



## **Board of Public Works & Safety and Stormwater Board**

Regular Meeting Agenda

**4:00 p.m., April 3, 2025**

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

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

### **Call to Order by Mayor Gina Leichthy**

**Approval of Minutes:** March 13 Regular Meeting

### **Approval of Agenda**

- 1) Lacasa request:** To facilitate interior demolition, approve placing a roll-off dumpster in the street parking in front of The Shoots Apartments, 112 E. Lincoln Ave., April 7-11, 2025
- 2) Legal Department request:** Approve the Memorandum of Understanding between the City and Goshen Firefighters Association Local No. 1443 and authorize the Mayor to execute it
- 3) Legal Department request:** Approve and authorize Mayor Leichthy to execute an amendment agreement with Christopher B. Burke & Associates for additional services necessary for the preparation of the City of Goshen's Flood Response Plan at a cost of \$8,000
- 4) Legal Department request:** Approve Amendment No. 1 to contract for City of Goshen lawn services with Colin Avila, doing business as, Yardshark
- 5) Engineering Department request:** Approve the closure of the Millrace Canal pedestrian path, from Murray Street to Waverly Avenue, April 7 to May 23, for the removal of logjams
- 6) Engineering Department request:** Approve Change Order No. 2 for the North Goshen Neighborhoods Tree Removal project in the amount of \$2,932
- 7) Engineering Department request:** Award the Annex Building re-roofing contract to E Lee Construction for \$1,290,170.00 with additional approval for City staff to manage a \$69,000 allowance to account for unforeseen work and materials needed to complete the project

### **Privilege of the Floor**

### **Approval of Civil City and Utility Claims**

### **Adjournment**



**BOARD OF PUBLIC WORKS & SAFETY & STORMWATER BOARD**  
**MINUTES OF THE MARCH 13, 2025 REGULAR MEETING**  
*Convened in the Goshen Police & Court Building, 111 East Jefferson St., Goshen, Indiana*

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

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

**REVIEW/APPROVE MINUTES:** Mayor Leichty presented the minutes of the March 6, 2025 Regular Meeting as prepared by Clerk-Treasurer Aguirre. Board member Mike Landis made a motion to approve the minutes as presented. Board member Barb Swartley seconded the motion. The motion passed 5-0.

**REVIEW/APPROVE AGENDA:** Mayor Leichty presented the agenda with the addition of item #10, *Water & Sewer Office request: Move uncollected finalized accounts from active to collection, sewer liens and write offs.* Board member Landis made a motion to approve the agenda as amended. Board member Swartley seconded the motion. The motion passed 5-0.

**1 & 2) The Fold Pizza Tavern requests: Approve a variance to allow a mechanical 35-gallons-per-minute grease trap, instead of a 1,000 gallon grease trap, for the new restaurant at 219 South Main Street AND approve public seating in the alley adjacent to 219 South Main Street, from April 1 to Oct. 30, 2025**

Before the Board were two requests from **The Fold Pizza Tavern**, which will be located in the old Constant Spring building, 219 South Main Street. It will serve the community as a 21+ restaurant and bar specializing in pizza by the slice, wings, salads, apps and a full bar.

**Jesse Sensenig, owner of The Fold Pizza Tavern**, requested a variance to install a mechanical 35-gallons-per-minute grease trap instead of a 1,000 gallon grease trap due to lack of space on Main Street. He said the City Water and Sewer Department made this recommendation.

**Sensenig** submitted the specifications for the new grease trap which will exceed the City's recommendation, at 50 gallons per minute. He also attached drawings for the plumbing for the grease trap and information he provided to the Elkhart County Health Department.

In response to a question from **Board member Landis**, **Sensenig** said he was aware a flow restrictor had to be installed. He said a plumbing company would be handling the grease trap installation.

Secondly, **Sensenig** requested permission to use the alley between The Fold and Fables Books for temporary summertime seating, April through October. He said Dave and Fay Pottinger, the owners of the Fables Books building, support the request.

**City Director of Public Works & Utilities Dustin Sailor** said the city Engineering and Wastewater departments didn't have any issues with the request for the mechanical grease trap, which has been submitted for plan reviews. Because City staff members haven't reviewed the internal plumbing, Sailor recommended that the Board approve the request contingent upon a final plumbing review.

With regard to the outdoor seating, **Sailor** said Engineering staff requested a letter of support from the adjacent property owner, which has now been provided. He said staff members also want to review the fencing material to be used in the alley to ensure there are no sharp edges.

**Board member Landis** asked if the alley seating should be approved contingent upon review by the Engineering Department of the fencing material to be used. **Sailor** agreed.

**Sensenig** said both suggested conditions of approval were acceptable.

**Clerk-Treasurer Aguirre** requested that separate motions be made and approved for each request.



Landis/Swartley made a motion to approve a variance for a 35-gallon-per-minute mechanical grease trap at 219 South Main Street on condition that the plumbing is properly connected. The motion passed 5-0.

Landis/Swartley made a motion to approve the request for public seating in the alley adjacent to 219 South Main Street, from April 1 to Oct. 30, 2025, contingent on the Engineering Department approving the fencing material to be used. The motion passed 5-0.

**3) Legal Department request: Approve the agreement for the maintenance and use of a parking facility with Goshen Little League, Inc., authorize Mayor Leichthy to execute the agreement and authorize payment to Goshen Little League, Inc. in the amount of \$7,118**

City Attorney Bodie Stegelmann recommended that the Board approve an agreement with Goshen Little League, Inc. for the maintenance and use of a parking facility located at the east end of Pringle Drive.

Stegelmann said City staff use this parking facility to turn equipment around during maintenance activities on Pringle Drive, and City Park patrons use this parking facility to access Pringle Park.

Stegelmann said Goshen Little League, Inc. reached agreements with Goshen Schools and the City to share certain maintenance expenses relative to this parking facility. The agreement provided with the memorandum reflects the agreement City staff reached with Goshen Little League, Inc., and calls for a payment to Goshen Little League, Inc. in the amount of \$7,118.

Board member Landis asked who owns the park. City Superintendent of Parks & Recreation Tanya Heyde said Goshen Little League owns the lot, but shares maintenance costs with the City and the school district.

Landis/Swartley made a motion to approve the agreement for the maintenance and use of parking facility with Goshen Little League, Inc., authorize Mayor Leichthy to execute the Agreement and authorize payment to Goshen Little League, Inc. in the amount of \$7,118. The motion passed 5-0.

**4) Legal Department request: Approve Resolution 2025-06, Authorizing Execution of Documents and Sale, Purchase, and Development of Real Estate Agreement with TROTM, LLC, for construction of 18 townhomes on three parcels located between River Race Drive and South Second Street**

Assistant City Attorney Don Shuler said that attached to the meeting agenda for the Board's approval and execution was Resolution 2025-06 to approve an Agreement for the Sale, Purchase, and Development of Real Estate with TROTM, LLC, and to authorize the Mayor to execute the same. The Agreement outlines the terms for development of three parcels of real estate located between River Race Drive and South Second Street.

Under the agreement, Shuler said City Redevelopment Commission, which approved the agreement on March 12, will transfer the real estate to TROTM, LLC for the development. The development will include construction of 18 townhomes across three structures, with an anticipated capital investment of \$15,000,000.

Shuler said the City will retain a mortgage on the real estate in the sum of \$3,000,000 until minimum investment thresholds are met. Construction of the first structure and townhomes is anticipated to be complete by July 1, 2026, with completion of all structures by July 1, 2029.

Shuler said Board of Works approval is necessary to authorize the utility-related provisions in the Agreement, which includes permitting TROTM, LLC to tie the project's stormwater system to the City's infrastructure, ensuring connections for water and sewer service, utility tap abandonments, and sidewalk/curb adjustments. Shuler added that TROTM is an abbreviation of The Row On The Millrace.

Board member Landis clarified with Shuler the wording of the approval motion.

Landis/Swartley made a motion to approve 2025-06 Resolution as presented, which authorizes the Mayor to execute the Agreement on the City's behalf. The motion passed 5-0.



**5) Legal Department request: Approve Resolution 2025-07, Approving Consent to Assignment of Economic Development Agreement for the Ariel Cycleworks project, which would authorize the Mayor to execute the consent to assignment**

**Assistant City Attorney Don Shuler** said that attached to the agenda for the Board's approval and execution was Resolution 2025-07 to approve an Assignment of the Economic Development Agreement (EDA) with AP Development, LLC and AP Cycleworks, LLC (developer) of the Ariel Cycleworks Project, 620 East Douglas Street. **Shuler** said to facilitate project financing, the developer was seeking a loan from First Farmers Bank & Trust Co. (lender). As a condition of the loan, the lender requires the execution of a Consent that permits for the collateral assignment of Section 5.07 of the EDA; Section 5.07 pertains to the Environmental Restrictive Covenant (ERC) associated with the project site.

**Key Terms of the Consent:**

1. If the Lender exercises its rights under the Assignment, the City will continue to perform its obligations under Section 5.07, but only under the terms specified in the Consent.
2. The Consent expressly limits the City's obligation to perform environmental remediation unless the Developer or Lender remains bound by all obligations under the EDA.
3. The Lender is not assuming any direct obligations under the EDA beyond the rights granted through the assignment.
4. The Consent does not alter any terms of the EDA.

**Shuler** said the action will not obligate the City to do additional on-site work or spend additional funds that wouldn't already have been provided by the City.

**Landis/Swartzley made a motion to approve the Resolution 2025-07 as presented, which authorizes the Mayor to execute the Consent to Assignment. The motion passed 5-0.**

**6) Legal Department request: Approve and authorize Mayor Leichty to execute an agreement with Baker Tilly Advisory Group, LP for a Utility Rate Analysis at a cost not to exceed \$22,000**

**City Attorney Bodie Stegelmann** recommended that the Board approve and authorize Mayor Leichty to execute an agreement with Baker Tilly Advisory Group, LP for a Utility Rate Analysis. The City will compensate Baker Tilly Advisory Group, LP for time and expenses not to exceed \$22,000.

**Under the agreement, Baker Tilly will provide the following services:**

**A. Rate Analysis – 3rd Tier Rate Elimination**

1. Analyze historical recorded financial information for a period of three (3) calendar years and the most recent 12-month period when applicable (the test year).
2. Detail from available records a schedule of flow of funds for the past three calendar years and the test year for the purpose of determining trends, amounts of revenue, cash operation and maintenance expenses, debt service requirements and expenditures for improvements to the Utility property and plant.
3. Analyze expenses of the test year in order to locate and adjust items which should be properly capitalized, expensed or reclassified (if applicable).
4. Analyze accounts, invoices and pertinent documents and interview Client personnel and/or consulting engineers made available by the Client to determine possible changes in expenses and the possible effects of those changes (if applicable).
5. Obtain information from Client officials, engineers and/or other available sources to suggest to the Client adjustments to test year cash operating expenses such as additional labor, power costs, chemical costs, additional taxes and other fixed, known and measurable expense changes (if applicable).
6. Schedule monthly revenues of the test year in order to locate unusual and significant fluctuations in such revenue (if applicable).





