility of project and verification of facilities
 - Communication to Utility / Utilities of scope of project and request to verify that the Utility's infrastructure is shown correctly on survey / design plans
 - May be performed on an as-needed basis, if potential conflicts observed
 - Repeated attempts to contact a Utility may be necessary, via more than one means / more than one contact
 - Design revisions to avoid a confirmed conflict with Utility, or

- Design and/or coordination with Utility to create relocation work plan
 - Regular communication with City throughout the above process, especially if Utility is not responsive
 - Coordination with City and Utility to complete permit for work plan
 - Construction staking for relocation work plan
 - Verification that Utility relocated according to work plan
- Roadway design plans in accordance with the City of Goshen/INDOT/AASHTO requirements, including:
 - Design documents and specifications for all proposed improvements;
 - Drainage evaluation and calculations limited to specific structures and connected pipes, said structures and connected pipes are included as Exhibit B;
 - Design and plans for erosion control;
 - Design and plans for traffic control;
 - Design calculations; and
 - Quantity calculations and cost estimates
 - Submittals of plans and estimates will be required at 60% and 90% of the design, in addition to the final design and bidding documents.
- Phasing, traffic control, and interaction with other projects
 - One lane of Century Drive needs to remain fully open to traffic during construction
 - Access needs to be maintained to all properties along Century Drive
 - Full closures of drives / access points may be possible during industry holidays, weekends, or low-production / inventory times. Closures would need to be coordinated with individual properties.
 - Phasing of project is desired to keep disruptions to industrial traffic limited.
 - Reconstruction north of Eisenhower Drive to College Avenue would be the first priority to complete.
 - Planned reconstruction and widening of College Avenue to include a turn lane and multi-use path, from US 33 to Century Drive, begins 2026. College Avenue utility relocations start Fall 2025.
 - Eisenhower Drive from US 33 to Century Drive will be milled and re-surfaced by City as early as possible in 2025.
- Evaluation of intersections and drive approaches
 - City would request an evaluation of the intersection with College Avenue to assess the need for designated turn lanes on Century Drive.
 - Costs for right-of-way acquisition and any related surveying for right-of-way acquisition should not be included at this time.
 - Existing radiuses should be evaluated for turning movements at College Avenue, regardless of the alternate designated turn lanes
 - Roadway geometry at the intersections with Eisenhower Drive and with Kercher Road / CR 38 will not be changed.
 - Drive approach reconstruction with concrete would be typical.
 - All drive radiuses should be evaluated for sufficient space for turning movements.
- Drainage evaluation
 - Drainage analysis for the area shown in Exhibit B shall include the catchment areas of connected pipes and structures and evaluation of present pipe diameters. There

- is no planned replacement of stormwater infrastructure unless findings indicate up-sizing or other changes are warranted.
 - City has no recorded complaints of drainage issues at the location shown in Exhibit B since the two-stage ditch construction was completed in Horn Ditch.
- Specifications are to be incorporated into the City's standard bidding process, including the standard specification documents
- Bidding/Quoting
 - Bid documents including the project specifications and design plans shall be assembled into a single PDF for submission. The final bid document will be uploaded to the City of Goshen's bidding portal.
 - If additional information is required from the Consultant during the bidding process, other than clarification of the design/specifications, this task will be charged on a Time & Material basis based on the information provided in the proposal. Consultant shall respond within eight (8) hours of receiving any request for information. Responses shall be reviewed by the City of Goshen and will then be uploaded to the City's bidding portal.
- **Alternate 1 – Full-depth Reclamation**
 - Determine feasibility of performing full-depth reclamation in place of full-depth pavement removal and reconstruction
 - Private utility services would need to be assessed for full depth reclamation. Limited potholing would be possible by Goshen Water & Sewer, if needed

