



Board of Public Works & Safety and Stormwater Board

Regular Meeting Agenda

2:00 p.m. Aug. 3, 2020

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

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

Call to Order by Mayor Jeremy Stutsman

Approval of Minutes – *Clerk's Note: Our office has a workplan in place intended to have 2019-20 minutes & digital archival current in Sept.*

Changes to Agenda

NEW BUSINESS

- (1) Monroe St. Bridge Closure
(Sailor)

- (2) Parking Lot D (South of City Hall) Use Request for Electric Vehicle Ride & Drive Event, Fri. Oct. 2
(Sawatsky-Kingsley)

- (3) Parking Lot (Washington St./Water St.) Use Request for Outdoor Concert, Sun. Sept 6
(Jesse Sensenig)



- (4) Variance Request: Parking & Driveway Surfaces – 2307 Bashor Rd.
(Norm Weaver)
- (5) Agreement: Lacy Construction Group Inc. d/b/a The New Deal to Seal Deck at City Hall
(Windsor)
- (6) Contract: Progressive Architecture Engineering for Lincoln Corridor Traffic Study
(Sailor)
- (7) Participation Agreement: Central States, Southeast and Southwest Areas Health and Welfare Fund for Employee Health Insurance
(Marks)
- (8) Agreement: Goshen Theater for Financial Assistance
- (9) Agreement: Economic Development Corp. of Elkhart County for Financial Assistance

PRIVILEGE OF FLOOR

APPROVAL OF CLAIMS

Adjournment



**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: **MONROE STREET BRIDGE CLOSURE**

DATE: August 3, 2020

Elkhart County Highway seeks permission to close the bridge carrying Monroe Street over Rock Run Creek for maintenance, which will consist of sealing the concrete bridge deck. The work will take place on Monday, August 10, 2020, and is expected to be completed in one day. Traffic will be diverted at Logan Street and Blackport Drive, with advance warning at the US 33/Monroe Street intersection.

Requested Motion: Permit Elkhart County Highway to close Monroe Street at the bridge over Rock Run Creek on August 10, 2020, for maintenance.

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

Jeremy Stutsman, Mayor

Mary Nichols, Member

Michael Landis, Member

Parking Lot Reservation Request – City of Goshen Board of Works

Submitted by: Department of Environmental Resilience

Contact: Aaron Sawatsky-Kingsley

Phone: (574) 238-0719

Email: aaronkingsley@goshencity.com

Location: Parking lot D, south of City Hall

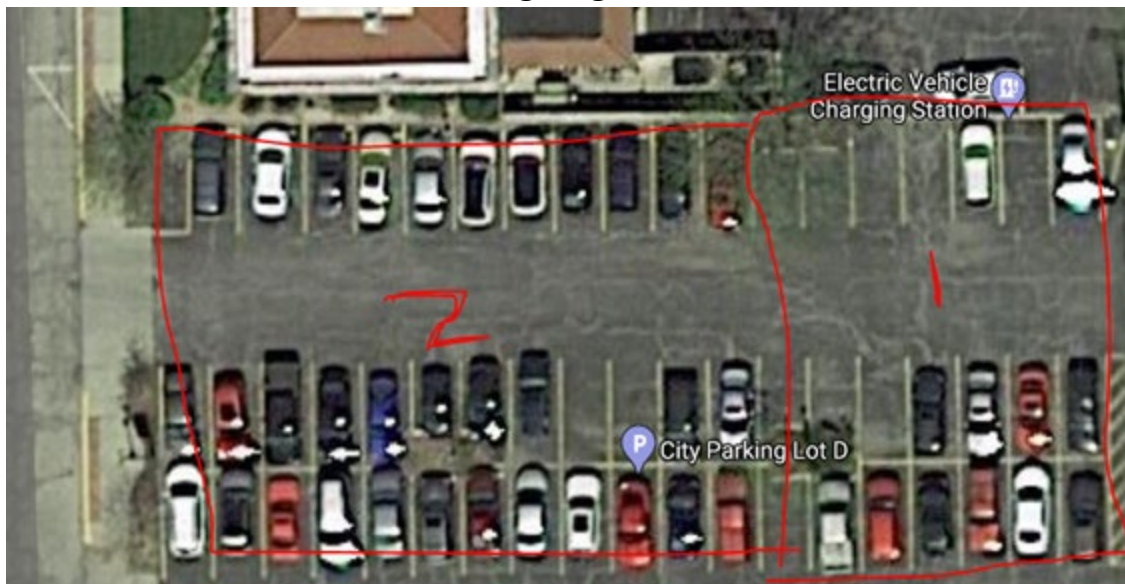
Date/Time: Friday, October 2, from 5-8pm

Parking Restriction: To facilitate set-up for Friday evening, request that parking in area 1 be reserved beginning Friday morning at 7 am, and parking in area 2 reserved on Friday at 5 pm with traffic cones or temporary barriers.