7. Prepare amortization schedules of outstanding funded debt of the Utility extending over the life of the remaining years of payment and obtain information from bond ordinances or other documents relating to such funded debt.
8. Obtain information from the rate ordinance, tariffs and bond ordinances now in effect.
9. Assist in the development of a capital improvements program and determine alternative financial programs leading to the obtaining of funds necessary to meet the capital improvement requirements through funds now available and/or future revenues of the system and/or the use of debt financing.
10. Provide alternative estimates of future annual revenue requirements for consideration by the Client (if applicable).
11. Suggest revenue increases for the Utility as may be considered necessary to meet the estimated future annual revenue requirements.
12. If appropriate, prepare comparative information concerning the present and possible future rate.

**B. Meetings and Reports**

1. Attend meetings with officials of the Client as requested to discuss findings and recommendations.
2. Furnish a financial report summarizing the results of BTAG's studies for submission to the Client.
3. Provide financial information including a new schedule of rates and charges, if required, to the Client's attorneys for the preparation of resolutions and ordinances as may be required.
4. Attend a public hearing to be conducted by the Client to present accounting information relating to the proposed rates and charges, if a rate change is necessary.

**C. Lifeline Rate Analysis**

1. A. Analyze census level data for City to estimate number of customers below poverty level.
2. B. Provide revenue shift scenarios based on estimated potential lifeline recipients.
3. C. Meet with City as needed to discuss results.

**Mayor Leichty** asked **City Director of Public Works & Utilities Dustin Sailor** the last time the City had a utility rate analysis completed. **Sailor** said this would not be a total utility rate analysis. Instead, he said it would analyze specialty factors of affordability, a potential special rate for customers who may not be able to afford their rate. **Sailor** said the last a cost of service study was done six or seven years ago, and normally are done every 10 years.

**Landis/Swartley** made a motion to approve and authorize **Mayor Leichty** to execute the agreement with **Baker Tilly Advisory Group, LP** for a **Utility Rate Analysis** at a cost not to exceed **\$22,000**. The motion passed 5-0.

**7) Legal Department request: Accept the Uniform Conflict of Interest Disclosure Statement submitted by Matthew E. Whitford, an employee of the Goshen Fire Department**

**City Attorney Bodie Stegelmann** said that attached to the meeting agenda was a Uniform Conflict of Interest Disclosure Statement being submitted to the Board for acceptance in a public meeting on behalf of **Matthew E. Whitford**, an employee of the Goshen Fire Department.

**Stegelmann** said **Whitford** is the owner of **Infinitus Computers, LLC, dba INF Tech**. The City purchases miscellaneous technology, computer parts and systems from this business.

**Landis/Swartley** made a motion to accept the **Uniform Conflict of Interest Disclosure Statement** submitted by **Matthew E. Whitford**. The motion passed 5-0.

**8) Engineering Department request: Approve Change Order No. 1 for the North Goshen Neighborhoods Tree Removal project in the amount of \$2,100**

**City Director of Public Works & Utilities Dustin Sailor** said attached to the meeting agenda was **Change Order No. 1** for the **North Goshen Neighborhoods Tree Removal** project, which includes costs related to the removal of two trees and stumps not anticipated in the bid package that are in conflict with future Utility upgrades and street construction.



**Sailor** said adding these two trees has no impact on the project schedule. The original contract amount is \$62,700.00. Change Order No. 1 increases the total contract by \$2,100, for a revised contract amount of \$64,800, which is an increase of 3.35% over the original contract amount.

**Landis/Swartley made a motion to approve Change Order No. 1 for the North Goshen Neighborhoods Tree Removal project in the amount of \$2,100. The motion passed 5-0.**

**9) Engineering Department request: Approve and authorize the Board to execute the agreement with Goshen Community Schools and Weigand Construction Co., Inc. for the completion of the New Baseball Softball Complex project at 1730 Regent Street**

**City Director of Public Works & Utilities Dustin Sailor** said the Stormwater Department was requesting approval of an agreement for the completion of construction (Construction Agreement) for the Goshen Community Schools New Baseball Complex project, 1730 Regent Street,

**Sailor** said the following outstanding items are not yet completed due to current weather conditions and a delay in obtaining a well permit from the Indiana Department of Environmental Management. The property owner, Goshen Community Schools, and builder, Weigand Construction Co., Inc., agree to complete all work by the listed deadlines as shown in Exhibit B of the Completion Agreement.

- ❖ Install approximately 448 square feet of concrete sidewalk between the parking lot and the public pedestrian path to the west.
  - o Completion Deadline: March 25, 2025
- ❖ Stabilization of approximately 123,000 square feet of disturbed area, which will include the installation of seed and temporary mulch and outlet protection measures.
  - o Three Completion Deadlines: June 15, Oct. 15, and Dec. 1, 2025
- ❖ The planting of the required landscaping (trees, shrubs, grasses, and perennial plants) that is not part of the south berm.
  - o Completion Deadline: June 15, 2025
- ❖ Installation of the asphalt topcoat and permanent parking lot striping.
  - o Completion Deadline: June 24, 2025
  - o Temporary parking lot striping has been installed this week.
- ❖ Complete the installation and testing of the potable water well once the IDEM well permit is finalized.
  - o Completion Deadline: June 24, 2025
- ❖ The planting of the required landscaping for the south berm within the Goshen School's property.
  - o Completion Deadline: December 1, 2025
- ❖ Install the final 6" of stone to the service drive once the south berm is completed.
  - o Completion Deadline: Dec. 1, 2025

The City Stormwater Department submitted an Agreement for the Completion of the Construction Project for approval and authorization for the Mayor and Board Members to execute.

**Sailor** said the execution of this Agreement does not absolve Goshen Community Schools and Weigand Construction Co., Inc., from completing all necessary steps to meet the Goshen Building Department's permitting requirements for a final building inspection. Occupancy of the site buildings will not be granted until the potable water well is properly permitted, tested, and active.

**Sailor** said the Goshen Stormwater Department, in collaboration with other City Departments, has agreed to waive the requirement to post a surety because Goshen Community Schools is a tax-based public entity and it is in the best interest of the community.



Until the Building Department issues a certificate of occupancy, Weigand Construction will be providing sufficient portable bathroom facilities for players and patrons to use and interior spaces shall remain unoccupied by the school. For context, the expected cost of work yet to be completed is \$438,668.

**Sailor** said a school representative was present in case there were questions.

**Landis/Swartley made a motion to approve and authorize the Board to execute the agreement with Goshen Community Schools and Weigand Construction Co., Inc. for the completion of the New Baseball Softball Complex project at 1730 Regent Street. The motion passed 5-0.**

**10) Water & Sewer Office request: Move uncollected finalized accounts from active to collection, sewer liens and write offs.**

**Kelly Saenz, Manager of the Goshen City Utilities Office**, told the Board that the original amount of unpaid final Water/Sewer accounts, for the period through Dec. 27, 2024 was \$17,953.81. Collection letters were sent out and payments of \$4,177.29 were collected.

The uncollected amount was \$13,776.52. So, **Saenz** asked the Board to move the office's uncollected final accounts from active to Collection, Sewer Liens and Write offs for the period. Of the uncollected amounts, \$8,303.35 came from water accounts and \$5,473.17 came from sewer accounts.

**Note: Saenz's request was presented through a March 13, 2025 memorandum to the Board (EXHIBIT #1).**

**Landis/Swartley made a motion to move the Goshen Water and Sewer Office's \$13,776.52 in uncollected finalized accounts for this period from active to Collection, Sewer Liens and Write offs. Motion passed 5-0.**

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

**Mayor Leichty** opened Privilege of the Floor at 4:24 p.m. There were no public comments.

**At 4:24 p.m., Mayor Leichty recessed the Board of Public Works & Safety meeting to convene compliance review hearings for 213 Crescent Street and 215 Crescent Street.**

#### **COMPLIANCE REVIEW HEARING FOR PRIOR CITY BUILDING COMMISSIONER ORDER:**

**4:00 p.m., March 13, 2025**

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

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

**11) Unsafe Building Compliance Review Hearing for property at 213 Crescent Street (Midwest Leasing LLC, property owner)**

**At 4:24 p.m., Mayor Leichty convened a compliance review hearing for the prior Order of the City of Goshen Building Commissioner for 213 Crescent Street (Midwest Leasing LLC, property owner).**

#### **BACKGROUND:**

In a March 13, 2025 memorandum to the Board, **Assistant City Attorney Don Shuler** informed the **Board** that an unsafe building compliance review hearing was scheduled March 13 for the property located at 213 Crescent Street. Attached to the memo was a Record of Action and Continuous Enforcement Order issued by the on Sept. 12, 2024, requiring demolition of the unsafe building on the property, as well as the Tabling Order issued on Feb. 13, 2025 scheduling this review hearing.



**Shuler** wrote that for the hearing, the Board could receive information, evidence, and arguments from the Building Department, the property owner, City Staff, and anyone else wishing to speak to the property. **Based on any findings the Board made, the Board could then:**

1. Confirm compliance if evidence was presented that the demolition of the unsafe structure had been completed;
2. Confirm non-compliance and authorize the Building Commissioner to proceed with demolition or other remedial action or a civil action, as permitted by the Indiana Unsafe Building Law;
3. Issue a civil penalty in an amount not to exceed \$5,000.00 if the Board found that there has been a willful failure to comply with Order; or
4. Any other action permitted by law to resolve the unsafe conditions on the property.

**Shuler** wrote that in taking any of these actions, the Board should make specific findings to support its action.

**On Sept. 12, 2024, a Record of Action and Continuous Enforcement Order that set forth the following:**

**BACKGROUND:**

1. The City of Goshen **Building Commissioner issued an order on Aug. 2, 2024** (hereinafter the "Order"), concerning the property located at **213 Crescent Street** and more particularly described in Exhibit A (hereinafter the "Real Estate"). The **Order made findings that the vacant residential structure at the Real Estate was an unsafe building and required demolition** of said building and removal of all demolition remains, trash, and debris on the Real Estate and return of the site to natural grade, all of said work to be completed within 45 days.
2. The **Building Commissioner, in his Order, determined that the building at the Real Estate was unsafe** under I.C. § 36-7-9-4(a)(2), (4), (5), and (6) **due to the following conditions:**
  - a. The vacant residential structure recently sustained a fire, causing significant damage, having burnt, charred members throughout the structure that are beyond repair;
  - b. The fire damage renders the building in danger of collapse; and
  - c. The building's condition is vacant and unfit for human habitation, occupancy, or use under Goshen City Code.
3. Proper notice of the demolition order was provided to Midwest Leasing, LLC, the Real Estate's owner (hereinafter "Owner"), by regular United States mail in accord with I.C. § 36-7-9-25.
4. During the hearing the Goshen Building Department presented evidence, testimony, and argument supporting the Order. The owner was given the opportunity to present testimony and evidence concerning the condition of the building at the Real Estate and the Order.

