



Board of Public Works & Safety and Stormwater Board

Regular Meeting Agenda

2:00 p.m. March 2, 2020

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

Call to Order by Mayor Jeremy Stutsman

Approval of Minutes

Changes to Agenda

OPEN BIDS, QUOTES AND PROPOSALS

- (1) Open Bids for River Race Road Extension, PN: 2017-0014

ANNOUNCEMENTS

- (1) Third Street Lane Restriction for Jail Demolition (Sailor)

NEW BUSINESS

- (1) Permanent Stop Sign on the Alley at Monroe Street, JN: 2020-0007 (Sailor)
- (2) Hawks Apartment Building Phase 2 Exterior Improvements, JN: 2018-2060 (Sailor)
- (3) Quantity Purchase Agreement for Road Salt (Windsor)
- (4) Agreement for Environmental Education Curriculum Development with Kathleen Jones and Rachel Smucker (Windsor)
- (5) Occupancy Permit Agreement with North Meadow of Goshen, LLC (Marks)
- (6) Resolution 2020-08: Interlocal Agreement with Elkhart County for Animal Control Services (Marks)
- (7) HVAC license for Joseph Kendall

PRIVILEGE OF THE FLOOR

APPROVAL OF CLAIMS



**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

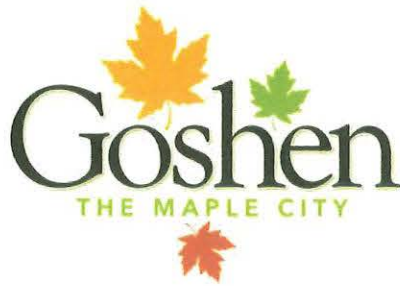
FROM: Goshen Engineering

RE: **RIVER RACE ROAD EXTENSION
PROJECT NO. 2017-0014**

DATE: March 2, 2020

The Clerk-Treasurer's Office has received bids from contractors today for the above referenced project and we are requesting that the Board of Public Works and Safety open these bids at today's meeting.

Requested Motion: Open bids received from Contractors for the River Race Road Extension and read the Total Bid amount.



**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: **JAIL DEMOLITION - THIRD STREET LANE RESTRICTION**

DATE: March 2, 2020

The Engineering Department was notified by the project manager of the jail demolition that they will be closing the western most lane of Third Street between Clinton & Lincoln from Monday, March 2, through Friday, March 6. They have received a right-of-way permit from INDOT for the closure.

They plan to use concrete barrier walls starting on the south side of W. Clinton Street, heading south and ceasing approximately 50' from W. Lincoln Ave. The barriers will be placed in the western most lane on 3rd St and will have a flashing light at the point of tangency, as well as reflectors periodically (where needed). They also have hired Indiana Traffic Services to put signs up for them which indicate the road is closed. The list of signage is as follows:

- Road Construction Ahead
- Right lane closed ahead
- Dogleg
- Arrow board
- Sidewalk closed cross here
- Traffic barrel with lights
- Barricades

Requested Motion: **This serves as informational only.**



111 N 3rd St

N 3rd St

S 3rd St

W Lincoln Ave

S 2nd St

15

N

200 ft



**Engineering Department
CITY OF GOSHEN**

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

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

MEMORANDUM

TO: Board of Works and Safety and Stormwater Board

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

RE: **PERMANENT STOP SIGN ON THE ALLEY AT MONROE STREET
(JN: 2020-0007)**

DATE: February 28, 2020

At the Goshen Traffic Commission meeting on November 21st 2019, the commission reviewed a request made by Goshen Community Schools to add additional signs at Goshen High School to help with traffic flow. With a vote of 7-0, the commission board decided to perform a one-month study of a portable stop sign on the alley at Monroe Street for south bound traffic.

At the Traffic Commission meeting on February 20th 2020, the board voted 7-0 to make the stop sign permanent as it has helped to improve traffic flow.

Requested Motion: The City's Traffic Commission requests the approval of installing a permanent stop sign on the alley at Monroe Street for south bound traffic.

City of Goshen
Board of Works & Safety

Jeremy Stutsman, Mayor

Mary Nichols, Board Member

Mike Landis, Board 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., Director of Public Works

RE: **HAWK'S APARTMENT BUILDING PHASE 2 EXTERIOR IMPROVEMENTS (JN: 2018-2060)**

DATE: March 2, 2020

The City of Goshen Special Ops Team is scheduled to begin construction of water main to the Hawk's Apartment Building Phase 2 Project the week of March 2, 2020.

The road closure is for the water main extension to the Hawk's Building Phase 2 on River Race Drive. The segment of road to be closed is from the south side of the new Jefferson Street parking lot to the north side of the intersection of River Race Drive and Jefferson Street. This segment of road is expected to be re-opened to traffic by March 6, 2020.

Please accept the closure of River Race Drive until March 6, 2020.

Requested motion:

Approval of the road closure of River Race Drive between Alley No. 135 and Jefferson Street from March 3, thru March 6, 2020.

ACCEPTED:

City of Goshen
Board of Works & Safety

Jeremy Stutsman, Mayor

Mike Landis, Board Member

Mary Nichols, Board Member



Imagery ©2020 IndianaMap Framework Data, Maxar Technologies, USDA Farm Service Agency, Map data ©2020 50 ft



**Legal Department
CITY OF GOSHEN**

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

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

March 2, 2020

To: Board of Public Works and Safety
From: Keitha Windsor
Subject: Quantity Purchase Agreement for Road Salt

For the last several years the State of Indiana has provided quantity purchasing for any Indiana government entity for the purchase of road salt. The City of Goshen has been participating in the QPA.

The State of Indiana is now collecting information from local government entities to prepare the road salt bid for the 2020-/2021 winter season.

When the City's information for 1000 tons of untreated and delivered road salt is input on their website, it is a commitment for the purchase.

Suggested motion: Move to permit City's 1000 tons of untreated and delivered road salt requirements to be entered into State's website to be bid out by the State of Indiana for the 2020/2021 winter season.