Description of event: The Electric Vehicle Ride & Drive event, part of [National Drive Electric Week](#), will educate the public about the benefits of electric vehicles and provide an opportunity to test drive or ride as a passenger in currently available plug-in hybrid and all-electric vehicles. Local electric vehicle owners will be welcomed to display their vehicles and speak with the public about their experience. Local and regional dealers will provide vehicles for test drives and will manage the driver's license requirement and liability through their own waivers. The event will be subject to review and cancellation depending on Covid-19 conditions.

Event Partners: The event will also be staffed by MACOG and South Shore Clean Cities, a Department of Energy Clean Cities program whose goal is to reduce dependence on petroleum in the transportation sector. MACOG will partner with the City of Goshen, local businesses, and organizations to promote the event.

Parking Diagram





City Clerk-Treasurer

CITY OF GOSHEN

202 South Fifth Street, Suite 2 • Goshen, IN 46528-3714

Phone (574) 533-8625 • Fax (574) 533-9740

clerktreasurer@goshencity.com • www.goshenindiana.org

2 August 2020

To: Board of Public Works & Safety

From: Adam Scharf

Re: Goshen Brewing Co. Request for Use of Washington/Water St. Parking Lot for
Outdoor Concert, Sept. 6

Jesse Sensenig, owner of Goshen Brewing Co. submitted the following request:

We are hoping to have a socially distanced outdoor concert on Sunday Sept. 6 from 5-11pm. We will need 2/3 of the parking lot beginning Saturday morning at 6am-midnight. We will leave the far west area open so cars can still go through if needed. I have reached out to Interra and since they are not open on Sunday I don't believe they will have a problem with this. I will also talk with Snyder's.

It will be fenced in and we will use our own power supply.



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2 August 2020

To: Board of Public Works & Safety

From: Adam Scharf

Re: Request for Variance from Design Standards & Specifications for Parking & Driveway Surfaces – 2307 Bashor Rd

Norm Weaver of 2307 Bashor Road submits a variance request for an already-installed crushed concrete parking area approximately 12' x 60' adjacent to the west side of his residential driveway (see attached diagram submitted by Mr. Weaver).

Mr. Weaver reports installing the material the weekend of July 4.

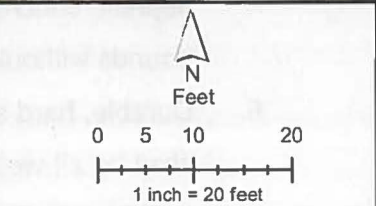
Engineering Dept. inspectors noticed the installation and informed Mr. Weaver of the issue. Planning Dept. was subsequently involved in the discussion with Mr. Weaver, as setback requirements are at issue in addition to the material used. (See correspondence from Planning Dept. included in packet.)

Staff advised Mr. Weaver to seek Board of Works variance prior to zoning variance, though variances from both BOW and BZA would ultimately be required for the current installation.

Mr. Weaver informed Clerk that he intends to be present for the Aug. 3 hearing.



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.



2307 Bashor Road

2019 Aerial

The City of Goshen
 Department of
 Planning & Zoning
 204 East Jefferson Street, Goshen, Indiana 46528
 Phone: 574-534-3600 Fax: 574-533-8626



Rossa Deegan, Planning Department
City of Goshen

204 E Jefferson St, Suite 4 • Goshen, Indiana 46528

Phone: 574-534-3505 • Fax: 574-533-8626

planning@goshencity.com • www.goshenindiana.org/planning-zoning

July 10, 2020

Norman Weaver
2307 Bashor Road
Goshen, IN 46526

RE: 2307 Bashor Road, Driveway Expansion

Dear Mr. Weaver,

Thank you for contacting the Planning office with your inquiry about adding an additional parking space to the west side of your driveway at 2307 Bashor Road, zoned Residential R-1.

The Planning office reviews all driveway expansions with a zoning clearance (enclosed) and dimensioned site layout. I have included an aerial of your property you may use to show your proposed expansion, and this should include setbacks.

There is a minimum 5' side yard setback, and it appears you will likely meet that with an additional parking space. However, there is a minimum 50' platted front yard setback from the front property line, and it does not appear that you can meet that setback (see the second attached aerial showing approximate 50' front setback). In order to be allowed relief from the front setback requirement, you will need approval of a developmental variance from the Board of Zoning Appeals (BZA). I have enclosed the BZA informational packet; this includes hearing dates and filing deadlines, fees, a list of required documents for your application, and a cover page.

You also mentioned that you are proposing to pave the space with gravel; however, it needs to be paved in hard surface such as concrete or asphalt. I have enclosed the design standards for driveways as established by the Board of Public Works. You may apply to the Board of Works for relief from these standards, although there does not appear to be any justification for granting relief from the hard surface requirement. Contact the City Switchboard at 574-533-8621 for more information on applying to Board of Works.

Sincerely,

A handwritten signature in black ink that reads "Rossa Deegan".