**FINDINGS**

After consideration of the evidence and testimony presented, the Hearing Authority found that the Building Commissioner's Order was supported by substantial evidence. The vacant residential structure at the Real Estate was deemed an unsafe building under Indiana law.

The Hearing Authority specifically adopted Section 2 of the Order as its Findings.

**ORDER**

The Order issued by the City of Goshen Building Commissioner was hereby affirmed in its entirety except as modified below:

1. This order shall serve as a Continuous Enforcement Order pursuant to I.C. § 36-7-9-2.
2. Owner is hereby ordered to comply with the Order to demolish the unsafe vacant residential structure at the Real Estate by Oct. 31, 2024, failing which the Building Commissioner is authorized to proceed with the demolition at the expense of Owner, with such costs to be assessed against the Real Estate as provided by law.
3. This order constitutes a final administrative decision, and Owner has the right to appeal these findings of fact and this Continuous Enforcement Order to the Elkhart Circuit or Superior Court by filing a verified complaint within ten (10) days of the date of this action; failure to file a verified complaint within the specified time forfeits any appeal rights.



4. Per I.C. § 36-7-9-27, if Owner transfers its interest or any portion of its interest in the vacant residential structure and/ or the Real Estate affected by this Continuous Enforcement Order to another person, Owner must supply the other person with full information regarding this Continuous Enforcement Order prior to transferring that interest or agreeing to transfer that interest. Further, within five (5) business days after transferring that interest or agreeing to transfer a substantial property interest in the vacant residential structure and/ or the Real Estate, Owner must supply the City of Goshen Building Commissioner with the full name, address, and telephone number of the other person taking a substantial property interest in the vacant residential structure and/ or the Real Estate, along with written copies of the agreement to transfer the interest or copies of the document actually transferring the interest. Should the Owner fail to comply with these provisions, then Owner may be liable to the City of Goshen for any damage that the City of Goshen may suffer in the event that a judgment is entered against it by the other person to whom the transfer is made.

The CONTINUOUS ENFORCEMENT ORDER of the Board of Public Works and Safety, memorializing the Hearing Authority's action of Sept.12, 2024, was issued on Sept.12, 2024.

**Compliance Review Hearings for this order were convened and delayed on Jan. 30, 2025 and Feb. 13, 2025 and continued until March 13, 2025. The postponements were prompted by delays by NIPSCO in disconnecting gas lines and a legal dispute with the adjoining property owner about who was responsible for the fire.**

#### **DISCUSSION AND OUTCOME OF BOARD COMPLIANCE REVIEW HEARING ON MARCH 13, 2025:**

**At 4:24 p.m., Mayor Leichty convened a compliance review hearing for 213 Crescent Street.**

**Present:** Board members Leichty, Landis, Myers, Nichols and Swartley; City Attorney Bodie Stegelmann; Assistant City Attorney Don Shuler; City Building Commissioner Myron Grise; City Building Inspector Travis Eash, and Steve J. Raber, the property owner.

**Assistant City Attorney Don Shuler** provided the background of the property and the reason for the compliance review hearing on the prior demolition order. He submitted to the Board a March 13, 2025 staff report from the City Building Department that provided a summary of the procedural background of the case, its current status and a staff analysis and recommendations (**EXHIBIT #2**)

**Shuler** said that during the pendency of the matter the **property was sold from Midwest Leasing LLC to Steven J. Raber** with a purchase order dated Jan. 31, 2025 and a deed transferring the property recorded on March 5, 2025.

**Shuler** said the demolition permit was obtained by the prior owner in October 2024 and that month submitted a request to NIPSCO to retire the utility lines. Shuler said the new owner obtained a demolition permit Jan. 31, 2025 and has been seeking removal of the utility lines since then without any success. It is now scheduled for March 21.

**Shuler** said a civil penalty wasn't appropriate because the owner has tried to comply with the demolition order. He added that the Legal Department has researched legal remedies against NIPSCO for the repeated disconnection delays, but they are "time consuming, costly, and not necessarily guaranteed of resolving the issue."

**Shuler** said the Building Department was recommending that the new property owner be required to continue to inform staff of their progress toward demolition on a weekly basis, that there be an immediate notification to the City when the utility line retirement takes place, and that demolition must be completed within 30 days following that date. And if for any reason it's not completed within 30 days of that date, **Shuler** said the Building Commissioner would schedule another hearing with the Board of Works to determine whether or not a civil penalty would be appropriate.

**Shuler** said **Building Commissioner Myron Grise** and **Raber** were present to provide additional information.

**Board member Landis** asked if the proposed notification requirement was at the request of the Legal Department or the property owner. **Shuler** said it was a staff recommendation to expedite the demolition. He added that the Board could reduce the notification period, but it had to be at least 10 days.





**Mayor Leichty** responded, "That is incredibly frustrating. Of all the things that I've heard complaints about from neighbors this one has repeatedly reached this Board, our Council members and our Board of Works members. So, I may be so inclined to try to pursue working to get cooperation from NIPSCO if that's what is required. Those buildings are a serious hazard to the neighborhood, and they need to come down immediately."

**Shuler** recommended that the Board hear from the new property owner.

**Mayor Leichty swore in Steve Raber to provide truthful and complete testimony.**

**Board member Landis** asked if **Raber** would be taking 29 days to demolish the home or if he would be seeking to take care of it more quickly.

**Raber** responded, "No, I'm not going to have excuses like NIPSCO. It's been very frustrating, and I'm sure when they see Steven Raber call, they think "squeaky wheel" because I've just called and called." He said NIPSCO staff have continued to promise demolition the following day and then made a series of excuses for the inaction. He added, "When they shut the gas off, we'll hop on there and get them cleared ... It's bad for the neighborhood and so I want to make a positive difference."

**Mayor Leichty** said she appreciated **Raber's** response.

**Landis/Swartley** then made a motion to approve the City Legal Department recommendations for the property at 213 Crescent Street regarding the demolition of the unsafe structure with the conditions that the property owner immediately inform staff as soon as the utility line is retired, that demolition must be completed within 30 days of that retirement, and that the property owner shall provide weekly status updates to staff until the demolition is complete. The motion passed 5-0.

## 12) Unsafe Building Compliance Review Hearing for property at 215 Crescent Street (Cecil Bontreger, property owner)

At 4:34 p.m., **Mayor Leichty** convened a compliance review hearing for the prior Order of the City of Goshen Building Commissioner for 215 Crescent Street (Cecil Bontreger, property owner).

### BACKGROUND:

In a March 13, 2025 memorandum to the Board, **Assistant City Attorney Don Shuler** informed the **Board** that an unsafe building compliance review hearing was scheduled March 13 for the property located at 215 Crescent Street. Attached to the memo was a Record of Action and Continuous Enforcement Order issued by the on Aug. 29, 2024, requiring demolition of the unsafe building on the property, as well as the Tabling Order issued on Feb. 13, 2025, scheduling this review hearing.

**Shuler** wrote that for the hearing, the Board could receive information, evidence, and arguments from the Building Department, the property owner, City Staff, and anyone else wishing to speak to the property. **Based on any findings the Board made, the Board could:**

1. Confirm compliance if evidence is presented that the demolition of the unsafe structure had been completed;
2. Confirm non-compliance and authorize the Building Commissioner to proceed with demolition or other remedial action or a civil action, as permitted by the Indiana Unsafe Building Law;
3. Issue a civil penalty in an amount not to exceed \$5,000 if the Board found that there had been a willful failure to comply with Order; or
4. Any other action permitted by law to resolve the unsafe conditions on the property.

**Shuler** wrote that in taking any of these actions, the Board should make specific findings to support its action.

**On Aug. 29, 2024, a signed Record of Action and Continuous Enforcement Order set forth the following:**



**BACKGROUND:**

1. The City of Goshen **Building Commissioner issued an order on Aug. 1, 2024** (hereinafter the "Order"), concerning the property located at **215 Crescent Street** and more particularly described in Exhibit A (hereinafter the "Real Estate"). The **Order made findings that the vacant residential structure at the Real Estate was an unsafe building and required demolition** of said building and removal of all demolition remains, trash, and debris on the Real Estate and return of the site to natural grade, all of said work to be completed within 45 days.
2. The **Building Commissioner, in his Order, determined that the building at the Real Estate was unsafe** under I.C. § 36-7-9-4(a)(2), (4),(5), and (6) **due to the following conditions:**
  - a. The vacant residential structure on the Real Estate was vacant with no water usage for approximately 20 years;
  - b. The vacant residential structure recently sustained a fire, causing significant damage to the roof, having burnt, charred members throughout the structure that are beyond repair;
  - c. The fire damage rendered the building in danger of collapse; and
  - d. The building's condition was vacant and unfit for human habitation, occupancy, or use under Goshen City Code.
3. Proper notice of the demolition order was provided to **Cecil Bontreger**, the Real Estate's owner (hereinafter "Owner"), by regular United States mail in accord with I.C. § 36- 7-9-25.
4. During the hearing the Goshen Building Department presented evidence, testimony, and argument supporting the Order. The Owner was given the opportunity to present testimony and evidence concerning the condition of the building at the Real Estate and the Order.

**FINDINGS**

After consideration of the evidence and testimony presented, the Hearing Authority found that the Building Commissioner's Order was supported by substantial evidence. The vacant residential structure at the Real Estate was an unsafe building under Indiana law. The Hearing Authority adopted Section 2 of the Order as its Findings.

**ORDER**

**The Order issued by the City of Goshen Building Commissioner was affirmed in its entirety.**

1. This order shall serve as a Continuous Enforcement Order pursuant to I.C. § 36-7-9-2.
2. Owner is hereby ordered to comply with the Order to demolish the unsafe vacant residential structure at the Real Estate within 45 days of said Order, failing which the Building Commissioner is authorized to proceed with the demolition at the expense of Owner, with such costs to be assessed against the Real Estate as provided by law.
3. This order constitutes a final administrative decision, and Owner has the right to appeal these findings of fact and this Continuous Enforcement Order to the Elkhart Circuit or Superior Court by filing a verified complaint within 10 days of the date of this action; failure to file a verified complaint within the specified time forfeits any appeal rights.
4. Per I.C. § 36-7-9-27, if Owner transfers its interest or any portion of its interest in the vacant residential structure and/ or the Real Estate affected by this Continuous Enforcement Order to another person, Owner must supply the other person with full information regarding this Continuous Enforcement Order prior to transferring that interest or agreeing to transfer that interest. Further, within five (5) business days after transferring that interest or agreeing to transfer a substantial property interest in the vacant residential structure and/ or the Real Estate, Owner must supply the City of Goshen Building Commissioner with the full name, address, and telephone number of the other person taking a substantial property interest in the vacant residential structure and/ or the Real Estate, along with written copies of the agreement to transfer the interest or copies of the document actually transferring the interest. Should the Owner fail to comply with these provisions, then Owner may be liable to the City of Goshen for any damage that the City of Goshen may suffer in the event that a judgment is entered against it by the other person to whom the transfer is made.