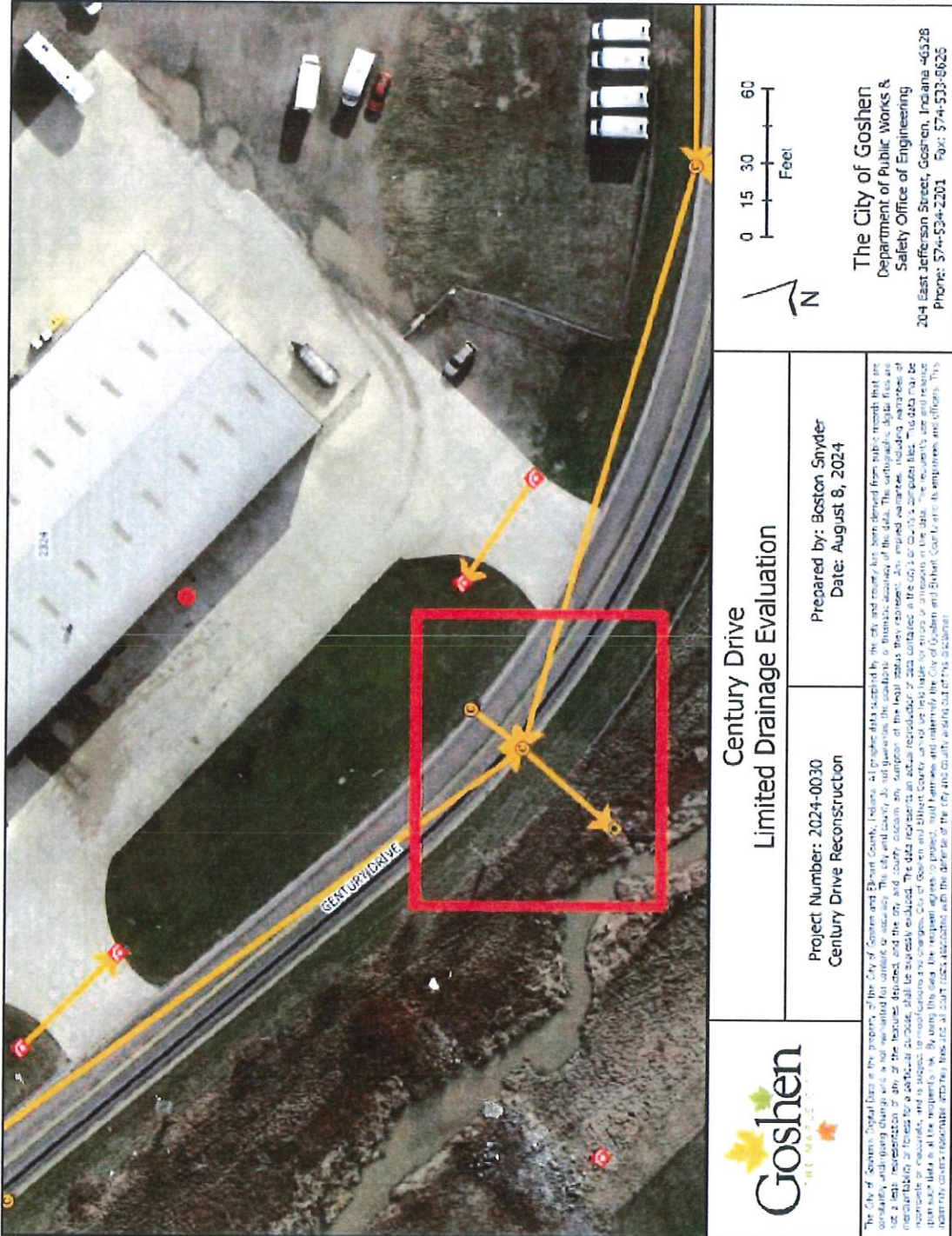
Technical Qualifications and Project Considerations

The improvements, as currently proposed, include the following:

- Full-depth pavement replacement of Century Drive from College Ave to Kercher Rd, including approach to bridge at Eisenhower Drive North (Exhibit A)
- Drive approach replacements to appropriate matchlines near right-of-way
- Installation of recommended geogrid
- Limited drainage evaluation of specific structures and associated pipes, included as Exhibit B
- Limited stormwater sewer construction based on the findings of the limited drainage evaluation
- Feasibility determination of performing full-depth reclamation in place of full-depth pavement removal and reconstruction with geogrid

The proposed improvements are scheduled to be substantially completed in the fall of 2025. The specific project timelines proposed are the discretion of the Consultant, but it is anticipated that construction should start no later than the spring of 2025. Century Drive services many industrial businesses and maintaining access for industrial traffic will need to be accounted for and accommodated with the proposed traffic maintenance plan.