Rossa Deegan
Assistant Zoning Administrator

Enclosures: Zoning clearance; 2019 Aerial; 2019 Aerial with 50' platted setback; BZA information packet; Design Standards and Specifications for Parking and Driveway Surfaces

CC: Andrew Lund, Goshen Engineering

July 24, 2020

Mr. Weaver,

I received a copy of the zoning clearance only. I still need a sketch of what you are doing, so I have included the letter again. Please read it carefully.

If it is easier to speak in person, you may visit our office building. We are open weekdays 9am-4:30pm.

Sincerely,

Rorra Deen

DESIGN STANDARDS AND SPECIFICATIONS FOR PARKING AND DRIVEWAY SURFACES

WHEREAS the City of Goshen intends to require all new or expanded parking areas, driving aisles and driveways in residential, commercial and industrial areas to be constructed of durable, hard surfaces; and

WHEREAS the standards established below shall be part of the Board of Public Works and Safety Design Standards and Specifications which are included as an appendix to the Goshen City Code.

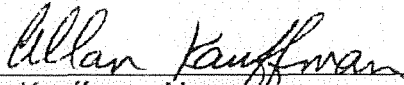
NOW, THEREFORE, BE IT RESOLVED by the Goshen Board of Public Works and Safety that:

1. All new or expanded parking areas, driving aisles and driveways serving residential, commercial and industrial real estate within the developmental jurisdictional limits of the City of Goshen shall be constructed with a durable, hard surface.
2. If a commercial or industrial parking area is expanded by fifty percent (50%) or more, whether such increase occurs at one time or in successive stages, all existing parking areas, driving aisles and driveways must be improved to a durable, hard surface in addition to the new construction. Any residential driveway or parking improvements which increase the overall area of a driveway and/or parking outside the City's right-of-way must be improved to a durable, hard surface.
3. If a commercial or industrial primary building is expanded by more than thirty-three percent (33%), whether such increase occurs at one time or in successive stages, all proposed and existing parking areas, driving aisles and driveways serving the building must be improved to a durable, hard surface. If any residential building, including a garage, is expanded by more than thirty-three percent (33%), all proposed and existing parking areas, driving aisles and driveways must be improved to a durable, hard surface.
4. Areas used for outside storage or inventory storage in commercial or industrial zoned areas are not considered parking areas for the purpose of these standards and specifications.
5. Durable, hard surface for residential use shall be all-weather paving materials such as asphalt, concrete or paving brick capable of carrying a wheel load of four thousand (4,000) pounds without damaging the surface.
6. Durable, hard surface for commercial or industrial use for employee and customer parking shall be all-weather paving materials such as asphalt, concrete or paving brick capable of carrying a wheel load of four thousand (4,000) pounds without damaging the surface.

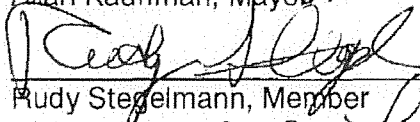
Durable, hard surface for commercial and industrial vehicle use shall be constructed with a hard surface adequate to support the weight of the vehicle and maneuvering of vehicles without damaging the surface.

7. All parking areas, driving aisles and driveways shall be properly maintained including immediate repair of any damaged areas.
8. Applications for relief from these standards and specifications may be made in writing to the Board of Public Works and Safety. Any modification of the standards and specifications by the Board of Public Works and Safety shall contain all conditions upon which modification is granted. The Board of Public Works and Safety may grant the relief only if the Board finds that:
 - a. The parking area is overflow parking or infrequently used and exceeds the minimum parking standards of the Goshen Zoning Ordinance;
 - b. The area is residential and the surrounding driveways are not a durable, hard surface. In addition, there is a strong likelihood such surrounding driveways will not be constructed of a durable, hard surface in the future;
 - c. The land is zoned Agricultural A-1 and used principally for agricultural or another use for which requiring parking areas of a durable, hard surface is not reasonable or practical;
or
 - d. Requiring parking areas of a durable, hard surface for all or some of the parking area would be unrealistic, excessive and inconsistent with the aesthetic appeal of the development.


PASSED and ADOPTED on June 21, 2010.



Allan Kauffman, Mayor



Rudy Stegelmann, Member



Michael Landis, Member



**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

August 3, 2020

To: Board of Public Works and Safety
From: Keitha Windsor
Subject: Agreement with Lacy Construction

The City wishes to contract with Lacy Construction Group Inc. d/b/a The New Group to seal the deck at Goshen City Hall.

Work on the project shall be completed within 60 calendar days from receipt of a notice to proceed for the cost of \$12,000.00

Suggested motion: Move to enter into an agreement with Lacy Construction Group Inc. d/b/a The New Group to seal the deck at Goshen City Hall at a cost \$12,000.00 with work to be completed within 60 calendar days from receipt of a notice.