The CONTINUOUS ENFORCEMENT ORDER of the Board of Public Works and Safety, memorializing the Hearing Authority's action of Aug. 29, 2024, was issued on Aug. 29 2024.



**Compliance Review Hearings for this order were convened and delayed on Jan. 30, 2025 and Feb. 13, 2025 and continued until March 13, 2025. Some postponements were prompted by delays by NIPSCO in disconnecting gas lines at a neighboring property (since a contractor wanted to demolish both structures at once) and a legal dispute with the next-door property owner about who was responsible for the fire.**

#### **DISCUSSION AND OUTCOME OF BOARD COMPLIANCE REVIEW HEARING ON MARCH 13, 2025:**

**At 4:34 p.m., Mayor Leichty convened a compliance review hearing for 213 Crescent Street.**

**Present:** Board members Leichty, Landis, Myers, Nichols and Swartley; City Attorney Bodie Stegelmann; Assistant City Attorney Don Shuler; City Building Commissioner Myron Grise; City Building Inspector Travis Eash, and Cecil Bontreger, the property owner.

**Assistant City Attorney Don Shuler** provided the background of the property, a timeline of the matter and the reason for today's compliance review hearing on the prior demolition order.

Before the hearing began, **Shuler** submitted to the Board a March 13, 2025 staff report from the City Building Department that provided a summary of the procedural background of the case, its current status and a staff analysis and recommendations (**EXHIBIT #3**)

**Shuler** said he learned over the past month that the utility lines at 215 Crescent Street have been disconnected unlike 213 Crescent Street and "there's no legal impediment to completing the demolition at the property." He said the owner of 213 Crescent has been seeking to coordinate the demolition of both structures to save money, but 215 Crescent could be demolished now.

**Shuler** said the Building Department staff was recommending that the Board grant a limited extension of the demolition of 215 Crescent until April 16 subject to the conditions that the property owner provide weekly updates and notify about the utility line retirement at 213 Crescent Street. Primarily, he said City staff want demolition to commence no later than March 26, 2025 and must be completed in full by April 16, 2025. Should the property owner fail to comply, staff recommends that the Board hold a hearing and determine if a civil penalty should be imposed.

**Shuler** said City staff recommend a possible fine because property owner **Cecil Bontreger** didn't get a demolition permit until Jan. 31, 2025, unlike his neighbor who did so in October, and could have taken down the home by now.

**Shuler** noted that **Bontreger** was present to answer any questions.

**Mayor Leichty** asked **Shuler** if there was anything that would prohibit the Board from incorporating a civil penalty into its recommendation, rather than taking additional time and resources by having the Board convene a second hearing if the property owner did not comply. **Shuler** said state law would permit the Board to impose a civil penalty that would be suspended upon completion of the demolition by the specified date.

**Mayor Leichty swore in Cecil Bontreger, the property owner, to give truthful and complete testimony.**

**Bontreger** said he has a contract with the company that will demolish both buildings. He said the houses are only four or five feet apart, and that the fire that damaged them began at 213 Crescent and spread to 215 Crescent. While he said it would make sense to demolish them at the same time, they could be taken down separately if that's what the Board would prefer. Still, he said neighbors will still complain until both houses are demolished.

**Mayor Leichty** responded that neighborhood complaints "not only stem from the fact that the house is burned, but that this house was vacant for 20 years. So, it's contributed significantly to the blight on that street. Can you tell me why it was vacant for 20 years?"

**Bontreger** said there was an issue on one side of the house and then it became a duplex "and we lost that compliance, and I was going to look into that and just never got it done."

The **Mayor** asked if **Bontreger** lacked the capacity to complete the necessary repairs that the Building Department requested. He said, "every two years it was done, and it met approval for that" under a program for vacant homes.

**Mayor Leichty** said the home "was still not brought up to code sufficiently to be rentable." He said it was.



**City Building Inspector Travis Eash** and **Bontreger** briefly discussed the home's prior status, but did not reach a resolution about whether it was rentable. **Bontreger** then said, "I have that record in the house, but that's rather immaterial, I guess, at this point. So, you know, whatever you don't want to do with the demolition that's up to you."

**Mayor Leichty** said, "I just wanted to get clarification on the status of the property, and also illustrate, you know, for the purposes of this Board the numerous times that we're dealing with vacant and blighted properties.

"And I want to make sure that you're being very conscientious about those properties and know that that's something that is a great concern to the City, and that it's something that we fully expect cooperation from. And so, I think what we're hearing now from the neighbors, and the outcry that we're hearing, is partially related to this fire, but also a great concern just about the quality and the care of the home itself prior to this event."

The **Mayor** thanked **Bontreger** for his comments.

**Steve Raber**, who owns 213 Crescent Street, said he has a contract with **Bontreger** for 215 Crescent and it would make sense to demolish the home together. However, he said it would be possible for them to be demolished separately.

**Mayor Leichty** invited comments from **Councilor Matt Schrock**, who has received many neighborhood complains about the homes. She then swore in **Councilor Schrock** to provide truthful and complete testimony.

**Councilor Schrock** said, "I'm just here giving the Board another reminder that it has been since June of last year that these houses have sat the way they're sitting. That's really about it. I just want to keep reminding."

**Councilor Schrock** said he understood that NIPSCO has been responsible for the delayed demolition and supported the work of the City Building Department. He said that if there was no demolition until April, it would be nearly a year since the homes were heavily damaged in a fire. He added, "This is just taking too long."

**Board member Myers** said it was clear that NIPSCO was responsible for the demolition delay. He added, "Granted, this has been an exceptional long time, but we've seen what NIPSCO's done to us in the past on these things, and they haven't changed one bit."

**Board member Myers** and **Councilor Schrock** briefly discussed the delays. **Councilor Schrock** then said, "Thanks for trying." The **Mayor** responded, "We're doing more than trying. We're getting there."

The **Mayor** and **Board member Landis** briefly discussed the possible civil penalty.

**Assistant City Attorney Shuler** then clarified the staff recommendation. He said if the utilities at 213 Crescent are disconnected by March 21, 30 days from that date would be April 21, and both properties could be demolished together. If not, **Shuler** said one of them could be demolished by April 16. He added that the Board could also impose a civil penalty of up to \$5,000 but could suspend it if **Bontreger's** house was demolished by April 16.

**Board member Landis** then made a motion to impose the following for the unsafe property at 215 Crescent Street: the property owner shall immediately notify staff upon completion of the utility line retirement at the neighboring property at 213 Crescent Street; regardless of the status of that retirement at 213 Crescent, demolition of this property at 215 Crescent must commence no later than March 26, 2025, and be fully completed by April 16, 2025; that weekly updates shall be provided by the property owner to City staff until that demolition is complete; and the Board will impose a \$5,000 civil penalty on this property, which will be suspended if the owner follows through and complete the demolition by April 16 and restores the property to a natural state. **Board member Swartley** seconded the motion. The motion passed 5-0.

At 4:50 p.m., **Mayor Leichty** closed the two compliance review hearings and reopened the Board of Works & Safety meeting.



**APPROVAL OF CIVIL & UTILITY CLAIMS**

Mayor Leichthy made a motion to approve Civil City and Utility claims and adjourn the meeting. Board member Swartley seconded the motion. The motion passed 5-0.

**ADJOURNMENT**

Mayor Leichthy adjourned the meeting at 4:50 p.m.

**EXHIBIT #1:** *A March 13, 2025 memorandum from Kelly Saenz, Manager of the Goshen City Utilities Office, to the Board asking the Board to move the office's \$13,776.52 in uncollected final accounts from active to Collection, Sewer Liens and Write offs for the period through Dec. 27, 2024.*

**EXHIBIT #2:** *A March 13, 2025 staff report from the City Building Department to the Board that provided a summary of the procedural background of the property at 213 Crescent Street, its current status and a staff analysis and recommendations regarding its demolition. It was presented during consideration of agenda item #11, Unsafe Building Compliance Review Hearing for property at 213 Crescent Street (Midwest Leasing LLC, property owner).*

**EXHIBIT #3:** *A March 13, 2025 staff report from the City Building Department to the Board that provided a summary of the procedural background of the property at 215 Crescent Street, its current status and a staff analysis and recommendations regarding its demolition. It was presented during consideration of agenda item #12, Unsafe Building Compliance Review Hearing for property at 215 Crescent Street (Cecil Bontreger, property owner).*

**APPROVED:**

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**Mayor Gina Leichthy**

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**Mike Landis, Member**





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**Orv Myers, Member**

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**Mary Nichols, Member**

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**Barb Swartley, Member**

**ATTEST:**

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**Richard R. Aguirre, Clerk-Treasurer**

March 31, 2025

To the Goshen City Board of Works,

Lacasa, Inc. is applying to temporarily place a roll-off dumpster in the street parking in front of The Shoots Apartments at 112 E Lincoln Ave. We will be starting some interior demolition the week of April 7<sup>th</sup>. See attached maps. This work will take place from April 7<sup>th</sup> – April 11<sup>th</sup>. We anticipate only needing one dumpster at this time. We will place the dumpster pursuant to the City Engineering Department's email of "new" rules in 2025 that we received on 2/14/25, prior to placing the last dumpster in early March. (attached hereto)

We will close the dumpster each evening and clean up all debris/trash from the pathway between the dumpster and the building.

We have notified the adjacent building owners and commercial tenants.

Sincerely,

*Brad Hunsberger*

Brad Hunsberger

V.P. Real Estate Development

Lacasa, Inc.