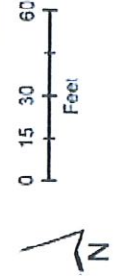
Exhibit B



**Century Drive
Limited Drainage Evaluation**

Project Number: 2024-0030
Century Drive Reconstruction

Prepared by: Boston Snyder
Date: August 8, 2024



The City of Goshen
Department of Public Works &
Safety Office of Engineering
204 East Jefferson Street, Goshen, Indiana 46528
Phone: 574-534-2201 Fax: 574-533-8625



The City of Goshen's Digital Data is the property of the City of Goshen and Elkhart County, Indiana. All graphic data supplied by the city and county has been derived from public records that are constantly undergoing change and is not warranted for outside or accuracy. This city and county do not guarantee the accuracy or timeliness of this data. The cartographic digital files are not intended for use in any way other than the intended use. The city and county disclaim any, and hereby disclaim any, liability for any damage, including damages of any kind, arising from the use of this data. The data is provided as a courtesy and is not intended to be used for any other purpose. The data is provided as a courtesy and is not intended to be used for any other purpose. The data is provided as a courtesy and is not intended to be used for any other purpose. The data is provided as a courtesy and is not intended to be used for any other purpose.



STORMWATER DEPARTMENT
CITY OF GOSHEN
204 East Jefferson Street, Suite 1 • Goshen, IN 46528-3405
Phone (574) 534-2201 • Fax (574) 533-8626
stormwater@goshencity.com • www.goshenindiana.org

MEMORANDUM

TO: City of Goshen Stormwater Board

FROM: Stormwater Department

**RE: POST-CONSTRUCTION PLAN APPROVAL
INDIANA AVENUE APARTMENTS (JN: 2020-2010)**

DATE: December 12, 2024

The developer of the Indiana Avenue Apartments project, affecting one (1) or more acres of land and located at 1006 S Indiana Avenue, has submitted a sufficient post-construction plan that is compliant with Ordinance 4329, "Uniform Requirements for Post-Construction Stormwater Management."

The Stormwater Department requests the Stormwater Board's acceptance of the plan.

Full document available upon request.

Requested Motion: Accept the post-construction stormwater management plan for Indiana Avenue Apartments as it has been found to meet the requirements of City Ordinance 4329.



STORMWATER DEPARTMENT
CITY OF GOSHEN
204 East Jefferson Street, Suite 1 • Goshen, IN 46528-3405
Phone (574) 534-2201 • Fax (574) 533-8626
stormwater@goshencity.com • www.goshenindiana.org

MEMORANDUM

TO: City of Goshen Stormwater Board

FROM: Stormwater Department

RE: POST-CONSTRUCTION PLAN APPROVAL
RYAN'S PLACE INC. (JN: 2020-2043)

DATE: December 12, 2024

The developer of the Ryan's Place Inc. project, affecting one (1) or more acres of land and located at 1566 Regent Street, has submitted a sufficient post-construction plan that is compliant with Ordinance 4329, "Uniform Requirements for Post-Construction Stormwater Management."

The Stormwater Department requests the Stormwater Board's acceptance of the plan.

Full document available upon request.

Requested Motion: Accept the post-construction stormwater management plan for Ryan's Place Inc. as it has been found to meet the requirements of City Ordinance 4329.



CITY OF GOSHEN LEGAL DEPARTMENT
Donald R. Shuler, Assistant City Attorney

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

donshuler@goshencity.com • www.goshenindiana.org
Phone (574) 537-3855 • Fax (574) 533-8626 • TDD (574) 534-3185

December 9, 2024

To: Board of Public Works and Safety

From: Don Shuler, Assistant City Attorney

Subject: 425 N. 9th Street – Agreements – Unsafe Building Hearing Authority

The Board, as the City's Unsafe Building Hearing Authority, has previously held hearings concerning the property at 425 N. 9th Street in February, March, July, and October of this year. The Board has found that the residential structure on the Real Estate is unsafe and warranting of demolition, but provided an opportunity to make repairs. Over the course of the past several months, Owner has complied with the Board's Orders to clean up the exterior of the property, obtain clean title to the property, and otherwise keep clear lines of communications with the City open. As a result of the continued discussions between City staff and the property owner, the following agreements have been prepared to facilitate repair and rehabilitation of the unsafe building.

Agreement with Restor Church, Inc.:

This agreement establishes the terms in which the City will provide up to \$100,000 in grant funds to Restor Church, Inc. to act as project manager for the necessary repairs to the unsafe building. Restor Church will oversee construction and repairs, which will be performed by contractor Chris Russell. Restor will also seek to solicit volunteer labor and in-kind contributions to maximize project value. The Agreement requires Restor Church to provide updates and financial accounting updates to the City.

Agreement with Christopher D. Jones:

This Agreement establishes the financial and legal obligations of the property owner, Mr. Jones. Mr. Jones will execute a Promissory and Mortgage to secure the repayment of repair costs, to be the actual costs up to \$100,000. The Agreement, along with the Promissory Note and Mortgage, require Mr. Jones to make a small monthly payment, to maintain homeowner's insurance, pay all property taxes, and to otherwise keep the property compliance with Goshen City Code.