AGREEMENT

Seal Deck at Goshen City Hall

THIS AGREEMENT is entered into on this ____ day of _____, 2020, between Lacy Construction Group, Inc. d/b/a The New Group, hereinafter referred to as “Contractor”, and the City of Goshen by its Board of Public Works and Safety, hereinafter referred to as “City”.

WHEREAS, the City desires to contract with Contractor, and Contractor agrees to seal the deck at Goshen City Hall.

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

SCOPE OF SERVICES

Contractor shall provide all labor, equipment, materials, tools, supplies, insurance, supervision, work and all other items necessary to perform and complete in a workmanlike manner the sealing approximately eight hundred (800) sq. ft. of the outside deck at Goshen City Hall at 202 South 5th Street as described in further detail below.

Contractor’s scope of work shall include:

- Remove all existing caulking from cracks and joints.
- Prepare the concrete to create a profile enhancing the adhesion of the coating system.
- Prime the substrate.
- Apply a waterproof basecoat of Tremco PUMA.
- Apply a waterproof topcoat of Tremco PUMA with non-slip texture.

Contractor shall perform all work in this project during the days Monday to Friday between the hours of 7:00 am and 8:00 pm. City shall be notified in advance if Contractor intends to work on a Saturday and/or a Sunday.

Contractor’s deck sealing shall have a twenty (20) year manufacturer’s warranty.

Contractor shall be responsible for the proper removal and disposal of all material, scrap and debris from the site and shall assume and pay any applicable fees and charges for such disposal. Contractor shall not abandon or dispose of any materials or debris except in accordance with all applicable local, state and federal laws.

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

TERM OF THE AGREEMENT

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

Contractor’s work on the project shall be completed within sixty (60) calendar days from receipt of a notice to proceed from the City.

COMPENSATION

The City agrees to compensate Contractor for the services in this agreement in accordance with Contractor’s quoted fee of Twelve Thousand Dollars (\$12,000.00).

Payment(s) to Contractor for work rendered under this agreement shall be made by the City upon receipt of a detailed invoice from Contractor for work completed provided satisfactory performance of Contractor has been attained. Contractor is 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 Contractor. Payment is deemed to be made on the date of mailing the check.

INDEPENDENT CONTRACTOR

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

NON-DISCRIMINATION

Contractor agrees that it will comply with all federal and Indiana civil rights laws, including, but not limited to Indiana Code 22-9-1-10. Contractor agrees that Contractor or any subcontractors, or any other person acting on behalf of Contractor 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

Contractor agrees 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 Contractor or any of their officers, agents, officials, and employees, during the performance of work 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.

INSURANCE

Prior to commencing work, Contractor shall furnish the 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 the City the certificates of proof issued by the insurance carrier that such insurance is in full force and effect. Contractor shall specifically include the City of Goshen as an additional insured for Employer's Liability, General Liability and Automobile Liability coverage.

Contractor shall at least include the following types of insurance with the following minimum limits of liability:

- Workers Compensation & Employer's Liability Statutory Limits
- General Liability Combined Bodily Injury and Property Damage
\$1,000,000 Each Occurrence and \$2,000,000 Aggregate
- Automobile Liability..... Combined Bodily Injury and Property Damage
\$1,000,000 Each Occurrence and Aggregate

Each certificate shall require that written notice be given to the City at least thirty (30) days prior to the cancellation or a change in the policy that would not meet the minimum limits of liability set forth above.

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

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

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 Agreement.
- (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 Agreement.
- (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 under the Agreement.
- (7) The Agreement or any right, monies or claims are assigned by Contractor 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. Contractor 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 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 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 Contractor 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.

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 work, completion of work 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 Contractor:

The New Group
Attention: Bradley J. Lacy
1339 Sunday Drive
Indianapolis IN 46217

APPLICABLE LAWS

Contractor 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

Contractor 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.

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

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.

The 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 the City of a breach.

Contractor 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 Contractor is wholly or partially owned by a relative of an elected official of the City of Goshen Contractor certifies that Contractor has notified in writing both the elected official of the City of Goshen and the City's legal department prior to entering into this contract that an elected official of the City of Goshen is a relative of an owner of Contractor.

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 Contractor.

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

**City of Goshen
Board of Public Works and Safety**

**Lacy Construction Group, Inc. d/b/a
The New Group**

Jeremy P. Stutsman, Mayor

Bradley J. Lacy, President

Mary Nichols, Member

Date: _____

Michael Landis, Member

Date: _____



**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: Engineering Department

RE: **LINCOLN CORRIDOR TRAFFIC STUDY
(JN: 2020-0023)**

DATE: July 31, 2020

On July 17, the Engineering Department received proposals for the above referenced project. More specifically the proposed agreement is to prepare a traffic study to be used as the basis of potential improvements along Lincoln Avenue between Indiana Avenue and 8th Street. The study will assess the level of service for the existing and proposed conditions along the corridor. The traffic data and turning movement counts for the study area will be provided by MACOG. The Engineering Department is requesting the Board of Public Works and Safety award the contract to Progressive AE. The total cost of the agreement is \$19,989.00.