Lacasa - Goshen  
202 N. Cottage Ave.  
Goshen, IN 46528  
(574) 533-4450

Lacasa - Elkhart  
516 S. Main Street  
Elkhart, IN 46516  
(574) 533-4450





## Brad Hunsberger

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**From:** Sailor, Dustin <dustinsailor@goshencity.com>  
**Sent:** Friday, February 14, 2025 2:10 PM  
**To:** Brad Hunsberger  
**Cc:** Aguirre, Richard; Weaver, Jeffery; Lund, Andrew; Hetler, Tara; Meade, Melissa  
**Subject:** Goshen Engineering - LaCasa - Shoots Building Dumpster Request

**Importance:** High

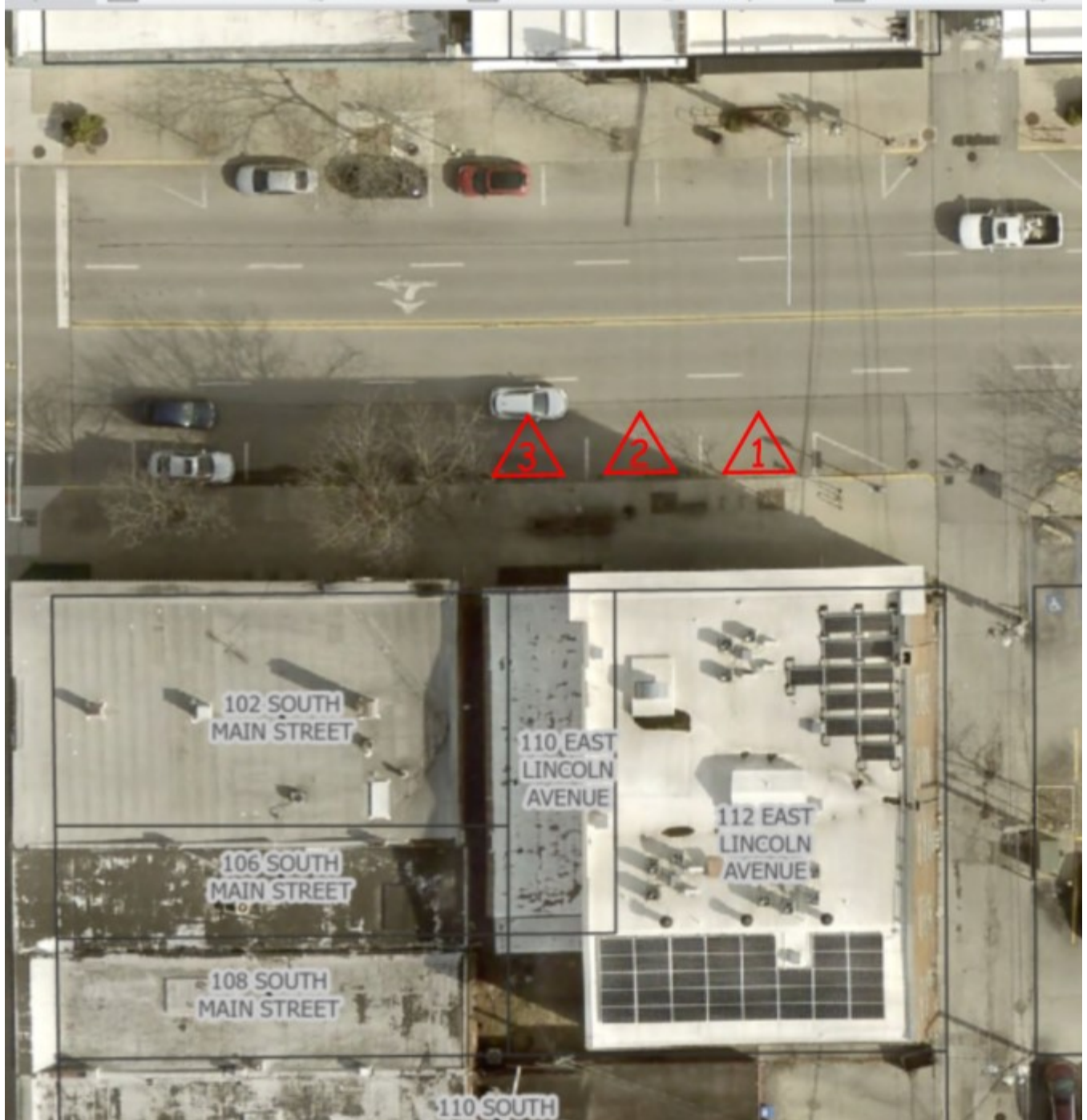
External (dustinsailor@goshencity.com)

[Report This Email](#) [FAQ](#)

Dear Brad:

At the Board of Works meeting on February 13, 2025, the Board approved the placement of a dumpster in the right-of-way in front of the Shoots Building located at 112 E. Lincoln Avenue. The approval was conditioned on the requestee, LaCasa, meeting Goshen Engineering's requirements. Starting in 2025, Goshen Engineering has changed its requirements for placement of a dumpster within the public right-of-way to better protect all parties. The stipulations associated with placing the dumpster within the right-of-way are:

1. Because the dumpster is almost as wide as the parking space on E. Lincoln Avenue (i.e. 7'-6" where 7'-10" is available), the two corners of the dumpster closest to the traffic travel lane shall be delineated by lighted or retroreflective IMUTCD channelizing devices or equal reflective sheeting material.
2. The placement of the dumpster on the street pavement shall be no closer than 100' to an intersection. In no case shall the dumpster be an obstruction to the vision of vehicular traffic. With the alley being one-way south, it acceptable for the dumpster to be closer than 100' to the alley.
3. Contrary to what was requested, ADEC's 15-minute parking space nearest the alley is to remain clear for patron drop-off. The dumpster will need to be placed in the 2<sup>nd</sup> and 3<sup>rd</sup> parking space west of the alley.



4. The dumpster shall not be placed on the curb or sidewalk.
5. Because the road surface is asphalt and because of the requested duration, the dumpster shall be placed on wood blocking or sheeting.
6. It shall be understood the dumpster will need to be removed if it becomes a traffic and/or safety hazard.
7. The waste hauler must provide proof of insurance to the city of Goshen Engineering Department. A copy of the waste hauler's insurance policy can be emailed to [engineering@ goshencity.com](mailto:engineering@goshencity.com).

With the dumpster being placed as early as Saturday, the proof of insurance may be provided next week. The reflective delineators will need to be placed immediately upon installation of the dumpster.

Please relay these requirements to your waste hauler so they can make the appropriate accommodations.



Regards,

Dustin K. Sailor, P.E. (IN & MI)  
Director of Public Works & Utilities  
City of Goshen  
204 E. Jefferson Street, Goshen, IN 46528  
Ph: 574.534.2201 \* Cell: 574.202.0062





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

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

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

April 3, 2025

To: Board of Public Works and Safety

From: Don Shuler, Assistant City Attorney

Subject: Memorandum of Understanding – Fire Overtime Procedures

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Attached for the Board's consideration and approval is a Memorandum of Understanding (MOU) between the City and the Goshen Firefighters Association Local No. 1443. This MOU revises the current overtime call-in procedures for paramedics and firefighters outlined in Article XVII, Section Two of the existing Collective Bargaining Agreement (CBA). The purpose of these adjustments is to enhance operational efficiency, ensure equitable scheduling, and manage mandatory overtime while maintaining adequate staffing levels. The revised procedures in the MOU will be effective through the expiration of the current CBA on December 31, 2026. The Union has approved and agreed to these changes.

**Suggested Motion: Move to approve the Memorandum of Understanding between the City and Goshen Firefighters Association Local No. 1443 and authorize the Mayor to execute the MOU.**

## **MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding (MOU) is entered into by and between the City of Goshen, Indiana, by and through the Goshen Board of Public Works and Safety (“City”) and Goshen Firefighters Association Local No. 1443 (“Union”), collectively referred to as the “Parties”, on the last date executed below.

WHEREAS, City and Union are parties to a Collective Bargaining Agreement (CBA) effective January 1, 2024 through December 31, 2026; and

WHEREAS, Article XIX, Section Four of the CBA allows modifications to the agreement through mutual written agreement of the Parties without requiring a formal contract amendment; and

WHEREAS, the Parties recognize the need to adjust the overtime call-in procedures for paramedics and firefighters under Article XVII, Section Two of the CBA to enhance operational efficiency and fairness while maintaining adequate staffing levels; and

WHEREAS, the Parties desire to implement this adjustment without reopening negotiations on the full CBA and have agreed that this MOU shall sunset upon the expiration of the current CBA on December 31, 2026; and

WHEREAS, the Union agrees that it will not file, nor be eligible to file, a grievance related to the agreed upon changes contained within this MOU.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

### **Section 1. Purpose.**

The purpose of this MOU is to revise the overtime call-in procedures outlined in Article XVII, Section 2 of the CBA to ensure equitable scheduling and prevent excessive mandatory overtime while maintaining operational readiness.

### **Section 2. Revised Call in for Duty Procedures.**

Notwithstanding any language to the contrary in Article XVII, Section 2 of the CBA, the parties agree to the following Call in for Duty procedures.:

- (a) Paramedics. In the event that a paramedic is needed to meet minimum workforce requirements and no active paramedic volunteers to work, the Fire Chief or officer in charge shall order in a paramedic according to current Goshen Fire Department (GFD) procedures with the following exceptions:

- (1) No active paramedic shall be ordered to work more than once in any given twenty-seven (27) day work period, unless all active paramedics located have already been called in at least once in the period.
  - (2) No active paramedic can be ordered to work if the calling would result in the active paramedic working more than fifty (50) hours in a seventy-two (72) hour period unless all active paramedics located have already been called in at least once in twenty-seven (27) day period or their call-in would result in working more than fifty (50) hours in a seventy-two (72) hour period. In event that an active paramedic would be ordered in resulting in the paramedic working more than fifty (50) hours in a seventy-two (72) hour period, the active paramedic should be allowed to leave duty as soon as other staffing commitments consistent with this agreement can be met if the active paramedic requests. City must, however, comply with Indiana Code 36-8-4-9.
- (b) Firefighters. In the event that a firefighter is needed to meet minimum work force requirements and no firefighter volunteers to work, the Fire Chief or officer in charge shall order in according to current GFD procedures with the following exceptions:
- (1) No firefighter can be ordered to work more than once in any given twenty-seven (27) day period unless all firefighters located have already been called in at least once in the period.
  - (2) No firefighter can be ordered to work if the calling in would result in the firefighter working more than fifty (50) hours in a seventy-two (72) hour period unless all firefighters located have already been called in at least once in a twenty-seven (27) day period or their call-in would result in working more than fifty (50) hours in a seventy-two (72) hour period. In the event a firefighter would be ordered in resulting in the firefighter working more than fifty (50) hours in a seventy-two (72) hour period, the firefighter should be allowed to leave duty as soon as other staffing commitments consistent with this agreement can be met if the firefighter requests. City must, however, comply with Indiana Code 36-8-4-9.

### **Section 3. Sunset Clause & Future Negotiations.**

- (A) This MOU shall remain in full force and effect through December 31, 2026, at which point it shall automatically expire, unless extended by mutual written agreement of the Parties.
- (B) The Parties acknowledge that the provisions of this MOU are intended to remain in effect for the duration of the current CBA and shall not establish a precedent beyond the term of this agreement.

**Section 4. No Grievance Agreement.**

- (A) The Union expressly waives the right to file a grievance under the CBA related to the overtime call-in procedures set forth in this MOU.
- (B) The Parties agree that the provisions of this MOU shall not be subject to arbitration or other dispute resolution mechanisms under the CBA.

**Section 5. No Amendment to CBA.**

The Parties agree that this MOU does not amend or modify the CBA. The existing terms of the CBA remain in full force and effect except as explicitly stated in this MOU.

**Section 6. Miscellaneous Provisions.**

- (A) Any amendments to this MOU must be in writing and signed by all parties.
- (B) This MOU shall be governed by and construed in accordance with the laws of the State of Indiana.
- (C) If any provision of this MOU is found to be invalid or unenforceable, the remainder of the MOU shall continue in full force and effect.