**Legal Department
CITY OF GOSHEN**

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

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

March 2, 2020

To: Board of Public Works and Safety
From: Keitha Windsor
Subject: Agreement with Kathleen Jones and Rachel Smucker

The City is developing an environmental educational curriculum appropriate for Goshen Community Schools elementary school aged children and wishes to contract with Kathleen Jones and Rachel Smucker to augment and facilitate completion of the environmental education curriculum which Paul Steury is also working on.

Curriculum for the project shall be delivered to the City by May 1, 2020 and the curriculum roll-out with the GCS teachers and administrators shall be completed by May 29, 2020

The cost for all work shall not exceed \$2,400.00

Suggested motion: Move to enter into an agreement with Kathleen Jones and Rachel Smucker to augment and facilitate completion of the environmental education curriculum at a cost not to exceed \$2,400.00 with services to be completed by May 29, 2020

AGREEMENT

Environmental Education Services

THIS AGREEMENT is entered into on this ____ day of _____, 2020, between Kathleen Jones and Rachel Smucker, hereinafter referred to as “Consultants”, and the City of Goshen by its Board of Public Works and Safety, hereinafter referred to as “City”.

WHEREAS, the City wishes to develop environmental educational curriculum appropriate for Goshen Community Schools (GCS) elementary school aged children.

WHEREAS, the City desires to contract with Consultants, and Consultants agree to augment and facilitate completion of environmental education curriculum which Paul Steury is also working on.

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

SCOPE OF SERVICES

Consultants’ services under this Agreement consist of creating and completing environmental education curriculum to standards for use in all Goshen elementary schools. Grades K-3 are expected to have individual grade-level curricula, while grades 4-6 may feature a multi grade-level curriculum unit or units. The curricula will be used by teachers and schools to advance outdoor, place-based and environmental learning themes, topics and skills.

Consultants’ scope of services shall include the following:

- Complete editing and revisions of drafted units for Grades K, 1, 2, 3 and 4 and write one multi-grade unit for G 5 and 6.
 - All units shall contain completed Unit Overview – unit description, relevant standards, guiding questions, assessment guidance, key resources, and materials needed.
 - All units shall contain completed Lesson Plans – objectives, standards, timeframe, procedure, assessment.
- Providing the City with the curriculum that shall consist of all units in a uniform, attractive, easy-to-read format delivered in a print-ready digital file (such as pdf), as well as an editable digital file.
- Planning and facilitating curriculum roll-out session(s) for GCS teachers and administration.
- Introducing to the curriculum for teachers and administrators, for each of the individual grade level units.
 - Demonstrate key objectives and procedures for each grade level unit.
 - Answer questions about curriculum development and implementation.
- Meet with City of Goshen environmental educator to discuss curriculum buy-in and roll-out plans for GCS administration and teachers. City of Goshen environmental educator will be in charge of administrative tasks related to roll-out.

Additionally, Consultant Kathleen Jones shall:

- Meet once with Paul Steury to establish continuity of curriculum, define focus of work, and coordinate key deadlines.
- Meet regularly with Paul Steury to review quality and deadlines.

TERM OF THE AGREEMENT

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

Consultants' services shall begin as soon as practical after receiving a notice to proceed from the City. Consultants' curriculum shall be completed and delivered to the City by May 1, 2020 and the curriculum roll-out with the GCS teachers and administrators shall be completed by May 29, 2020.

COMPENSATION

The City agrees to compensate Consultants for the services in this agreement in accordance with Consultants' hourly rate of Twenty-five Dollars (\$25.00) and Consultants' fee schedule as set forth in the table below based on hours actually worked on the project for an amount not exceed Two Thousand Four Hundred Dollars (\$2,400.00).

	<u>Fee Schedule</u>	
Description	Maximum Hours	Amount
Grade K	5	\$125.00
Grade 1	15	\$375.00
Grade 2	10	\$250.00
Either Grade 3 or 4	12	\$300.00
Multi-grade unit for G 5 and 6	20	\$500.00
Curriculum roll-out	8	\$200.00
Meeting with Goshen environmental educator	4	\$100.00
Meeting with Paul Steury	<u>22</u>	<u>\$550.00</u>
	96	\$2,400.00

Payment(s) to Consultants for services rendered under this agreement shall be made by the City upon receipt of a detailed invoice from Consultants for services completed provided satisfactory performance of Consultants have been attained. Consultants are required to have a current W9 Form on file with the City before the City will issue any payment. Payment will be made within forty-five (45) days following City's receipt of the detailed invoice from Consultants. Payment is deemed to be made on the date of mailing the check.

INDEPENDENT CONTRACTOR

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

NON-DISCRIMINATION

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

INDEMNIFICATION

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

FORCE MAJEURE

Except for payment of sums due, neither party shall be liable to the other or deemed in default under this contract if and to the extent that such party's performance under this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party and could not have been avoided by exercising reasonable diligence. Examples of force majeure are natural disasters or decrees of governmental bodies not the fault of the affected party.

If either party is delayed by force majeure, the party affected shall provide written notification to the other party immediately. The party shall do everything possible to resume performance. The notification shall provide evidence of the force majeure event to the satisfaction of the other party. If the period of non-performance exceeds 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.

BREACH

It shall be mutually agreed that if Consultants fail to provide the services or comply with the provisions of this Agreement and Consultants are not able to correct the breach within fifteen (15) calendar days after the City provides written notice to Consultants of such breach, the City may provide or have provided alternative provisions to correct and/or complete the projects. Consultants shall be responsible for any and all costs that are incurred and such costs may be deducted from amounts owed to Consultants expenses to correct the breach or complete the project. If such costs exceed the amounts owed to Consultants, Consultants are liable to reimburse the City for such costs.

If Consultants fail to perform the work or comply with the provisions of this Agreement, then Consultants may be considered in default.

Consultants may also be considered in default by the City if any of the following occur:

- (1) There is a substantive breach by Consultants of any obligation or duty owed under the provisions of this Agreement.
- (2) Consultants are adjudged bankrupt or makes an assignment for the benefit of creditors.
- (3) Consultants become insolvent or in an unsound financial condition so as to endanger performance under the Agreement.
- (4) Consultants become 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 Consultants or any of Consultants' property.
- (6) Consultants are determined to be in violation of federal, state, or local laws or regulations and that such determination renders Consultants unable to perform the work under the Agreement.