Attached are 3 copies of the contract. Please sign and return to the Engineering Department for processing.

Requested Motion: Approve and award Progressive AE with the amount of \$19,989.00 for the Lincoln Corridor Traffic Study for the Engineering Department.

AGREEMENT

Lincoln Avenue Traffic Study

2020-0023

THIS AGREEMENT is entered into on this ____ day of _____, 2020, between Progressive Architecture Engineering, P.C., hereinafter referred to as "Consultant", and the City of Goshen by its Board of Public Works and Safety, hereinafter referred to as "City".

WHEREAS, The City of Goshen wishes to perform a traffic study of Lincoln Avenue corridor. The study will be used as a basis of potential improvements along Lincoln Avenue between Indiana Avenue and 8th Street, including the adjacent railroad crossing. The potential improvements include a reduction of the number of travel lanes along the corridor, reconfiguration of signal approaches, optimizing signal timing and phasing, and the addition of a cycle track.

WHEREAS, the City desires to contract with Consultant and Consultant agrees to provide a traffic study of Lincoln Avenue from Indiana Avenue to Eighth Street.

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

CITY'S RESPONSIBILITIES

- The City will work with MACOG to collect any additional traffic data required for the project.
- The City and/or MACOG will provide the crash data to Progressive AE for this analysis.

SCOPE OF SERVICES

Consultant shall provide all labor, equipment, materials, tools, supplies, insurance, supervision, work and all other items necessary to perform and complete in a workmanlike manner a traffic study of Lincoln Avenue from Indiana Avenue to Eighth Street (see Exhibit A) described in further detail below.

Consultant's study shall assess the level of service for the existing conditions along the corridor as well as proposed improvements. The Consultant shall provide a recommended alternative and justification for the recommendation.

Consultant's study will include the analysis of the corridor and all signalized intersections along Lincoln between Indiana and 8th, as well as all other streets and drives along the corridor that could have significant impacts to capacity and level of service.

Consultant's scope of services shall include:

Task 1- Initial Assessment and Data Collection:

- Collect data, review the capacity of the existing corridor, and perform a safety assessment. The existing conditions analysis results will provide a basis for comparing with the future conditions results to determine the impacts of the project.

- Include Lincoln Avenue from Indiana Avenue to 8th Street in the study area for the project. Including the seven (7) intersections along the corridor listed below should be included in the study area.

Intersection	Traffic Control
Lincoln Avenue at Indiana Avenue 1	Signal
Chicago Avenue Lincoln Avenue 1 at 2 nd Street	Signal
Lincoln Avenue at 3 rd Street 1	Signal
Lincoln Avenue at Main Street 1	Signal
Lincoln Avenue at 5 th Street 2	Signal
Lincoln Avenue at 8 th Street 2	Signal
Lincoln Avenue at Chicago Avenue	Signal

- Work with the City to determine if there is a need to include any additional unsignalized intersections, such as Denver Avenue and/ or Cottage Avenue.
- Perform an on-site review of the Lincoln Avenue corridor to confirm existing lane configurations, pavement width, signal timing data, intersection control devices, driveway locations, non-motorized facilities, speed limits, and other pertinent data needed to perform the analyses.
- Obtain from the Indiana Department of Transportation, existing signal timing data to develop the traffic models.
- Conduct a safety assessment for the study area along Lincoln Avenue and within 250 feet of the study area intersections. The safety assessment will summarize all crashes within the study area for the most recent 3-year analysis period by total number of crashes, crash type, severity, and location. Particular attention will be given to those crashes involving a pedestrian or bicyclist.
- **Existing Conditions Capacity Analysis**
 - Develop a base existing conditions traffic model and complete capacity calculations at the study area intersections to define how well they are operating under current weekday off-peak and peak-hour conditions.
 - Develop and calibrate a Synchro® model to reflect existing traffic conditions along the corridor.
 - Complete a capacity analysis of existing conditions at the study area intersections for the typical weekday morning, midday (off-peak), and afternoon peak-hours.
 - Determine any current operational deficiencies at the study area intersections.
 - Perform a queue study for the study area intersections to determine the existing 95th percentile queues.

Task 2-Future Conditions Analyses:

- Review and analyze the proposed roadway configuration developed by the City and work with the City to develop the final concept plan.

- Update the traffic models to reflect the proposed roadway configuration shown in the concept plan developed by the City:
 - Update the existing conditions Synchro model to reflect the proposed 3-lane cross-section along Lincoln Avenue.
 - Determine the future conditions horizon year and an applicable annual background traffic growth rate.
 - Apply the annual growth rate and apply to the existing traffic volumes at the study area Intersections.
 - Complete a capacity analysis of future conditions at the study area intersections for the typical weekday morning, midday (off-peak), and afternoon peak-hours.
 - Determine the 95th percentile peak-hour queue lengths at study area intersections as appropriate.
 - Perform turn lane warrants at the study area intersections.
 - Determine any operational deficiencies at the study area intersections for the future conditions,
 - Provide a comparison of the before/after operating conditions of the study area intersections and the corridor.
 - Measure effectiveness that will include approach delays, queuing, and simulated travel times along the corridor.