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

Goshen Firefighters Association  
Local No. 1443

By: \_\_\_\_\_  
Gina M. Leichty, Mayor

By: \_\_\_\_\_

Date: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_





**CITY OF GOSHEN LEGAL DEPARTMENT**

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[www.goshenindiana.org](http://www.goshenindiana.org)

April 3, 2025

To: Board of Public Works and Safety

From: Brandy L. Toms, Paralegal

Subject: Amendment Agreement with Christopher B Burke and Associates for creating City's Flood Response Plan.

In 2024, the City of Goshen entered into agreement with Christopher Burke Engineering, LLC for the creation of a Flood Response Plan at the cost of \$40,000. In January, 2025, Christopher Burke Engineering, LLC notified the City of additional, unanticipated work, and requested an agreement amendment of \$8,000. The additional work was required in order to correct inaccuracies in FEMA flood depth information for Leady Ditch, Rock Run Creek, and Horn Ditch. These corrections were necessary in order to create accurate, working plans for the City.

It is recommended that the Board approve and authorize Mayor Leichty to execute the attached Amendment Agreement with Christopher B Burke and Associates (CBB) for the additional professional services necessary for the preparation of the City of Goshen's Flood Response Plan. Contractor will be paid \$8,000 for the services.

**Suggested Motion:**

Approve and authorize Mayor Leichty to execute the attached Amendment Agreement with Christopher B Burke and Associates (CBB) for the additional professional services necessary for the preparation of the City of Goshen's Flood Response Plan at a cost of \$8,000.



January 31, 2025

Aaron Sawatsky-Kingsley  
City of Goshen  
Rieth Interpretive Center  
410 W. Plymouth Ave.  
Goshen, IN 46526

Subject: **City of Goshen Flood Response Plan Development  
Amendment No. 1**

Dear Mr. Sawatsky-Kingsley:

In accordance with our contract, we are notifying you of a change in the scope of work for this project that will result in work that was not included in our original contract. The need for these additional scope items were shared with you in previous monthly progress reports. The specific scope changes and resulting additional fees are outlined below.

### BACKGROUND

The City of Goshen Flood Response Plan development is nearing completion. Our original scope of work included using the flood risk data provided by FEMA for Leady Ditch, Rock Run, and Horn Ditch. However, after discovering inaccuracies in that data, we had to expend a significant effort to recalculate and modify the flood depth information for these streams for more reasonable and reliable results. We informed you of this issue as soon as it was discovered. We had hoped to be able to absorb this additional effort in our current budget, however, due to significant unanticipated additional efforts associated with working with a newly introduced “GIS Online Experience” platform by ESRI and recent changes in the NOAA and USGS information delivery platforms (which we will absorb), we have determined that an amendment for the out-of-scope flood depth mapping work that we have completed is now necessary for us to be able to complete the remaining portion of our scope of work under the contract.

### ADDITIONAL SCOPE OF WORK ITEMS

**Additional Task 1 – Additional Efforts Regarding Detailed Flood Inundation Depth Mapping Along Leady Ditch:** It was anticipated that FEMA’s flood risk dataset (FRD) depth mapping would be acceptable for direct use in the project depth mapping. It was found that water surface elevations were not the same in locations where that would be expected. Burke staff had to take time to confirm that the difference was insignificant for depth mapping purposes along the stream reach. One area approximately 0.4 mile long was found to not have properly applied elevations so bounding WSEL were used to create the depth mapping in between.

Cost incurred = \$1,200

**Additional Task 2 – Additional Efforts Regarding Detailed Flood Inundation Depth Mapping Along Rock Run:** It was anticipated that FEMA’s flood risk dataset (FRD) depth mapping would be acceptable for use in the project depth mapping. However, it was found that the FRD WSEL had different elevations on each side of the stream. Differences were deemed too great for use as reliable data for the FRP, so water

surface elevations and corresponding depth grids had to be created from the FIS cross section elevations. This required extension of the cross sections to provide a realistic representation of the water surface across the entire floodplain along with calculation and cleanup of depth mapping created using the 2017 DEM.

Cost incurred = \$2,400

**Additional Task 3 – Additional Efforts Regarding Detailed Flood Inundation Depth Mapping Along**

**Horn Ditch:** It was anticipated that FEMA’s FRD depth mapping would be acceptable for use in the project depth mapping. However, it was found that the FRD WSEL had different elevations on each side of the stream. Differences were deemed too great for use as reliable data for the FRP, so FIS data was located for use. It was found that the FIS and a subsequent LOMR only had 100 & 500 yr profiles, not all 4 frequencies similar to the other streams. The LOMR model could not be found, therefore water surface elevations from the LOMR Floodway Data Table and profile were used to create the 100- and 500- year WSEL to get and clean up the depth based on the 2017 DEM. The 10- and 50-year profile source then had to be found. The extent of the stream that the 10- and 50-year floods might be out of channel and therefore of interest was identified. It appeared that the FIS and LOMR were similar elevations in this reach so the FIS model was run to get the elevations. However, the results were higher than the LOMR 100-year WSEL, so another method to determine reasonable approximations had to be identified and the depth maps created.

Cost incurred = \$1,200

**Additional Task 4 – Additional Efforts Regarding Detailed Flood Inundation Depth Mapping Along**

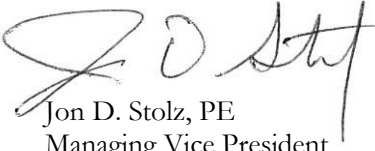
**Elkhart Rivere:** It was anticipated that FEMA’s FRD depth mapping would be acceptable for use in the project depth mapping. However, the WSEL provided with the FRD depth grids showed different elevations on either side of the stream to the extent that the depth grids couldn’t be trusted. USGS inundation map makes more sense but doesn’t go all the way through the city. It was used for the portion that it does cover. Determination of the USGS inundation stages to use so that they correspond to each frequency flood was not a straightforward determination as the rating curve is very different between the FIS and the USGS gage rating information. Additional investigation was required to select values that made sense for use in this project. The 500-year discharge was above the USGS modeled values, so the USGS model was obtained and run for the 500-year discharge. The USGS model has a discharge change at a second location so additional data also had to be determined for the model to run. A way to determine water surface elevations for the 1 ½ mile of depth maps missing from the USGS mapping at the upstream end of the Elkhart River had to be found and used to create and clean up the depth mapping.

Cost incurred = \$3,200

**ESTIMATED FEE**

We have estimated the total additional cost incurred for the tasks outlined above to be a total of **\$8,000**. This amendment would increase the total estimated fee for this project to \$48,000 and is subject to the general terms and conditions included in the original contract signed May 23, 2024. We appreciate your consideration of this matter and look forward to working with you towards successful project completion. Please contact me or Manuela Johnson at the number listed above if you have any questions.

Sincerely,



Jon D. Stolz, PE  
Managing Vice President

**THIS AMENDMENT AND ESTIMATED FEE ARE ACCEPTED BY CITY OF GOSHEN:**

Signature: \_\_\_\_\_

Name (Printed): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



## CITY OF GOSHEN LEGAL DEPARTMENT

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

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[www.goshenindiana.org](http://www.goshenindiana.org)

April 3, 2025

To: Goshen Board of Public Works and Safety

From: Shannon Marks, Legal Compliance Administrator

Subject: Amendment No. 1 to Contract for City of Goshen Lawn Services with  
Colin Avila d/b/a Yardshark

The City and Colin Avila d/b/a Yardshark entered into a Contract on March 12, 2024 for Yardshark to provide lawn mowing and maintenance services for certain City of Goshen properties. This amendment is to renew the Contract for the 2025 mowing season, as well as add a new location for services and discontinue services at three locations. The original Contract provides for a 2% price increase in the costs for services to a location for a subsequent mowing season.

### Suggested Motion:

Move to approve the terms and conditions and authorize Mayor Leichty to execute Amendment No. 1 to the Contract for City of Goshen Lawn Services with Colin Avila d/b/a Yardshark on behalf of the City of Goshen and the Goshen Board of Public Works and Safety.

## AMENDMENT NO. 1

### Contract for City of Goshen Lawn Services

THIS AMENDMENT is entered into on April \_\_\_\_\_, 2025, which is the last signature date set forth below, by and between **Colin Avila d/b/a Yardshark** (“Contractor” or “Yardshark”), whose mailing address is PO Box 2101, Michigan City, IN 46361, and **City of Goshen, Indiana**, a municipal corporation and political subdivision of the State of Indiana acting through the Goshen Board of Public Works and Safety Redevelopment Commission (“City”).

#### RECITALS

- (A) City and Yardshark entered into a Contract on March 12, 2024 for Yardshark to provide City with lawn mowing and maintenance services for certain City of Goshen properties.
- (B) The Contract may be renewed for up to two additional mowing seasons.
- (C) The parties wish to renew the Contract for the 2025 mowing season which shall include 2025 fall clean up.
- (D) City wishes to add and remove certain Service Areas for Lawn Services.
- (E) Any modification or amendment to the terms and conditions of the Contract shall be made in writing and signed by both parties.

In consideration of the terms, conditions and mutual covenants to be kept and performed under the original Contract, and under the terms, conditions and mutual covenants of this Amendment, the parties agree as follows:

#### SECTION 1. Effective Date; Renewal Term

- (A) The Amendment shall become effective on the day of execution and approval by both parties.
- (B) The Contract shall be renewed for the 2025 mowing season which shall include 2025 fall clean-up.

#### SECTION 2. Scope of Services

- (A) ADDITION(S). Contractor shall provide Lawn Services to the following new Service Area added to the Contract, effective the 2025 mowing season:
  - (1) Service Area 19, 208 West Washington Street. Services to be provided to Service Area 19 are the same as Services provided to Service Area 14, 210 West Washington Street.
- (B) REMOVAL(S). Contractor shall discontinue Lawn Services to the following Services Areas, effective the 2025 mowing season:
  - (1) Service Area 2, City Hall at 202 South Fifth Street, Utilities Billing Office at 203 South Fifth Street, City Annex Building at 204 East Jefferson Street, and Goshen Police & Court Building at 111 East Jefferson Street.
  - (2) Service Area 3, Goshen Police Training Facility at 713 East Lincoln Avenue.
  - (3) Service Area 4, Northeast Corner of East Lincoln Avenue and Olive Street.



(C) Contractor shall continue providing Lawn Services to all other Service Areas under the March 12, 2024 Contract.

**SECTION 3. Compensation**

The established unit costs for Lawn Services at a Service Area as set forth in the original Contract are adjusted by a 2% maximum price increase as permitted under the original Contract. The unit costs for the 2025 mowing season at each Service Area, including the unit cost for Service Area 19, are set forth in Exhibit B attached to this Amendment.

**SECTION 4. Original Contract**

In all respects, all other provisions of the original Contract not affected by this Amendment shall remain in full force and effect.