(7) The Agreement or any right, monies or claims are assigned by Consultants without the consent of the City.

TERMINATION

The parties may terminate this Agreement under any of the following conditions:

- (1) The contract may be terminated in whole or in part, at any time, by mutual written consent of both parties. Consultants shall be paid for all work performed and expenses reasonably incurred prior to notice of termination.
- (2) The City may terminate this contract, in whole or in part, in the event of default by Consultants. In such event, the City may issue a written notice of default and provide a period of time in which Consultants 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 secure similar work in any manner deemed proper by the City, and Consultants shall be liable to the City for any excess costs incurred.
- (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 contract.

OWNERSHIP OF DOCUMENTS

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

ASSIGNMENT

Neither party shall subcontract or assign any right or interest under the contract, including the right to payment, without having prior written approval from the other. Such approval shall not be unreasonably withheld. Any attempt by either party to subcontract or assign any portion of the contract shall not be construed to relieve that party from any responsibility to fulfill all contractual obligations.

MODIFICATIONS

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

NOTICES

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

Address for notices to the City:

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

Address for notices to Consultants:

Kathleen Jones
1111 S. 8th St.
Goshen, 46526

Rachel Smucker
508 Carter Rd.
Goshen, 46526

APPLICABLE LAWS

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

MISCELLANEOUS

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

EMPLOYMENT ELIGIBILITY VERIFICATION

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

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

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

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

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

CONTRACTING WITH RELATIVES

Pursuant to IC 36-1-21, if Consultants are wholly or partially owned by a relative of an elected official of the City of Goshen, Consultants certify that Consultants have notified in writing both the elected official of the City of Goshen and the City's legal department prior to entering into

this contract that an elected official of the City of Goshen is a relative of an owner of Consultants.

SEVERABILITY

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

BINDING EFFECT

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

ENTIRE AGREEMENT

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

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

City of Goshen
Board of Public Works and Safety

Jeremy P. Stutsman, Mayor

Kathleen Jones

Mary Nichols, Member

Date

Michael Landis, Member

Rachel Smucker

Date: _____

Date: _____



CITY OF GOSHEN LEGAL DEPARTMENT

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

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

March 2, 2020

To: Goshen Board of Public Works and Safety and Stormwater Board

From: Shannon Marks

Subject: Occupancy Permit Agreement with North Meadow of Goshen, LLC

It is recommended that the Board approve and authorize the Mayor to execute the Occupancy Permit Agreement with North Meadow of Goshen, LLC concerning the completion of the construction project at 118 Tulip Boulevard.

OCCUPANCY PERMIT AGREEMENT

THIS AGREEMENT is entered into on March _____, 2020, between the **City of Goshen, Indiana** by and through the Goshen Board of Public Works and Safety and Stormwater Board (“Goshen”), and **North Meadow of Goshen, LLC** (“Permittee”).

Permittee obtained a building permit for the construction of a building on Permittee’s real estate at 118 Tulip Boulevard, Goshen, Indiana (“Site”). The construction project is substantially complete except for certain exterior work that cannot be completed due to weather conditions.

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

WORK

Permittee agrees to complete the following remaining item(s) of work (“Work”) as soon as conditions permit, but no later than June 15, 2020:

- (1) Permanently stabilize the Site which shall include grading, adding topsoil where needed, seeding and mulching of the grounds. This shall specifically include stabilization of approximately 8,000 square feet of disturbed area with seed and a temporary stabilization measure such as anchored mulch, hydromulch, or erosion control blankets. In addition, all adjacent and/or affected inlets shall be kept covered until the Site has been completely and permanently stabilized.
- (2) Plant all required landscaping at the Site according to the plan submitted to the Goshen Planning and Zoning Department. This shall include planting one street tree.

SURETY

Permittee agrees to provide Goshen a surety in the amount of One Thousand Six Hundred Thirty-five Dollars (\$1,635) (“Surety”) to insure the timely and proper completion of the Work under the terms of this agreement. The Surety may be in the form of a surety bond, letter of credit, or cash bond, including a corporate check or cashier’s check (which City Clerk-Treasurer will cash). The Surety is to insure the timely and proper completion of the obligations under this agreement and is not intended for the benefit of any third party, including Permittee’s contractors or subcontractors. Upon satisfactory completion of the Work, Goshen will release the Surety.

If the Surety is in the form of cash or a check, the Permittee must have a current W-9 on file with the City Clerk-Treasurer so a check may be issued to refund the Surety.

CERTIFICATE OF OCCUPANCY

Except for the Work yet to be completed as set forth above, once the construction project complies with all applicable City ordinances and requirements, Goshen will issue a Certificate of Occupancy for the Site on the condition that Permittee complies with the terms of this agreement.

FORCE MAJEURE

If Permittee’s performance under this agreement is prevented because of an occurrence that is beyond the control of the Permittee which could not have been avoided by exercising reasonable diligence, Permittee’s time for performance will be extended. Such extension shall be for no longer than necessary given the

nature of the occurrence which causes the delay. Examples of such occurrences are tornadoes, floods, or more than a typical number of days where rainfall prohibits the performance required of the Permittee.

If Permittee is delayed, Permittee shall immediately notify Goshen in writing describing the nature of the event delaying performance. Permittee shall make every effort to resume performance as soon as possible.

DEFAULT

It is mutually agreed that if Permittee fails to perform or comply with the terms of this agreement, Goshen may declare the agreement to be in default without notice to Permittee.

Upon declaration of default, Goshen may take such action as is necessary to complete Permittee's obligations although Goshen is not obligated to do so. Goshen may use the Surety to pay for the completion of any of Permittee's obligations. Goshen may seek any other remedy available at law or equity in addition to or instead of any remedy provided for in this agreement.