Recommendations:

It is recommended that the Board approve the Grant Agreement with Restor Church, Inc., and authorize the Mayor to execute.

It is recommended that the Board approve the Agreement with Christopher D. Jones and authorize the Mayor to execute.

**CITY OF GOSHEN BOARD OF PUBLIC WORKS AND SAFETY
UNSAFE BUILDING HEARING AUTHORITY
AGREEMENT**

December 12, 2024

IN RE: Violation of Goshen City Code

Current Property Owner(s) of record: Christopher D. Jones

Substantial property interest of record: None

Property located at: 425 North 9th Street, Goshen, Indiana

Property Tax Code: 20-11-10-105-025.000-015

Property Legal Description: See Exhibit A

This Agreement is entered into this December 12, 2024 by and between the City of Goshen, Indiana, by and through its Goshen Board of Public Works and Safety, the City's Unsafe Building Hearing Authority under I.C. § 36-7-9-1 *et seq.* (the "City") and Christopher D. Jones ("Jones").

Recitals:

WHEREAS, the Jones is the owner of the real estate located at 425 North 9th Street, Goshen, Indiana, more particularly described in Exhibit A (hereinafter the "Real Estate");

WHEREAS, the City of Goshen Building Commissioner issued an Order, dated April 13, 2023, pursuant to I.C. § 36-7-9-5, finding the residential structure on the Real Estate to be an unsafe building ("Unsafe Building") and ordering demolition of the Unsafe Building;

WHEREAS, the Building Commissioner's Order was reviewed by the City of Goshen Board of Works and Public Safety as Unsafe Building Hearing Authority ("Hearing Authority") on February 29, 2024 and March 28, 2024, where it was determined that the condition of the Unsafe Building warranted demolition but that Jones indicated a willingness to make necessary repairs to the Unsafe Building;

WHEREAS, the Hearing Authority held hearings relative to the Unsafe Building at the Real Estate on July 25, 2024, and October 31, 2024, which affirmed the finding of the Unsafe Building as unsafe under Indiana law but permitted the opportunity for repairs;

WHEREAS, the City and Jones wish to establish terms for facilitating necessary repairs to the Unsafe Building at the Real Estate to prevent demolition of said Unsafe Building;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Acknowledgment of Unsafe Conditions.

1.1. Jones acknowledges that the Unsafe Building on the Real Estate has been determined to be unsafe under the Indiana Unsafe Building Law and the City of Goshen's Neighborhood Preservation Ordinance, as determined by the City Building Commissioner and affirmed by the Hearing Authority. Jones agrees that repairs are necessary to address the unsafe conditions and ensure compliance with applicable codes.

2. Consent to Repairs.

2.1. Jones consents to the City providing funds to a designated community partner (hereinafter referred to as "Partner") to facilitate repairs to the Unsafe Building.

2.2. Jones grants the City, Partner, and their contractors access to the Real Estate and the Unsafe Building for purposes of completing necessary repairs.

2.3. Jones acknowledges that the scope of repairs shall be determined by City and Partner based on a professional assessment and that said repairs shall comply with all applicable building codes, ordinances, and safety standards.

2.4. Jones waives any claim for damages or liabilities arising from the repair work, provided that such claims do not result from gross negligence or intentional misconduct by City or its agents.

2.5. Jones shall indemnify and hold harmless City, Partner, and their agents, officers, and employees from and against any and all liability, obligations, claims, actions, causes of action, judgments, liens, damages, penalties, injuries, or accidental deaths caused by any intentional, reckless, or negligent act or omission by Jones.

3. Financial Obligation.

3.1. Jones agrees that all costs associated with the repair work, including but not limited to labor, materials, administrative fees, and project management costs, shall be the financial responsibility of Jones.

3.2. Contemporaneously with the execution of this Agreement, Jones agrees to execute a Promissory Note, the form of which is attached as Exhibit B, in favor of the City, which shall include:

3.2.1. A conditional principal amount equal to the total repair costs, as determined by the City and Partner in the final accounting.

3.2.2. A maximum cap of One Hundred Thousand Dollars (\$100,000.00), which shall not be exceeded.

3.2.3. Monthly payments of Fifty Dollars (\$50.00) with no interest.

3.2.4. Acceleration of the entire balance upon the sale of the Real Estate, transfer of ownership, or collection of Jones' judgment in Cause No. 20D05-2012-PL-238.