**SECTION 5. Authority to Execute**

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

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

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

**Colin Avila d/b/a Yardshark**

\_\_\_\_\_  
Gina M. Leichthy, Mayor

  
\_\_\_\_\_  
Colin Avila, Owner

Date Signed: \_\_\_\_\_

Date Signed: 3-27-25

Redevelopment Commission

\_\_\_\_\_  
Becky Hutsell, Redevelopment Director

Date Signed: \_\_\_\_\_

**EXHIBIT B**

	<b>Service Area/Invoicing</b>	<b>Basis/Unit</b>	<b>2024 Unit Cost</b>	<b>2025 Unit Cost</b>
<b>1 ENG</b>	Third Street/Madison Street from Pike Street south to Main Street, including Parking Areas (Includes Weed Control)	Lump Sum Monthly Cost	1,084.00	<b>1,105.68</b>
<del>2 ENG</del>	City Hall at 202 South Fifth Street, Utilities Billing Office at 203 South Fifth Street, City Annex Building at 204 East Jefferson Street, and Goshen Police & Court Building at 111 East Jefferson Street	Lump Sum Monthly Cost	690.00	Removed 2025
<del>3 POL</del>	Goshen Police Training Facility at 713 East Lincoln Avenue	Lump Sum Monthly Cost	125.00	Removed 2025
<del>4 ENG</del>	Northeast Corner of East Lincoln Avenue and Olive Street	Lump Sum Monthly Cost	100.00	Removed 2025
<b>5 ENG</b>	East Lincoln Avenue Stormwater Basin	Lump Sum Monthly Cost	260.00	<b>265.20</b>
<b>6 ENG</b>	Northwest Corner of North Main Street and West Wilden Avenue and Northeast Corner of East Wilden Avenue and North Sixth Street	Lump Sum Monthly Cost	85.00	<b>86.70</b>
<b>7 ENG</b>	Southeast Corner of East Wilden Avenue and North Sixth Street	Lump Sum Monthly Cost	167.00	<b>170.34</b>
<b>8 ENG</b>	West Plymouth Avenue Stormwater Basin	Lump Sum Monthly Cost	175.00	<b>178.50</b>
<b>9 ENG</b>	County Road 19 Stormwater Basin and Access Drive	Unit Cost for Each Mow	50.00	<b>51.00</b>
<b>10 ENG</b>	East Kercher Road Stormwater Basin (Turf Surrounding Basin)	Lump Sum Monthly Cost	240.00	<b>244.80</b>
<b>10 ENG</b>	East Kercher Road Stormwater Basin (Side Slopes and Bottom of Basin)	Unit Cost for Each Mow	250.00	<b>255.00</b>
<b>11 ENG</b>	South Side of East Kercher Road at Pine Manor Avenue	Lump Sum Monthly Cost	100.00	<b>102.00</b>



**EXHIBIT B**

<b>Service Area/Invoicing</b>		<b>Basis/Unit</b>	<b>2024 Unit Cost</b>	<b>2025 Unit Cost</b>
<b>12 RDV</b>	600-700 Blocks of East Lincoln Avenue	Lump Sum Monthly Cost	333.00	<b>339.66</b>
<b>13 RDV</b>	400-Block West Pike Street /200-Block New Street	Lump Sum Monthly Cost	250.00	<b>255.00</b>
<b>14 RDV</b>	210 West Washington Street	Lump Sum Monthly Cost	75.00	<b>76.50</b>
<b>15 RDV</b>	200-Block of South Third Street	Lump Sum Monthly Cost	250.00	<b>255.00</b>
<b>16 RDV</b>	River Race Drive/South Second Street, including south Island	Lump Sum Monthly Cost	125.00	<b>127.50</b>
<b>17 RDV</b>	305 East Kercher Road	Lump Sum Monthly Cost	100.00	<b>102.00</b>
<b>18 RDV</b>	65719 State Road 15	Lump Sum Monthly Cost	160.00	<b>163.20</b>
<b>19 RDV</b>	208 West Washington Street	Lump Sum Monthly Cost	NA	<b>76.50</b>
<b>Cost Adjustment for Subsequent Mowing Seasons - Maximum percentage increase in Service Area Unit Cost if renew Contract in subsequent year(s):</b>		2%		



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

## MEMORANDUM

**TO: Goshen Board of Public Works and Safety**

**FROM: Stormwater Department**

**RE: MILLRACE CANAL PEDESTRIAN PATH CLOSURE REQUEST FOR THE WELLINGTON DITCH LOGJAM REMOVAL PROJECT (JN: 2025-0018)**

**DATE: April 3, 2025**

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The work to be completed by the Davey Resource Group to remove logjams along the Wellington Ditch (JN: 2025-0018) will require a section of the Millrace Canal pedestrian path to be completely closed from Murray Street to W Waverly Avenue for the duration of the project. The use of the pedestrian path from Murray Street to Rieth Park will occasionally be restricted when Davey Resource Group is driving equipment on the path. During those times a flagger will be present to protect pedestrian safety.

A map of the detour route is attached.

Davey Resource Group intends to begin logjam removal on Monday, April 7<sup>th</sup> and complete their work by Friday, May 16<sup>th</sup>, weather dependent. Thus, the Goshen Stormwater Department is requesting the Board of Public Works and Safety approval for the closure of the Millrace Canal Pedestrian Path from Monday, April 7<sup>th</sup> to Friday, May 23<sup>rd</sup> for a total of 47 days. As soon as the work is completed and any damages to the pathway have been repaired the path will be reopened to public use.

The Goshen Stormwater Department understands the impact the proposed closure of this section of the Millrace Canal pedestrian path will have on the community and asks for the public's patience as this necessary maintenance work is undertaken. The removal of the accumulated logjams will help to keep the canal bank in good condition.

**Requested Motion:** Approve the closure of the Millrace Canal pedestrian path from Murray Street to W Waverly Avenue for the timeframe of April 7 to May 23 to allow for the removal of accumulated logjams.

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

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Gina Leichty, Mayor

---

Mike Landis, Member

---

Orv Myers, Member

---

Mary Nichols, Member

---

Barb Swartley, Member









**Engineering Department  
CITY OF GOSHEN**

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Phone (574) 534-2201 • Fax (574) 533-8626 • TDD (574) 534-3185  
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## MEMORANDUM

TO: Board of Works and Safety

FROM: Goshen Engineering

RE: **NORTH GOSHEN NEIGHBORHOODS TREE REMOVAL  
CHANGE ORDER NO. 2 (JN: 2024-0029)**

DATE: April 3, 2025

---

Attached please find Change Order No. 2 for the North Goshen Neighborhoods Tree Removal project.

This Change Order includes costs related to the the removal of three bushes and three existing tree stumps (i.e. stumps from trees previously cut down by others) The bushes and stumps were in conflict with future Utility Upgrades and Street Construction for the North Goshen Service Line and Utility Improvements project but were not anticipated in the scope of the Bid Package. Adding these bushes and stumps had no impact on the project schedule.

The original contract amount is \$62,700.00. Change Order No. 1 increased the total contract by \$2,100.00 to \$64,800.00. Change Order No. 2 increases the total contract by an additional \$2,932.00 for a revised contract total of \$67,732.00. These two changes represent an increase of 8.0% over the original contract amount.

**Requested Motion: Approve Change Order No. 2 for the North Goshen Neighborhoods Tree Removal project in the amount of \$2,932.00.**

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

OWNER: City of Goshen  
PROJECT NAME: **Tree Removal, North Goshen Neighborhood**  
PROJECT NUMBER: 2024-0029  
CONTRACTOR: Cut-Rite Services , LLC

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

Removal of three bushes and three stumps (stumps were from trees previously cut down by others) were added to the project Scope of Work.

CO1.1	Remove three bushes and two stumps at 304 Queen & 305 Queen	1 EA	@	\$2,150.00	\$2,150.00
				-----	
CO1.2	Remove 20-inch Stump at 315 Queen	1 EA	@	\$782.00	\$782.00
				-----	

Subtotal \$2,932.00



**II. ADJUSTMENTS IN AMOUNT OF CONTRACT**

1. Amount of original contract		\$62,700.00
2. Net (Addition/ <del>Reduction</del> ) due to all Previous Contract Supplements Numbers	1 to <u>1</u>	\$2,100.00
3. Amount of Contract, not including this supplement		\$64,800.00
4. Addition/ <del>Reduction</del> to Contract due to this supplement		\$2,932.00
5. Amount of Contract, including this supplemental		\$67,732.00
6. Total (Addition/ <del>Reduction</del> ) due to all Change Orders (Line 2 + Line 4)		\$5,032.00
7. Total percent of change in the original contract price Includes Change Order No.	1 to <u>2</u>	8.03%
(Line 6 divided by Line 1)		

**III. CONTRACT SUPPLEMENT CONDITIONS**

1. The contract completion date established in the original contract or as modified by previous Contract Supplement(s) is hereby extended/~~reduced~~ by 0 calendar days, making the final completion date April 31, 2025.

2. Any additional work to be performed under this Contract supplement will be carried out in compliance with the specifications included in the preceding Description of Work Involved, with the supplemental contract drawing designed as N/A, and under the provisions of the original contract including compliance with applicable equipment specifications, general specifications and project specifications for the same type of work.

3. This Contract Supplement, unless otherwise provided herein, does not relieve the contractor from strict compliance with the guarantee provisions of the original contract, particularly those pertaining to performance and operation of equipment.

4. The contractor expressly agrees that they will place under coverage of their Performance and Payment Bonds and contractor's insurance, all work covered by this Contract Supplement. The contractor will furnish to the owner evidence of increased coverage of this Performance and Payments bonds for the accrued value of all contract supplements, which exceed the original contract price by twenty (20.0) percent.

**RECOMMENDED FOR ACCEPTANCE**

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

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

**ACCEPTED:** CONTRACTOR

\_\_\_\_\_  
Cut-Rite Services, LLC

BY: \_\_\_\_\_  
Signature of authorized representative

\_\_\_\_\_  
Printed

\_\_\_\_\_  
Title



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## MEMORANDUM

**TO:** Board of Works and Safety and Stormwater Board

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

**RE:** **ANNEX BUILDING RE-ROOF PROJECT**  
**(JN: 2020-0044 & 2024-0017)**

**DATE:** April 4, 2025

The City has been evaluating the replacement of the Annex Building Roof for many years. In 2024, the City hired Kil Architecture to evaluate roof replacement options and develop plans and a bid package. Bids for the replacement of the roof were received on February 13, 2025, from:

E. Lee Construction		DJ Construction *		Slatile Roofing **	
Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
\$976,960.00	\$976,960.00	\$1,052,660.00	\$1,052,660.00	\$2,888,812.00	\$2,888,812.00
\$639.90	\$83,187.00	\$128.77	\$16,740.10	\$777.00	\$101,010.00
	<b>\$1,060,147.00</b>		<b>\$1,069,400.10</b>		<b>\$2,989,822.00</b>

Following additional negotiation with the lowest responsive and responsible bidder, it was determined that value-added items needed to be added to the contract to preserve the roof for many more years into the future. The value-added work includes two plies of high-temperature ice and water shield over all areas of the re-roof, copper flashing, and relining the gutters with soldered copper. The added work was quoted at \$229,960.00.