Goshen shall have the right to correct any defect in the Work, and Goshen shall have the right to stabilize the Site in accordance with the Goshen City Construction Site Stormwater Runoff Control Ordinance. The Surety and/or Permittee shall pay all of Goshen's costs and expenses incurred in taking such actions including, but not limited to engineering, legal and other costs, together with any damages either direct or consequential which Goshen may sustain on account of Permittee's failure to fulfill Permittee's obligations under this agreement.

SUBCONTRACTING OR ASSIGNMENT OF CONTRACT

Permittee shall not subcontract or assign any right or interest under the agreement without having prior written approval from the Goshen Board of Public Works and Safety and Stormwater Board, provided, however, that Permittee shall be permitted to independently engage any contractors, subcontractors, or laborers to perform the Work, and such engagement shall not be considered to be an impermissible subcontracting or assignment by Permittee of any right or interest under this agreement. Except as provided herein, any attempt by Permittee to subcontract or assign any portion of the agreement shall not be construed to relieve Permittee from any responsibility to fulfill Permittee's obligations.

AMENDMENTS

Any modification or amendment to the terms and conditions of the agreement shall not be binding unless made in writing and signed by both parties and such modification is approved by the Goshen Board of Public Works and Safety and Stormwater Board. Any verbal representations or modifications concerning the agreement shall be of no force and effect.

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.

NOTICES

All written notices, properly addressed and sent by U.S. mail or delivered personally to the address provided below shall constitute sufficient notice whenever written notice is required for any purpose in this

agreement. Notice will be considered given five (5) days after the notice is deposited in the U.S. mail or when received at the appropriate address.

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

Address for Permittee: North Meadow of Goshen, LLC
Darryl Riegsecker, Registered Agent
704 Reliance Road
PO Box 525
Goshen, IN 46527

APPLICABLE LAWS

Permittee agrees to comply with all applicable federal, state, and local laws, rules, regulations, or ordinances.

In addition, all provisions required by law to be inserted into this agreement shall be deemed to be inserted whether they are actually included or not. Any provision of this agreement or incorporated documents, if any, 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 this agreement and applicable laws, rules, regulations or ordinances, the most stringent or legally binding requirement shall govern.

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

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

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.

BINDING EFFECT

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

ENTIRE AGREEMENT

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

AUTHORITY TO EXECUTE

The undersigned affirm that all steps have been taken to permit them to execute this agreement, and upon their 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
and Stormwater Board

North Meadow of Goshen, LLC

Jeremy P. Stutsman, Mayor

Date: March 2, 2020

By: _____

Printed: _____

Title: _____

Date: _____



CITY OF GOSHEN LEGAL DEPARTMENT

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

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

March 2, 2020

To: Board of Public Works and Safety
From: Shannon Marks, Legal Compliance Administrator
Subject: Resolution 2020-08

Attached to Resolution 2020-08 is an Interlocal Agreement with the County of Elkhart for animal control services. The County has negotiated a contract with The Humane Society of Elkhart County, Inc. to provide animal shelter management and animal control services for 2020 for certain areas of the county, including the City of Goshen. Under this agreement, the City would contribute \$77,644 to reimburse the County for to cost to provide animal control services within the Goshen city limits.

It is recommended that the Board of Public Works and Safety make a motion to approve the terms and conditions of the interlocal agreement with the County for animal control services, and authorize the Mayor and Clerk-Treasurer to execute.

RESOLUTION 2020-08

Interlocal Agreement with Elkhart County for Animal Control Services

WHEREAS Elkhart County has negotiated a contract with The Humane Society of Elkhart County, Inc. to provide animal shelter management and animal control services for 2020 for certain areas of Elkhart County, including within the corporate boundaries of the City of Goshen.

WHEREAS the City of Goshen agrees to contribute \$77,644 to reimburse Elkhart County for the cost of providing animal shelter management and animal control services within the City of Goshen.

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

NOW, THEREFORE, BE IT RESOLVED that the Goshen Board of Public Works and Safety approves the terms and conditions of the Interlocal Agreement with Elkhart County for animal control services attached to and made a part of this resolution.

BE IT FURTHER RESOLVED that the Mayor and Clerk-Treasurer are authorized to execute the Interlocal Agreement on behalf of the Goshen Board of Public Works and Safety and City of Goshen.

PASSED and ADOPTED by the Goshen Board of Public Works and Safety on March 2, 2020.

Jeremy P. Stutsman, Mayor

Michael A. Landis, Member

Mary Nichols, Member

**INTERLOCAL AGREEMENT BETWEEN ELKHART COUNTY, INDIANA
AND CITY OF GOSHEN, INDIANA FOR ANIMAL
CONTROL SERVICES**

This Agreement is made and entered into this _____ day of _____, 2020, by and between the COUNTY OF ELKHART, INDIANA (hereinafter referred to as the "County"), and the CITY OF GOSHEN, INDIANA (hereinafter referred to as "Municipality"),

WITNESSETH:

WHEREAS County has negotiated with The Humane Society of Elkhart County, Inc. for animal shelter management and animal control services for 2020;

WHEREAS the Contract for Animal Shelter Management and Animal Control Services for 2020 includes the unincorporated areas of Elkhart County and may include the areas within the corporate limits of the Municipality;

WHEREAS the Contract for Animal Shelter Management and Animal Control Services for 2020 has been entered into by County in the form which is attached to as Exhibit A;

WHEREAS the County and Municipality desire to enter into this Agreement in order to provide for the Services within the Municipality and to facilitate the reimbursement to the County by the Municipality for the cost of providing the Services within the Municipality for calendar year 2020;

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

1. Definition of Services. For purposes of this Agreement, the term "Services" shall refer to the animal shelter management and animal control services to be furnished by The Humane Society of Elkhart County, Inc. to the Municipality pursuant to the Contract attached hereto as Exhibit A.