3.2.5. A provision stating that the final repair costs shall be certified by the City through an Affidavit filed and recorded with the Office of the Recorder of Elkhart County, Indiana, which shall establish the final principal amount of the Promissory Note.

3.3. Contemporaneously with the execution of this Agreement, Jones agrees to execute a Mortgage, the form of which is attached as Exhibit C, securing the Promissory Note against the Real Estate, which shall include:

3.3.1. A provision that failure to maintain property taxes shall constitute a default.

3.3.2. A provision that failure to require homeowner's insurance shall constitute a default.

3.3.3. A provision giving the City the right to foreclose upon default in payment, nonpayment of taxes, failure to maintain homeowner's insurance, or any other material breach of this Agreement.

3.3.4. A conditional lien amount equal to the total repair costs, to be finalized and certified by an Affidavit filed and recorded by City with the Office of the Recorder of Elkhart County, Indiana. The Affidavit shall establish the final lien amount for purposes of enforcement.

4. Jones Responsibilities.

4.1. Jones agrees to fully cooperate with City, Partner, and their contractors, including but not limited to:

4.1.1. Providing unrestricted access to the Unsafe Building and the Real Estate during the repair process.

4.1.2. Complying with any applicable building codes, permit requirements, safety regulations, and other legal requirements.

4.1.3. Addressing any concerns or deficiencies identified by City inspectors during or after the repair process.

4.1.4. Maintain continuous homeowner's insurance coverage on the Real Estate, naming the City as an additional insured.

4.1.5. Cooperate fully with the City, Partner, and contractors in performing the repair work.

4.2. Jones agrees not to obstruct, delay, or interfere with the repair process. Any such actions shall constitute a breach of this Agreement.

5. City Responsibilities.

- 5.1. City shall provide funding to Partner to facilitate the repair work, subject to the terms of a separate agreement between City and Partner.
- 5.2. City shall retain oversight of the repair project to ensure compliance with applicable legal and safety standards.
- 5.3. City shall provide Jones a final accounting of repair costs upon completion of the project.

6. Default.

6.1. Events of Default: The following shall constitute a default under this Agreement:

- 6.1.1. Failure to execute the Promissory Note, Mortgage, or other documents required under this Agreement within thirty (30) days of completion of repairs.
- 6.1.2. Failure to make timely payments under the Promissory Note.
- 6.1.3. Nonpayment of property taxes or other liens on the Real Estate.
- 6.1.4. Failure to maintain continuous homeowner's insurance coverage for the Real Estate, with the City named as additional insured.
- 6.1.5. Allowing any liens, judgments, or other claims to be entered against the Real Estate without prior written consent of the City.
- 6.1.6. Filing for or becoming subject to bankruptcy or insolvency proceedings.
- 6.1.7. Denial of access to the Unsafe Building or the Real Estate for repairs or inspections.
- 6.1.8. Renting, leasing, or subleasing the Real Estate without the prior written consent of the City.
- 6.1.9. The occurrence of criminal activity on the Real Estate or involving the Real Estate.
- 6.1.10. Violations of City of Goshen ordinances applicable to the Real Estate and/or Unsafe Building.
- 6.1.11. Jones's death.
- 6.1.12. Any other material breach of this Agreement.

6.2. City Remedies: Upon default, the City may take any or all of the following actions:

- 6.2.1. Declare the entire balance of the financial obligation immediately due and payable.
- 6.2.2. Foreclose on the Real Estate based on this Agreement, the Promissory Note, or Mortgage.
- 6.2.3. Pursue legal action to recover all costs incurred under this Agreement, including attorneys' fees, court costs, and related expenses.

7. Recording and Lien Provisions.

- 7.1. This Agreement shall be recorded with the Elkhart County Recorder's Office, and this Agreement as recorded shall constitute a lien against the Real Estate for the total amount of funds provided pursuant to this Agreement.
- 7.2. The lien established under this Agreement shall remain in effect until the Jones fulfills all obligations under this Agreement, including payment of the Promissory Note and compliance with all other terms.
- 7.3. The City shall have the right to enforce this Agreement as a lien and foreclose on the Real Estate for the total amount of funds provided pursuant to this Agreement should Jones default under any terms of this Agreement, the Promissory Note, or the Mortgage.