 - Perform a high-level capacity analysis at the signalized intersections to approximate the impacts the signal timing modifications may have on the corridor for the two-way cycle track.
 - Consider options for proposed lane configuration signal timings along the corridor for the traditional bicycle facility.

- Work with the City of Goshen to develop concepts to incorporate bicycle facilities along the corridor.
- Provide various cross section options along the corridor at critical locations that meet the vehicular demand identified in the capacity analyses and the overall goal of the project. Include a two-way cycle track, one-way cycle tracks on each side of the roadway, and/or traditional bike lanes. Consultant shall also identify on street parking locations and potential opportunities for mid-block crosswalks.
- Outline the advantages and disadvantages of the cross-section options and work with the City to select the best option for the corridor.

Task 3-Meetings:

- Online meetings will be held throughout the project.
 - Facilitate an online kick-off meeting with the City and/or other stakeholders to review and confirm the study objectives and determine the project schedule.
 - Hold an online progress meeting after the initial analyses of the existing and future conditions have been completed to outline the results of the analyses, noting any areas of concern and review potential cross-sections for the proposed corridor.

DELIVERABLES

Consultant shall provide the City with:

- Printouts from Synchro showing the proposed phasing, splits, clearance intervals, pedestrian timings, and offsets.
- A study report outlining the data collection efforts and analysis findings for the study area for existing and future conditions along the corridor.
- A future condition analyses summarized to compare the anticipated operating conditions with the proposed project in place.
- Outline mitigation techniques to address any deficiencies anticipated along the corridor and at study area intersections.
- Identify alternatives for the proposed roadway cross-section.

All provisions of referenced documents in the RFP shall be incorporated into this Agreement by reference whether they are actually included or not. In the event of a conflict between a provision in the RFP and the Consultant’s response the RFP shall control unless specifically modified by this Agreement. In the event of a conflict between a provision in this Agreement and a provision in a referenced document, the provisions of this Agreement shall prevail.

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

TERM OF THE AGREEMENT

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

Consultant’s services shall begin as soon as practical after receiving a notice to proceed from the City and be completed as follows:

Data Collection Complete	August 21, 2020
Progress Meeting – Initial Analyses Complete	September 11, 2020
Submit Draft Report	September 25, 2020
Submit Final Report	One week after receiving comments on draft report
Concept Plan Development	October 2020

COMPENSATION

The City agrees to compensate Consultant for the services in the amount of Nineteen Thousand Eight Hundred Ninety Dollars (\$19,890.00).

Payment(s) to Consultant for services rendered under this agreement shall be made by the City upon receipt of a detailed invoice from Consultant for services completed provided satisfactory performance of Consultant has been attained. The detailed invoice shall include the total contract amount, payments to date, remaining contract balance, percentage of completed work, and employee names and hours worked on specific task(s). Consultant is 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 Consultant. Payment is deemed to be made on the date of mailing the check.

INDEPENDENT CONTRACTOR

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

NON-DISCRIMINATION

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

INDEMNIFICATION

Consultant agrees to indemnify 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 Consultant or any of their officers, agents, officials, and employees, during the performance of work / 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.

INSURANCE

Prior to commencing work / services, Consultant shall furnish the 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 the City the certificates of proof issued by the insurance carrier that such insurance is in full force and effect. Consultant shall specifically include the City of Goshen as an additional insured for Employer's Liability, General Liability and Automobile Liability coverage.

Consultant shall at least include the following types of insurance with the following minimum limits of liability:

- Workers Compensation & Employer's Liability Statutory Limits
- General Liability Combined Bodily Injury and Property Damage
\$1,000,000 Each Occurrence and \$2,000,000 Aggregate
- Professional Liability Combined Bodily Injury and Property Damage
\$1,000,000 Each Occurrence and Aggregate
- Automobile Liability..... Combined Bodily Injury and Property Damage
\$1,000,000 Each Occurrence and Aggregate

Each certificate shall require that written notice be given to the City at least thirty (30) days prior to the cancellation or a change in the policy that would not meet the minimum limits of liability set forth above.

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

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

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

- (1) There is a substantive breach by Consultant of any obligation or duty owed under the provisions of this Agreement.
- (2) Consultant is adjudged bankrupt or makes an assignment for the benefit of creditors.
- (3) Consultant becomes insolvent or in an unsound financial condition so as to endanger performance under the Agreement.
- (4) Consultant 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 Consultant or any of Consultant's property.
- (6) Consultant is determined to be in violation of federal, state, or local laws or regulations and that such determination renders Consultant unable to perform the work under the Agreement.
- (7) The Agreement or any right, monies or claims are assigned by Consultant 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. Consultant 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 Consultant. In such event, the City may issue a written notice of default and provide a period of time in which Consultant 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 Consultant 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.