2. Administration. The County shall serve as the lead agency for the Services and assumes and agrees to be responsible for the overall administration of the Services to include, but not be limited to, the following:

a. Contracting with The Humane Society of Elkhart County, Inc. as required by and in compliance with the applicable statutes governing the County and contracts for public services;

b. Administering the contract with The Humane Society of Elkhart County, Inc.;

c. Maintaining the documents, contracts, notices, and other records in connection with the Services, including the financial records and providing a financial summary to the Municipality for all funds expended and received in connection with the Services; and

d. Providing such other general administrative services as are necessary to complete the Services.

3. Municipality Participation.

Municipality shall be responsible for reimbursing and contributing to County the sum of Seventy Seven Thousand Six Hundred Forty Four Dollars (\$77,644.00) for the Services which shall be paid in two (2) installments of Thirty eight Thousand Eight hundred twenty two Dollars (\$38,822.00) each with the first installment becoming due and payable in or before April 1st 2020 and with the second installment being payable on or before August 1st 2020. The Municipality contribution, or changes in amounts thereto, for calendar year 2020 are subject to budget approvals and appropriations by the Municipality.

4. Filing Requirements. Within thirty (30) days after the approval and execution of this Agreement, the County shall have this Agreement recorded and filed with the appropriate governmental offices and agencies as required by Indiana Code.

5. Supplemental Documents. The Municipality and County agree to execute any and all supplementary documents and to take any and all supplementary steps as are reasonable and appropriate to accomplish the purposes and provisions of this Agreement.

6. Non-Discrimination. Pursuant to Indiana Code § 22-9-1-10, neither the County nor any of its contractors or subcontractors shall discriminate against any employee or applicant for employment, to be employed in the performance of any work under this Agreement with respect to hire, tenure, terms or conditions or privileges of employment, or any matter directly or indirectly related to employment because of race, color, religion, sex, disability, national origin, ancestry or veteran status. Breach of this covenant may be regarded as a material breach of this Agreement.

7. Miscellaneous.

a. Amendment. This Agreement, and any exhibits attached hereto, may be amended only by the mutual written consent of the parties, by the adoption of a resolution approving said amendment as provided by law, and by the execution of said amendment by the parties.

b. No Other Agreement. Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations, and discussions relative to the subject matter hereof and is a full integration of the agreement of the parties.

c. Severability. If any provision, covenant, agreement or portion of this Agreement or its application to any person, entity or property is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants, agreements, or portions of this Agreement, and to that end, any provisions, covenants, agreements or portions of this Agreement are declared to be severable.

d. Indiana Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana.

e. Notice. Any notices required or permitted under this Agreement shall be given to the parties at their respective mailing addresses provided below by deposit in the United State mail, certified mail, return receipt requested, with proper postage affixed thereto, and which notices shall be effective three (3) days after date of mailing:

County: Board of Commissioners of the County of Elkhart, Indiana
Elkhart County Administration Building
117 North Second Street
Goshen, IN 46526

Municipality: City of Goshen
C/O Goshen Legal Department
204 East Jefferson Street, Suite 2
Goshen, IN 46528

With copies to: Craig Buche, Elkhart County Attorney
Yoder, Ainlay, Ulmer & Buckingham, LLP
P.O. Box 575
130 North Main Street
Goshen, IN 46527

And _____

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

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

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

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

BOARD OF COMMISSIONERS OF THE
COUNTY OF ELKHART, INDIANA

By _____
Mike Yoder, President

By _____
Frank Lucchese, Vice-President

By _____
Suzanne Weirick, Member

ATTEST:

Patricia A. Pickens, Elkhart County Auditor

CITY OF GOSHEN, INDIANA

By: _____
Jeremy P. Stutsman, Mayor

ATTEST:

By: _____
Adam C. Scharf, Clerk-Treasurer

STATE OF INDIANA,)
) SS:
COUNTY OF ELKHART)

Before me, a Notary Public in and for said County and State, this ____ day of _____, 2020, personally appeared the Board of Commissioners of Elkhart County, Indiana and Patricia A. Pickens, Elkhart County Auditor, and acknowledged that as said Commissioners and Auditor, they respectively executed the foregoing Interlocal Agreement for and on behalf of, and in the name of Elkhart County, for the uses and purposed therein mentioned, and that they were authorized so to do.

WITNESS my hand and notarial seal.

Notary Public
Resident of Elkhart County, IN

My Commission Expires:

STATE OF INDIANA)
) SS:
COUNTY OF ELKAHRT)

Before me, a Notary Public in and for said County and State, this ____ day of _____, 2020, personally appeared Jeremy P. Stutsman, Mayor and Adam C. Scharf, Clerk-Treasurer, and acknowledged that as said representatives, they respectively executed the foregoing Inerlocal Agreement for and on behalf of, and in the name of the City of Goshen, Indiana, for the uses and purposed therein mentioned, and that they were authorized so to do.

WITNESS my hand and notarial seal.

Notary Public
Resident of Elkhart County, IN

My Commission Expires:

APPROVAL

The Elkhart County Council hereby approves of the above and foregoing Interlocal Agreement this _____ day of _____, 2020.

ELKHART COUNTY COUNCIL

By _____
John K. Letherman, President

ATTEST:

Patricia A. Pickens, Elkhart County Auditor

APPROVAL

The City of Goshen Common Council hereby approves of the above and foregoing Interlocal Agreement this _____ day of _____, 2020.

CITY OF GOSHEN COMMON COUNCIL

By _____
Jeremy P. Stutsman, Presiding Officer

ATTEST:

Adam C. Scharf, Clerk-Treasurer

EXHIBIT A

CONTRACT FOR ANIMAL SHELTER MANAGEMENT AND ANIMAL CONTROL SERVICES

This contract made effective this 1st day of January, 2020 by and between the County of Elkhart, State of Indiana, hereinafter called the "County" and The Humane Society of Elkhart County, Inc., 54687 County Road 19, Bristol, Indiana, 46507, or its successors, executors, administrators and assignees, hereinafter called the "Contractor";

WITNESSETH:

WHEREAS, the Contractor is a not-for-profit corporation organized for the purpose of caring for and sheltering animals within Elkhart County, Indiana and has the personnel, facilities and equipment to aid the County with these services;

WHEREAS, the County desires to contract with the Contractor for animal control and shelter service, and the Contractor desires to provide the County with such services;

NOW, THEREFORE, in consideration of the premises and payments set forth in Section IV below, and the mutual promises herein, the parties agree as follows:

I. CONTRACT DOCUMENTS

The parties hereby agree to the following contract requirements. Where there is a conflict between the requirements of State and County law and the requirements set forth below, the requirements of State and County law shall take precedence and govern.