8. General Provisions.

- 8.1. This Agreement constitute the entire understanding between the parties and supersedes all prior agreements.
- 8.2. Any amendments must be in writing, signed by both parties, and approved by the Hearing Authority.
- 8.3. If any provision is found invalid or unenforceable, the remaining provisions shall remain in full force and effect.
- 8.4. This Agreement shall be governed by the laws of the State of Indiana. Proper venue for any cause of action arising out of this Agreement shall be in a court of competent jurisdiction in Elkhart County, Indiana.

8.5. 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, whichever is earlier. Either party may also email the notice to the other party in addition to delivering personally or sending by regular first-class mail.

City: City of Goshen, Indiana
Attention: Legal Department
204 E. Jefferson Street, Suite 2
Goshen, Indiana 46528
Email: legal@goshencity.com

Jones: Christopher D. Jones
425 N. 9th Street
Goshen, Indiana 46528
Email: _____

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

APPROVED by the City of Goshen Board of Public Works and Safety, the City's Unsafe Building Hearing Authority, this December 12, 2024.

City of Goshen Board of Public Work and Safety

By: _____
Gina M. Leichty, Mayor

Agreed to by Christopher D. Jones, this December ____, 2024.

Christopher D. Jones

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the City of Goshen Board of Public Works and Safety, the City of Goshen, Indiana’s Hearing Authority, by Gina M. Leichty, Mayor, and acknowledged execution of the foregoing Agreement on December 12, 2024.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared Christopher D. Jones, and acknowledged execution of the foregoing Agreement on December ____, 2024.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

This instrument was prepared by Donald R. Shuler, Attorney No. 26587-71, City of Goshen Legal Department, 204 East Jefferson Street, Suite 2, Goshen, Indiana 46528, Ph: 574.537.3820.

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

Exhibit A – Legal Description

Lot Number Thirty-seven (37) and Thirty-eight (38) in Wilson and Hawks Addition to the City of Goshen.

PROMISSORY NOTE

DATE OF NOTE: December 12, 2024

PRINCIPAL AMOUNT: Conditional, as defined below

PROMISE TO PAY

FOR VALUE RECEIVED, the undersigned, Christopher D. Jones (“Jones”), owner of the real estate located at 425 N. 9th Street, Goshen, Indiana (the “Real Estate”), promises to pay to the City of Goshen, Indiana, by and through its Goshen Board of Public Works and Safety, the City’s Unsafe Building Hearing Authority under I.C. § 36-7-9-1 *et seq.* (the “City”), the principal sum equal to the total costs of repairs made to the residential structure at the Real Estate (the “Loan Amount”), as determined in accordance with the Agreement between the City and Jones, approved by the City’s Unsafe Building Hearing Authority on December 12, 2024, subject to the following terms and conditions:

PRINCIPAL AMOUNT

The Loan Amount shall equal the total cost of the repairs to the residential structure at the Real Estate, including but not limited to labor, materials, administrative fees, and project management costs, as certified by the City through a final accounting.

The Loan Amount shall be determined and finalized upon completion of repairs, based on an Affidavit of Final Costs filed and recorded by City with the Office of the Recorder of Elkhart County, Indiana. This Affidavit shall establish the final Loan Amount and be binding upon Jones unless challenged in writing within thirty (30) days of recording.

The Loan Amount shall not exceed One Hundred Thousand Dollars (\$100,000.00), unless otherwise agreed to in writing by City and Jones.

PAYMENT

Jones shall make monthly payments of Fifty Dollars (\$50.00) to City, beginning thirty (30) days after the City provides written notice of the Loan Amount certified in the Affidavit of Final Costs. No interest shall accrue on the Loan Amount unless Jones defaults under the terms of this Promissory Note, in which case interest at the statutory rate for judgments in Indiana shall accrue from the date of default.

The entire unpaid balance of the Loan Amount shall become immediately due and payable upon the occurrence of any of the following events:

- Sale or transfer of the Real Estate.
- Collection of Jones' judgment in Cause No. 20D05-2012-PL-238.
- Failure by Jones to pay all property taxes and assessments when due, or failure to maintain adequate homeowner's insurance coverage on the Real Estate.
- Renting, leasing, or subleasing the Real Estate without the prior written consent of the City.
- The occurrence of any criminal activity on the Real Estate or involving the Real Estate.
- Violations of City of Goshen ordinances applicable to the Real Estate.
- Default by Jones under the terms of this Promissory Note, the Agreement, or the Mortgage securing this Promissory Note.
- Jones' death.

Jones shall have the right of prepaying the principal balance in any amount at any time. Any prepayment of principal balance shall not relieve Jones's obligation to make monthly payments of One Hundred Dollars (\$100.00) per month until the principal balance is paid in full.