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

OWNERSHIP OF DOCUMENTS

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

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 work / services, completion of work / 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 Consultant:

Progressive Architecture Engineering, P.C.
Attention: Nick LaCroix
1811 Four Mile Road NE
Grand Rapids. MI 49525

APPLICABLE LAWS

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

MISCELLANEOUS

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

EMPLOYMENT ELIGIBILITY VERIFICATION

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

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

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

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

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

CONTRACTING WITH RELATIVES

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

SEVERABILITY

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

BINDING EFFECT

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

ENTIRE AGREEMENT

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

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

City of Goshen
Board of Public Works and Safety

Progressive Architecture Engineering,
P.C

Jeremy P. Stutsman, Mayor

Theresa Petko, Principal-in-Charge

Mary Nichols, Member

Michael Landis, Member



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

August 3, 2020

To: Board of Public Works and Safety

From: Shannon Marks

Subject: Participation Agreement with Central States, Southeast and Southwest Areas Health and Welfare Fund

It is recommended that the Board approve and authorize Mayor Stutsman to execute the attached Participation Agreement with Central States, Southeast and Southwest Areas Health and Welfare Fund for employee health insurance coverage.

The City will contribute the following amounts on behalf of each employee provided health insurance coverage:

- Effective January 3, 2021, \$433.86 per week
- Effective January 2, 2022, \$453.86 per week
- Effective January 1, 2023, \$473.86 per week

Each of the three collective bargaining agreements will also include the above rates.

PARTICIPATION AGREEMENT

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

NON-BARGAINING UNIT EMPLOYEES

EMPLOYER NAME: City of Goshen, Indiana
ACCOUNT NUMBER: 3209700-0100-00000A

1. The Employer is currently bound by a collective bargaining agreement(s) with a local union(s) that is affiliated with the International Brotherhood of Teamsters (the "Union") which requires the Employer to contribute to the Central States, Southeast and Southwest Areas Health and Welfare Fund (the "Health and Welfare Fund") on behalf of covered employees. The Employer also desires to participate in the Health and Welfare Fund with respect to its employees who are not covered by the collective bargaining agreement and this Agreement sets forth the terms under which the Employer will participate in the Health and Welfare Fund with respect to such employees.

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

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

Effective Date:	<u>01/03/2021</u>	Rate:	<u>\$433.86</u>	_____	_____	_____
Effective Date:	<u>01/02/2022</u>	Rate:	<u>\$453.86</u>	_____	_____	_____
Effective Date:	<u>01/01/2023</u>	Rate:	<u>\$473.86</u>	_____	_____	_____
Effective Date:	_____	Rate:	_____	_____	_____	_____
Effective Date:	_____	Rate:	_____	_____	_____	_____

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

5. The Employer shall report changes in its Non-Unit Employee workforce (for example, new hires, layoffs, terminations) that occur during any month on or before the 15th day after the end of the month during which the change occurred. If the Employer fails to timely report in writing the changes in the employment status of the Non-Unit Employees included in the Health and Welfare Fund's monthly bill, it shall be liable for the amount billed regardless of actual changes in the employment relationship. The Illinois ten-year written contract statute of limitations, which shall apply to any claim for unpaid contributions, shall not accrue with respect to contributions owed by the Employer on any Non-Unit Employee until the Health and Welfare Fund receive written notice of the liability.

6. For purposes of this Participation Agreement, the term "Non-Unit Employee" shall mean each and every individual employed by the Employer on either a full-time or part-time basis who is not covered by the collective bargaining agreement between the Employer and the Union. The common law master-servant test shall be utilized to determine whether an employment relationship exists. The term Non-Unit Employee shall not include: a) independent contractors, b) any person covered by a collective bargaining agreement between the Employer and a union not affiliated with the International Brotherhood of Teamsters that requires the Employer to contribute to some other health and welfare fund, c) any person employed for the principal purpose of obtaining or continuing coverage under the Health and Welfare Fund.

7. The Employer's obligation to remit contributions on Non-Unit Employees under this Participation Agreement shall continue in effect until the earlier of, a) 30 days after service of a written notice served by either the Health and Welfare Fund or the Employer of their intent to terminate this Participation Agreement, or b) the termination of the Employer's contractual and statutory duty to contribute to the Health and Welfare Fund on behalf of employees represented by the Union. A written notice of intent to terminate can be served by personal delivery, facsimile or certified mail (return receipt requested) and, if service is by mail, service will be deemed accomplished on the date of mailing.