II. CONTRACTOR WORK REQUIREMENT

It is agreed that the service to be performed under this Contract is to provide animal shelter management services and animal control services in accordance with the terms, conditions and specifications contained or referenced herein.

The Contractor agrees that all animal shelter management services and animal control performed for the County shall be performed in full compliance with the applicable Federal, State and County laws, regulations and guidelines for such services.

The Contractor agrees that it shall provide the following animal shelter management services and animal control services:

A. Operation of the Animal Shelter

1. The Contractor shall operate and maintain the Animal Shelter located at 54687 County Road 19, Bristol, Indiana 46507 (the "Shelter").

2. The Contractor shall abide by all laws of the State of Indiana and all local ordinances designed to prevent cruelty to animals, and to enforce those laws and ordinances where it has the lawful authority to do so. The Contractor shall be entitled to rely in good faith upon the opinion of legal counsel as to whether it has such lawful authority.
3. Subject to paragraph IV (B) below but excluding the incorporated areas of the City of Nappanee and the Town of Millersburg, the Contractor shall lawfully pick up, capture, impound, accept, care for, board, maintain and dispose of animals within the incorporated and unincorporated areas of Elkhart County, Indiana in the following instances: 1) the Contractor shall, during its regular business hours on Mondays through Fridays, pick up all observed or reported stray, confined, domestic animals; and 2) the Contractor shall, during other hours, pick up all observed or reported stray, confined, domestic animals where an animal is observed or reported as sick or injured, or where the animal is observed or reported to have bitten a human.
4. At a minimum, the Contractor shall operate the Shelter and keep the Shelter open to the public from 9 a.m. through 4 p.m. Monday through Saturday, except for Federal, State and County holidays when the Shelter may be closed to the public.
5. The Contractor shall provide an adequately trained animal technician staff of sufficient size to provide all the services required under this Contract.
6. The Contractor shall provide adequate food, water, shelter, space, care, treatment and transportation to all animals housed at the Shelter.
7. The Contractor shall provide a system to monitor medical and other information on each sheltered animal.
8. The Contractor shall be responsible for publicizing the hours of operation and the services of the Shelter.

B. Impoundment of Animals

1. The Contractor shall be responsible for enforcement of the quarantine for a 10 day period of any stray domestic animal which has bitten or is suspected to have bitten a person or as directed by the Elkhart County Health Department or County officials.
2. The Contractor shall be responsible for the humane euthanasia of any animal using methods approved by the State Veterinarian, if euthanasia is

required for reasons of public safety or welfare. The County acknowledges that nothing in this Contract shall be deemed to preclude the euthanasia of any animal by the Humane Society of Elkhart County, Inc. In the event the Humane Society of Elkhart County, Inc. performs euthanasia of any animal for reasons other than public safety or welfare, or other than in satisfaction of the County's legal obligations, if any, the Humane Society of Elkhart County, Inc., shall be responsible for, shall defend against and shall indemnify and hold the County harmless against any and all suits, claims, demands, losses or actions made against the County based upon, arising from, or incident to the performance of such euthanasia.

3. The Contractor shall not be responsible for the collection and disposal of the carcasses of dead animals.
4. The Contractor shall maintain all necessary records and reports of animals impounded at the Shelter.
5. The Contractor shall, upon request, furnish law enforcement agencies of Elkhart County and the Elkhart County Health Department all information in its possession about animals which have been impounded due to cruelty, neglect, bite cases or contagious diseases and shall cooperate with the said officials in the enforcement of laws prohibiting animal cruelty and supporting public safety.
6. Whenever the ownership of an impounded animal is ascertained, the Contractor shall make a reasonable effort to notify the owner of the animal's impoundment within the next business day after the animal is initially confined.
7. The Contractor shall collect, secure and deposit all fees, fines and costs due, including the cost of providing veterinary care for an animal, from owners of impounded animals in accordance with applicable laws. County shall not be responsible for such obligations.

C. Animal Control Officers

1. The Contractor shall employ individuals to enforce the provisions of, and to perform as animal control officers ("Animal Control Officers").
2. The Contractor shall be responsible for all continuing education training of Animal Control Officers to assure their continued compliance with State and local educational and training requirements.

D. Public Service Programs

In consideration of the award of this contract to the Contractor, the Contractor shall provide at its sole cost and expense, the following services:

1. A volunteer program to encourage support for the Contractor and its operations of the Shelter; provided that all volunteers shall execute, as a condition of their participation, a waiver of liability, in form and content acceptable to the Contractor;
2. Events designed to promote animal adoptions and to educate the public about animal welfare; and
3. The adoption program shall be conducted to ensure humane, permanent homes for animals. The Contractor must maintain a documented adoption procedure and maintain complete records of all adoption attempts and placements.

E. Cost of Operation, Expenses of Contractor and Expenses of County

1. The Contractor shall maintain at all times adequate supplies for the performance of its obligations under this Contract, including without limitation, the lawful duties of the Animal Control Officers.
2. All donations of any kind, made to the Humane Society of Elkhart County, Inc., will be considered the sole property of the Contractor, and if received by the County will be promptly forwarded to the Contractor.

F. Meetings and Other Requirements

The County shall appoint an individual to serve as liaison with the Contractor for the purpose of reviewing any matters relative to this Contract. To ensure adequate communication and coordination among all County agencies, the Contractor shall direct all notices required or permitted under this Contract through the contract administrator. In the case of an event requiring notification of County agencies other than the Sheriff Department, the Contractor shall inform the contract administrator or designee in a timely manner.

III. PERIOD OF CONTRACT PERFORMANCE

The term of this Contract is from January 1, 2020 through December 31, 2020. County may renew this Contract for calendar years 2021 and 2022 subject to the mutual agreement with the Contractor as to the Contract costs for said years.