All payment obligations stated to be fulfilled by Jones shall be fully due and payable without relief from valuation and appraisal laws, and with attorney fees and full costs of collection.

COLLATERAL

Jones acknowledges this Promissory Note is secured by a Real Estate Mortgage to City bearing the same date of this Promissory Note on the Real Estate as collateral for Jones's payment of the full debt, guaranteeing that the repairs and rehabilitation occurs and all other obligations. All the terms and conditions of the Real Estate Mortgage are incorporated and made a part of this Promissory Note.

DEFAULT

Upon default by Jones, the entire unpaid principal indebtedness, together with all accrued interest (to include interest at the default rate set forth above), and other indebtedness on account of this Promissory Note and the Real Estate Mortgage securing the same shall, at the option of the City, become due and payable immediately. If the default is for any reason,

the default must continue to occur for thirty (30) days after City gives Jones written notice of the default.

ATTORNEYS' FEES EXPENSES

City may hire or pay someone else to collect this Promissory Note if Jones does not fulfill all of Jones's obligations to under the Agreement, this Note or the Real Estate Mortgage. Jones will pay City for all costs and expenses incurred in collection of this Promissory Note if Jones defaults. This includes, subject to any limits under applicable law, City's attorneys' fees and City's legal expenses, whether or not there is a lawsuit, including without limitation all attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), and appeals.

MISCELLANEOUS

- (1) City may delay or forgo enforcing any of its rights or remedies under this Promissory Note without losing them.
- (2) Jones waives presentment, demand for payment and notice of nonpayment.
- (3) Unless otherwise expressly stated in writing, no party who signs this Promissory Note shall be released from liability.

IN WITNESS WHEREOF, the undersigned have executed this Promissory Note on December ____, 2024.

Christopher D. Jones

REAL ESTATE MORTGAGE

Christopher D. Jones (“Jones”) mortgages and warrants to the City of Goshen, Indiana, a political subdivision of the State of Indiana acting through its Goshen Board of Public Works and Safety, the City’s Unsafe Building Hearing Authority (“City”), certain real estate located in Elkhart Township, Elkhart County, in the State of Indiana, commonly known as 425 North 9th Street, Goshen, Indiana 46526, and more particularly described as follows:

Lot Number Thirty-seven (37) and Thirty-eight (38) in Wilson and Hawks Addition to the City of Goshen.

Parcel No. 20-11-10-105-025.000-015

together with all rights, privileges, interests, easements, appurtenances, fixtures and improvements now or hereafter belonging or attached to the Mortgaged Real Estate. This described real estate shall be referred to as the “Mortgaged Real Estate”.

The Mortgage is given to secure the performance of the obligations due under the terms of a December 12, 2024 Agreement between Jones and the City of Goshen Board of Public Works and Safety as the City’s Unsafe Building Hearing Authority (Agreement), a Promissory Note (Note) bearing the same date as this Mortgage, and the obligations of this Mortgage.

The Loan Amount secured by this Mortgage shall be determined upon completion of repair and work pursuant to the Agreement, based upon an Affidavit of Final Costs filed and recorded by City with the Elkhart County Recorder. This Affidavit shall serve as conclusive evidence of the Loan Amount and lien amount unless challenged by Jones in writing within thirty (30) days of recording.

SUBORDINATION

This security instrument given is not second or junior to any other mortgage.

NO LIENS

Jones shall not permit any lien of mechanics or materialmen to attach to the Mortgaged Real Estate.

CONDITION OF MORTGAGED REAL ESTATE

Jones shall keep the Mortgage Real Estate in good repair and shall not commit waste, and otherwise comply with all terms of the Agreement.

TAXES AND ASSESSMENTS

Jones shall pay all taxes or assessments levied or assessed against the Mortgaged Real Estate when due and before penalties accrue. If Jones fails to pay all taxes or assessments when due, City may pay such costs and add the amounts paid to the principal balance due as set forth under the section titled Advancements to Protect Security.

INSURANCE

Jones shall insure all improvements on the Mortgaged Real Estate, whether now in existence or subsequently erected, against all hazards. Jones shall maintain the insurance policy in full force and effect listing City as a loss payee at all times until the Note, accrued interest, and any amounts advanced and paid by City have been paid in full. If Jones fails to maintain insurance coverage on the Mortgaged Real Estate, City may purchase insurance coverage to protect the value of the Mortgaged Real Estate and City's rights and add the cost of such insurance coverage to the principal balance due as set forth under the section titled Advancements to Protect Security.