Employer: City of Goshen, Indiana _____
Signature: _____
Printed Name: _____
Printed Title: _____
Date: _____

**AMENDMENT TO PARTICIPATION AGREEMENT
FOR NON-BARGAINING UNIT EMPLOYEES**

City of Goshen, Indiana Non-Bargaining Unit Employees
Account Number: 3209700-0100-00000A (Non-Unit)
Account Number: 3209700-0100-70081A (Police)
Account Number: 3209700-0100-71443A (Fire)

Paragraph 6 of the Participation Agreement between Central States, Southeast and Southwest Areas Health and Welfare Fund (the "Health and Welfare Fund") and City of Goshen, Indiana (the "Employer") shall be amended to read as follows:

6. For the purposes of this Participation Agreement, the term "Non-Unit Employee" shall mean each and every individual employed by the Employer either on a full-time or part-time basis who is not covered by the collective bargaining agreement between the Employer and the Union, **including an employee covered by a collective bargaining agreement between the Employer and the Goshen Firefighters Association, Local No. 1443, International Association of Firefighters, or an employee covered by a collective bargaining agreement between the Employer and the Fraternal Order of Police Labor Council, Inc., representing the Goshen Lodge No. 81.** The common law master-servant test shall be utilized to determine whether an employment relationship exists. The term Non-Unit Employee shall not include:

- a. independent contractors;
- b. any person covered by a collective bargaining agreement between the Employer and a union not affiliated with the International Brotherhood of Teamsters that requires the Employer to contribute to some other health and welfare fund;
- c. any person employed for the principal purpose of obtaining or continuing coverage under the Health and Welfare Fund; **and**
- d. **employees regularly scheduled to work one thousand three hundred (1,300) hours or less per year.**

All other terms of the Participation Agreement for the Non-Bargaining Unit Employees shall remain in full force and effect.

**Central States, Southeast and Southwest
Areas Health and Welfare Fund**

City of Goshen, Indiana

Representative Signature

Jeremy P. Stutsman, Mayor

Printed

Date: _____

Title

Date: _____

GOSHEN THEATER AGREEMENT—2020

This Agreement is made by and between the Board of Public Works & Safety of Goshen, Indiana, and the Board of Directors of the Goshen Theater. The term of this Agreement is January 1–December 31.

Recitals

Whereas, an appropriate role of local government is to maintain and improve its central business district; and

Whereas, Goshen Theater is a vital organization toward keeping the downtown thriving; and

Whereas, it is consistent with the role of local government to financially assist Goshen Theater to facilitate its mission.

Therefore, the City of Goshen and Goshen Theater agree that:

1. Having already been authorized by City Council in the annual budget, City will pay from its Economic Development Income Tax Fund to Goshen Theater the sum of \$75,000 in the Agreement year.
2. Prior to receiving City's contribution, Goshen Theater will provide to City a summary of the prior year's activities, a copy of its prior year's year-end financial report and a copy of its current annual budget as approved by its Board of Directors.
3. Goshen Theater will conduct business in a businesslike manner and promote the Theater, the downtown vicinity, as well as the City of Goshen during the Agreement year.
4. This Agreement contains all contractual obligations between City and Goshen Theater.
5. No third party shall be a beneficiary of this Agreement.
6. The rights and obligations created under this Agreement shall not be assigned without the written consent of the other party.
7. This Agreement shall be construed and enforced under the laws of the State of Indiana.

City of Goshen

Goshen Theater

Date: August 3, 2020

Date: _____

Signed: _____

Signed: _____

Printed: Jeremy Stutsman

Printed: _____

Title: Chair, Board of Public Works

Title: President, Board of Directors

ECONOMIC DEVELOPMENT CORPORATION OF ELKHART COUNTY AGREEMENT—2020

This Agreement is made by and between the Board of Public Works & Safety of Goshen, Indiana, (City) and the Board of Directors of the Economic Development Corporation of Elkhart County (EDCEC). The term of this Agreement is January 1–December 31.

Recitals

Whereas, City does not have a department of economic development; and

Whereas, economic development initiatives are important to Goshen's present and future vitality; and

Whereas, it is desirable to enter into a public/private partnership that encompasses an area wider than just Goshen; and

Whereas, it is in the interests of City to enhance economic development by supporting EDCEC.

Therefore, the City of Goshen and Economic Development Corporation of Elkhart County agree that:

1. City will pay from its Economic Development Income Tax Fund to the EDCEC a total of \$65,000 as approved by City Council. Payment will be sent, provided the documentation requested below has been submitted to City.
2. EDCEC will provide to City a copy of its prior year's audit and annual report, and its current annual budget.
3. EDCEC agrees to provide economic development support for City similar to those provided to other political jurisdictions within its geographic sphere of influence throughout the Agreement year.
4. During the term of this Agreement, the mayor or his designated representative shall serve on the Board of Directors of EDCEC.

City of Goshen

Economic Development Corporation
of Elkhart County

Date: August 3, 2020

Date: _____

Signed: _____

Signed: _____

Printed: Jeremy Stutsman

Printed: _____

Title: Chair, Board of Public Works

Title: President