IV. CONTRACT COSTS

- A. The Contractor at its own proper cost and expense shall do all the work necessary to carry out its obligations set forth in this Contract to the full extent as set forth herein and to the satisfaction of the County.

- B. For calendar year 2020, County shall pay the total sum of Two Hundred Thousand Dollars [\$200,000.00] to Contractor to perform all services under this Contract in accordance with the terms, conditions, and specifications contained or referenced herein with respect to the unincorporated areas in Elkhart County, Indiana. Said amount shall be payable by County to Contractor as follows: County shall pay One Hundred Ten Thousand Dollars (\$110,000.00) to Contractor on or before February 15, 2020, the balance of Ninety Thousand Dollars [\$90,000.00] shall be payable by County to Contractor in three (3) quarterly installments of Thirty Thousand Dollars [\$30,000.00] on April 1, 2020, July 1, 2020 and October 1, 2020. In consideration of the advancement of the One Hundred Ten Thousand Dollars (\$110,000.00) on or before February 15, 2020, Contractor agrees to provide all of the services to be performed under this Contract in accordance with the terms, conditions, and specifications contained or referenced herein both in the incorporated and unincorporated areas of Elkhart County, Indiana, but excluding the incorporated areas of the City of Nappanee and the Town of Millersburg.

After March 31, 2020, Contractor shall not be required to provide the services to be performed under this Contract in the incorporated areas of Elkhart County, Indiana unless County agrees to pay an additional amount for any or all of the following incorporated areas respectively:

<u>Municipality</u>	<u>Amount</u>
City of Elkhart	\$126,500
City of Goshen	\$77,644
Town of Middlebury	\$5,400.
Town of Wakarusa	\$6,000
Town of Bristol	\$4,000.

County intends to seek Interlocal Agreements with each of these listed municipalities to cover the additional costs specified above for each municipality. If such Interlocal Agreements are entered, County shall give written notice to Contractor on or before March 31, 2020 of which incorporated areas are to be covered by the services to be performed under this Contract by Contractor after March 31, 2020. County's notice may provide by its election to have Contractor

provide the services under this Contract in any or all of the municipalities listed above. For each municipality to be provided the services under this Contract after March 31, 2020, County shall pay to Contractor the additional amount specified above for that municipality which amounts shall be payable in three (3) quarterly installments paid on April 1, 2020, July 1, 2020 and October 1, 2020. Should any of the municipalities increase or decrease the amounts specified above the County will adjust the quarterly obligation to reflect the increase or decrease in funding from the municipalities in 2020.

- C. The parties reserve the right to negotiate mutually agreed rates for other future specified services. If the Contractor reasonably believes that any work it is requested to perform under this Contract is not, or may not be, within the scope of the Contract, or represents, or may represent a material change in the Contract, the Contractor shall immediately notify the Contract Administrator that the work is beyond the scope of the Contract or represents a material change in the Contract, and if the County desires the work to be undertaken, then the Contractor shall be fully compensated for performing the work; provided that a written change order to this Contract must have been made pursuant to Section V, B prior to the work being performed in order for such additional compensation to be paid to the Contractor.

V. PERSONNEL AUTHORIZED TO REPRESENT THE PARTIES

A. Authorized Contract Administrators

1. Contract Administrator for the County shall be:

T. Jeffery Taylor
Elkhart County Administrator
117 N. Second Street
Goshen, IN 46528-3298
574-534-3541 FAX 574-535-6747

2. Contract Administrator for the Contractor shall be:

Director
Humane Society of Elkhart County, Inc.
54687 County Road 19
Bristol, IN 46507
574-848-4225 FAX 574-848-5453

B. Contracting Officer

County and Contractor's Administrator must authorize changes made to this Contract throughout the Contract period in writing.

VI. STATE LAW CERTIFICATION PROVISIONS

- A. Pursuant to Indiana Code §22-9-1-10, Contractor and its subcontractors, if any, shall not discriminate against any employee or applicant for employment to be employed in the performance of this Contract with respect to hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment because of race, color, religion, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Contract.
- B. Contractor certifies that, except for de minimis and non-systematic violations, it has not violated the terms of I.C. 24-4.7, I.C. 24-5-12, or I.C. 24-5-14 in the previous three hundred sixty-five (365) days, even if I.C. 24-4.7 is preempted by federal law and that Contractor will not violate the terms of I.C. 24-4.7 for the duration of this Contract, even if I.C. 24-4.7 is preempted by federal law. Contractor further certifies that any affiliate or principal of Contractor and any agent acting on behalf of Contractor or on behalf of any affiliate or principal of Contractor, except for de minimis and non-systematic violations, has not violated the terms of I.C. 24-4.7, in the previous three hundred sixty-five (365) days, even if I.C. 24-4.7 is preempted by federal law, and will not violate the terms of I.C. 24-4.7 for the duration of this Contract, even if I.C. 24-4.7 is preempted by federal law.
- C. Investment Activity. Pursuant to Indiana Code §5-22-16.5, Contractor certifies that Contractor is not engaged in investment activities in Iran.
- D. E-Verify Program. Pursuant to Indiana code §22-5-1.7-11 Contractor agrees to and shall enroll in and verify the work eligibility status of all newly hired employees of the Contractor after the date of the Agreement through the E-Verify Program as defined in Indiana Code §22-5-1.7-3; provided, however, Contractor is not required to verify the work eligibility status of all newly hired employees after the date of this Agreement through the E-Verify Program if the E-Verify Program no longer exists. Contractor further represents and certifies subject to pain and penalties of perjury that it does not knowingly employ an unauthorized alien.

VII. TAX REQUIREMENTS

By executing this Contract, the Contractor agrees to comply with the laws, regulations, and rulings of the United States Internal Revenue Service related to the requirements for filing information statements, including IRS Form 1099.