DEFAULT AND REMEDIES

Jones defaults by failing to perform any covenants or agreements contained in this Mortgage, the Agreement and Note, or if any of the following occur:

- (1) Jones fails to make any payment of principal or accrued interest when due, and the non-payment continues of a period of thirty (30) days.
- (2) Jones conveys any interest in the Mortgaged Real Estate to another person or entity by deed, land contract or otherwise.
- (3) Jones abandons the Mortgaged Real Estate.
- (4) Jones fails to pay all taxes or assessments levied or assessed against the Mortgaged Real Estate when due and before penalties accrue.

- (5) Jones fails to insure and maintain required insurance coverage on the Mortgaged Real Estate.
- (6) A trustee or receiver is appointed for Jones or for any part of the Mortgaged Real Estate.
- (7) Jones defaults on any mortgage on the Mortgaged Real Estate.
- (8) The commencement of foreclosure proceedings against Jones or the Mortgaged Real Estate by any mortgagee.
- (9) Jones rents, leases, or subleases any portion or all of the Mortgage Real Estate without the prior written consent of the City.
- (10) The occurrence of criminal activity on the Mortgaged Real Estate or involving the Mortgaged Real Estate.
- (11) Violations of City of Goshen ordinances applicable to the Mortgaged Real Estate.
- (12) Jones's death.

If the default is for any reason, the default must continue to occur for thirty (30) days after City gives Jones written notice of the default.

If Jones is in default, City may elect to declare the Note immediately due and payable and City may elect to foreclose this Mortgage.

ADVANCEMENTS TO PROTECT SECURITY

City may, at its option, advance and pay all sums necessary to protect and preserve the security intended to be given on the Mortgaged Real Estate. All sums so advanced and paid by City shall be payable upon demand and shall become a part of the indebtedness secured by this Mortgage. At the election of the City, such advances shall bear interest from the date or dates of payment at the rate of eight percent (8.0%) per annum. Such advances may include insurance premiums, taxes, assessments, and payment of liens which may be or become prior and senior to this Mortgage, and all costs, expenses, and attorneys' fees incurred by City in respect to any legal or equitable proceedings which relate to this Mortgage or to the Mortgaged Real Estate.

NON WAIVER, REMEDIES CUMULATIVE

No delay by City in the exercise of any of its rights shall preclude the exercise of such rights so long as Jones continues in default and no failure of City to exercise any of its rights shall preclude their exercise in the event of a subsequent default by Jones. City may enforce any one or more of its rights or remedies successively and/or concurrently.

EXTENSION, REDUCTIONS, RENEWALS, CONTINUED LIABILITY

No extension, reduction or renewal of the indebtedness secured by this Mortgage shall affect the priority of this Mortgage or impair the security in any manner whatsoever, or release, discharge or affect in any manner, the liability of Jones to City.

NOTICE

Any notices required or permitted under this Mortgage shall be given to the parties at their respective mailing addresses provided below by deposit in the United States mail, with proper postage. Any such notice shall be effective three (3) days after date of mailing.

Jones: Christopher D. Jones
425 North 9th Street
Goshen, Indiana 46526

City: City of Goshen, Indiana
c/o Legal Department
204 East Jefferson Street, Suite 2
Goshen, Indiana 46528

The parties may change their respective mailing addresses by providing written notice of the new address to the other parties.

SUPPLEMENTAL DOCUMENTS

Jones and City agree to execute any and all supplementary documents and to take any and all supplementary steps as are reasonable and appropriate to accomplish the purposes and provisions of this Mortgage or the Agreement secured by this Mortgage.

AMENDMENT

This Mortgage may be amended only by City's adoption of a resolution approving the amendment and by the execution of the amendment by each of the parties.

SEVERABILITY

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

GOVERNING LAW

This Mortgage shall be governed by and construed in accordance with the laws of the State of Indiana. The proper venue for any action to enforce any provision of this Mortgage shall be in Elkhart County, Indiana.

BINDING EFFECT

This Mortgage shall be binding upon and shall inure to the benefit of City and Jones and their respective successors and assigns.

IN WITNESS WHEREOF, the undersigned have executed this Real Estate Mortgage on December ____, 2024.

Christopher D. Jones

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public in and for said County and State, personally appeared Christopher D. Jones, being known to me or whose identity has been authenticated by me to be the person who acknowledged the execution of the foregoing instrument as the person's voluntary act for the purpose stated therein.

Witness my hand and Notarial Seal this December ____, 2024.

Notary Public

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

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