VIII. DEFAULT

- A. Upon Contractor's failure to cure a default (i.e., non-performance or violation of contract terms) within fifteen (15) days of written notice of such default from the County to the Contractor (provided, if such default cannot be cured within such 15 day period, and the Contractor commences the cure within such 15 day period, the cure period shall be extended to 30 days after the initial written notice of such default), this Contract may be canceled or annulled by the County or its designee in whole or in part by written notice of default to the Contractor. Upon default, an award may be made to another contractor and the Contractor shall be liable to the County for costs incurred in excess of the costs provided for in this Contract.
- B. Rights, obligations, or liabilities of both parties, which arise prior to the suspension or termination of this Contract shall survive the suspension or termination of this Contract.

IX. ASSIGNMENT

Contractor shall not assign, transfer, convey or otherwise dispose of any or all of its right, title or interest in this Contract, without the prior written consent of County.

X. GOVERNING LAW

This Contract shall be governed in all respects by the laws of the State of Indiana and the County of Elkhart.

XI. INDEMNIFICATION, LIMITATION OF LIABILITY AND NOTICE

- A. Contractor shall be responsible for, shall defend against, and shall indemnify and hold the County harmless from any and all suits, claims, demands, losses or actions made against the County based upon, arising from, or incident to the provision of services by the Contractor under this Contract. This indemnification does not include indemnification for claims based upon the alleged unconstitutionality or invalidity of any provision of the state or county codes pursuant to which the Contractor acts or an alleged invalidity of the delegation, if any, to the Contractor under this Contract or the authority to enforce the state and county animal control laws and animal cruelty laws.
- B. The County shall notify the Contractor of any suit, claim, demand, loss or action made or files against the County within ten days after the County's receipt or learning of it.

XII. WARRANTIES

Each party to this Contract warrants the following:

- A. This Contract constitutes a valid, binding and enforceable agreement of the party;
- B. The execution of this Contract and the performance of its obligations are within the party's powers; have been authorized by all necessary action on behalf of the party; do not constitute a breach by the party of any agreement with another party; and will not cause a breach by the party of any duty arising at law or in equity; and
- C. The party possesses the financial capacity to perform all of its obligations under this Contract.

The parties agree that the failure of any of the above representations and warranties to be true during the term of this Contract shall constitute a material breach of this Contract, and the non-breaching party shall have the right, upon notice to the breaching party, to immediately terminate this Contract. All amounts outstanding hereunder shall be immediately due and payable. Court costs and other costs and expenses, including reasonable attorney's fees incurred in the collection of any amounts due hereunder, may also be recovered by the non-breaching party.

XIII. SEVERABILITY

Should any provision of this Contract be declared invalid for any reason, such decision shall not affect the validity of any provisions, which other provisions shall remain in force and effect as if this Contract had been executed with the invalid provision(s) eliminated, and it is hereby declared the intention of the parties that they would have executed the other provisions of this Contract without including therein such provision(s) which may for any reason be hereafter declared invalid.

XIV. NON-WAIVER

The failure of the Contractor or the County to exercise any right, power or option arising under this Contract, or to insist upon strict compliance with the terms of this Contract, shall not constitute a waiver of the terms and conditions of this Contract with respect to any other or subsequent breach thereof, nor a waiver by Contractor or the County of their rights at any time thereafter to require exact and strict compliance with all the terms hereof

XV. SURVIVABILITY OF PAYMENT OBLIGATIONS, RIGHTS AND REMEDIES

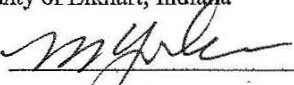
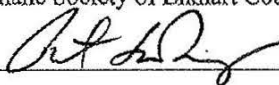
Provided the Contractor has not defaulted in the performance of its obligations under this Contract, the obligation of the County to make payments as herein set forth shall continue until fully performed. Any rights and remedies the County or Contractor may have with respect to each other arising out of either party's performance of services or obligations hereunder shall survive the expiration or termination of this Contract.

XVI. RELATION TO COUNTY

In performing services under this Contract, the Contractor shall be an independent contractor for the County, and neither the Contractor nor its employees, shall under any circumstances be considered employees, servants or agents of the County. The County shall not be legally responsible for any negligence or other wrongdoing by the Contractor, its employees, servants or agents while performing under this Contract.

XVII. SIGNATORIES

Please type or print the following information, with the exception of the signature.

COUNTY	CONTRACTOR
County of Elkhart, Indiana	The Humane Society of Elkhart County, Inc.
By: <u></u>	By: <u></u>
Printed: <u>MIKE YODER</u>	Printed: <u>ROBERT LARROY</u>
Title: President	Title: <u>EXECUTIVE DIRECTOR</u>
Date: <u>1/6/2020</u>	Date: <u>1/2/2020</u>



**Building Department
CITY OF GOSHEN**

204 East Jefferson Street, Suite 5 • Goshen, IN 46528-3405

Phone (574) 534-1811 • Fax (574) 533-8626 • TDD (574) 534-3185
building@goshencity.com • www.goshenindiana.org

March 2, 2020

TO: The Board of Public Works & Safety
Storm Water Board

RE: HVAC LICENSE REQUEST

Joseph Kendall has met the requirements for a City of Goshen HVAC license. He received a score of 82% on the Prometric Master Unlimited Exam taken on January 25, 2020.

Motion requested to approve a HVAC License for Joseph Kendall for the City of Goshen.

Sincerely,

A handwritten signature in cursive script that reads "Myron Grise".

Myron Grise
Assistant Building Commissioner

MG/jn



BUILDING DEPARTMENT

February 13, 2020

City of Goshen
Building & Code Enforcement
204 E. Jefferson St Suite 5
Goshen, IN, 46528

RE: Joseph Kendall

To Whom It May Concern:

This letter is to inform you that Joseph Kendall took the Prometric Master Unlimited Air Conditioning Exam on January 25, 2020 in Indianapolis, Indiana and received a passing score of eighty-two (82%) percent.

Mr. Kendall is currently licensed with this department and his license #6168-21 expires on January 30th, 2021.

If you have any questions regarding this matter, please do not hesitate to contact this office.

Sincerely,

Michael L. Wirt II
HVAC Inspector