The existing Ludowici terracotta tiles will be removed and relaid to maintain the historic appearance of the Annex Building. In the process of working with the centennial terracotta tiles, some specialty tiles are anticipated to be damaged. The approval of a \$69,000 allowance is being requested to allow for the fabrication of new terracotta tiles and unforeseen work and materials necessary to complete the project.

Goshen Engineering recommends the Board of Works and Utilities award the contract to E. Lee Construction for the replacement of the Annex Building roof in the amount of \$1,290,107.00 with additional approval of a \$69,000 construction allowance.

**Requested Motion:** *Move to award the Annex Building Re-roofing contract to E. Lee Construction in the amount of \$1,290,170.00 with additional approval for City staff to manage a \$69,000 allowance to account for unforeseen work and materials needed to complete the project.*

**CITY OF GOSHEN, INDIANA**  
**CONTRACT FOR PUBLIC WORKS PROJECT**  
**PROJECT: Goshen Annex Re-Roofing**  
**PROJECT NUMBER: 2024-0017**

THIS CONTRACT FOR PUBLIC WORKS CONSTRUCTION PROJECT ("Contract") is entered into on \_\_\_\_\_, 2025, which is date of the last signature set forth on the signature page, by and between **E. Lee Construction, Inc.**, an Ohio corporation ("Contractor"), whose mailing address is 6223 ½ Kiggins Rd., Delphos, OH 45833, and **City of Goshen, Indiana** ("City"), a municipal corporation and political subdivision of the State of Indiana acting through the Goshen Board of Public Works and Safety.

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

**1. Component Parts of this Contract.**

- (A) This Contract shall include these terms and conditions, as well as the terms and conditions set forth in the following documents:
- (1) City of Goshen, Indiana Specifications and Contract Documents for the public works Project and Project Number as completed by Kil Architecture/Planning, 1126 Lincolnway East, South Bend, Indiana 46601, dated January 16, 2025, set forth in the heading above.
  - (2) Contractor's Proposal as submitted to City, including all submittals and attachments prepared by Contractor.
  - (3) Contractor's voluntary alternate proposals dated March 6, 2025 (5675) and March 18, 2025, copies of which are attached to and made a part of this Contract.
  - (4) Notice to Proceed issued by City to Contractor.
  - (5) Amendments and/or change orders that may be subsequently executed by City and Contractor.
  - (6) Contractor's performance bond, payment bond, and maintenance bond, if any.
  - (7) Contractor's certificate of insurance.

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

- (B) Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order:
- (1) This Contract, and any Amendments and/or change orders;
  - (2) The Specifications and Contract Documents; and
  - (3) Contractor's Proposal.

**2. Duties of Contractor.**

- (A) Contractor shall provide all supervision, labor, materials, equipment, services, permits and other components necessary for the successful completion of the Project in accordance with this Contract, including any incidentals whether or not specifically called for in these documents.
- (B) In accordance with Indiana Code § 5-16-13-9, Contractor, as a tier 1 contractor as defined by Indiana Code § 5-16-13-4(1), agrees that not less than fifteen percent (15%) of the total Contract price, as determined at the time the Contract is awarded, will be contributed by work performed by Contractor's employees, materials supplied directly by Contractor, and/or services supplied directly by Contractor's employees.

- (C) Contractor is responsible for ensuring that all contractors in any contractor tier that are performing some part of the work on, supplying some of the materials for, or supplying a service for the Project are also in compliance with all statutory requirements set forth in Indiana Code § 5-16-13 et seq. and all applicable provisions of the Specifications and Contract Documents and this Contract.

**3. Effective Date; Term.**

- (A) The Contract shall become effective on the day of execution and approval by the Goshen Board of Public Works and Safety and Contractor.
- (B) Contractor shall begin work on the Project within forty-five (45) calendar days after receiving a written notice to proceed from City.
- (C) Contractor shall carry out all work on the Project expeditiously with adequate work forces and shall substantially complete work on the Project by March 1, 2026.

“Substantial completion” or “substantially complete” refers to the date when the construction work is sufficiently complete in accordance with the Specifications and Contract Documents, as may be modified by any written and approved amendments or change orders, and the Project is available for its intended use or purpose.

- (D) If Contractor does not substantially complete the Project within the time period set forth in paragraph (C), City will incur damages. The parties acknowledge that it will be difficult or impossible to quantify, ascertain and prove the actual damages sustained by City in the event of and by reason of such delay. Therefore, the parties agree that, in the event that the Project is not substantially completed within the time period set forth in paragraph (C), in lieu of actual damages, the City of Goshen shall be entitled to deduct from the amounts due to Contractor, or Contractor shall pay to the City of Goshen, the sum of Five Hundred Dollars (\$500) per day as liquidated damages and not as a penalty for each calendar day the substantial completion of the Project is delayed.

**4. Compensation.**

- (A) City shall pay Contractor for the performance of the work under this Contract based on the established unit prices for the work items as set forth in Contractor’s itemized proposal for the Base Bid and Contractor’s Option B voluntary alternate proposal, including allowance, as set forth below. Total compensation, prior to any amendment(s) or change order(s), is \$1,359,107.00.

Description	Est. Qty.	Unit	Unit Cost	Total
Base Bid				
1. Roofing Project	1	Lump Sum	\$976,960.00	\$976,960.00
2. Cornice Sheet Metal Repair	130	Linear Feet	\$639.90	\$83,187.00
Total Base Bid				\$1,060,147.00
Option B Voluntary Alternate	1	Lump Sum		\$229,960.00
Allowance for time and materials for new Lodowici tile that may be needed, scaffolding cost, and cleaning existing tile				\$69,000.00
Total Compensation:				\$1,359,107.00

Payment to Contractor will be based on the unit prices for the work items and the actual number of units used. Adjustments to the actual number of units for a work item used in the Project, the time and materials to be costed against the allowance, and resulting compensation will be done by written change order.

**5. Payment and Retainage.**

- (A) Upon receipt of a detailed invoice, City shall pay Contractor as work progresses on the Project based on the dollar value of work satisfactorily completed in accordance with the Specifications and Contract Documents. Partial payment(s) under this Contract will be made no more frequently than once every thirty (30) days.
- (B) In accordance with Indiana Code § 36-1-12-13 and 14, City shall withhold payment of money in a sufficient amount to pay the subcontractors, laborers, material suppliers, and those furnishing services or five percent (5%) of the dollar value of all work satisfactorily completed, whichever is greater, until the Project is substantially complete. Upon substantial completion, if minor items remain uncompleted, an amount computed under Indiana Code § 36-1-12-14(f) shall be withheld until those items are completed. The retainage shall be held either by City or placed in an escrow account with a bank, savings and loan institution or the state as the escrow agent.
- (C) Contractor shall submit proof to City that Contractor has paid all subcontractors, material suppliers, laborers, and those furnishing services for the Project before final payment is made.
- (D) If the Project is for the construction, improvement, alteration, repair, or maintenance of a highway, street, road or alley, upon Contractor's completion of the Project in accordance with the Specifications and Contract Documents, the final inspection and acceptance by City, and provided Contractor has submitted proof that Contractor has paid all subcontractors, material suppliers, laborers, or those furnishing services under this Contract, City shall pay Contractor the final payment within one hundred twenty (120) days after such completion, inspection, acceptance, and delivery of acceptable evidence. Final payment will not be made on any amounts that are in dispute.
- (E) Contractor shall submit to City the detailed invoice(s) along with proof of payment for labor and materials furnished for the Project to the following address, or at such other address as City may designate in writing:  
  
City of Goshen  
c/o Goshen Engineering Department  
204 East Jefferson Street  
Goshen, IN 46528  
Email is also acceptable at [Engineering@goshencity.com](mailto:Engineering@goshencity.com).
- (F) Provided there is no dispute on amounts due, including amounts due all subcontractors, material suppliers, laborers, and those furnishing services for the Project, payment will be made to Contractor within forty-five (45) days following City's receipt of a detailed invoice, except for final payment under paragraph (D). If any dispute arises, the undisputed amount will be paid. Payment is deemed to be made on the date of mailing the check.
- (G) Any payment made by City before or after final acceptance of the work shall not affect the obligation of Contractor to repair or replace any defective parts or otherwise correct any work.
- (H) Contractor is required to have a current W-9 form on file with the Goshen Clerk-Treasurer's Office before City will issue payment to Contractor.

**6. Payment Bond.**

- (A) Contractor agrees to provide City an approved payment bond equal to the contract price within fourteen (14) days after award of the Contract.
- (B) The payment bond is binding on Contractor, and a contractor in any contractor tier, and their successors and assigns for the payment of all indebtedness to a person for labor and services



performed, material furnished, or services rendered. The payment bond must state that it is for the benefit of the subcontractors, laborers, material suppliers, and those performing services. The payment bond must specify that a modification, omission or addition to the terms and conditions of the Contract, plans, specifications, drawings or profile; a defect in the public work Contract; or a defect in the proceedings preliminary to the letting and award of the public work Contract does not discharge the surety.

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

**7. Performance Bond.**

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

**8. Construction Schedule.**

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

**9. Project Safety.**

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

**10. Materials and Workmanship; Inspection.**

- (A) All products, materials, components, equipment, supplies or workmanship provided in the performance of this Contract shall be as specified in the project specifications of these

Specifications and Contract Documents, be of the best grade and free of defects, and subject to the City's observation, inspection and testing.

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

**11. Warranty.**

- (A) Contractor shall warrant all products, materials, components, equipment, and/or supplies furnished under this Contract to be new unless otherwise specified, and all workmanship to be of the highest quality, free from faults and defects, and to conform to the requirements of the project specifications in these Specifications and Contract Documents. This warranty period shall be as specified in the project specifications, or if no warranty period is specified, the warranty period shall be a minimum of one (1) year after substantial completion of the Project. This warranty shall survive any inspection, testing, acceptance, or payment by the City.
- (B) Under this guarantee, Contractor agrees to correct or replace without delay and at Contractor's expense, the products, materials, components, equipment, supplies or workmanship which are defective or do not conform to the requirements of the project specifications in these Specifications and Contract Documents.
- (C) Any work required as a result of erroneous site preparation due to the fault or negligence of Contractor shall also be provided by Contractor at no additional charge to City.

**12. Davis-Bacon and Related Statutes; Contract Work Hours and Safety Standards.**

- (A) The document titled "Required Contract Provisions for Federal-Aid Construction Contracts" attached as Exhibit 1 is incorporated into and made a part of this Contract. Contractor shall comply with the requirements of Exhibit 1.
- (B) All laborers and mechanics employed by the Contractor or any subcontractors in the performance of construction, alteration, or repair work shall be paid wages at rates not less than those prevailing on similar projects in the locality (Elkhart County, Indiana), as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code commonly referred to as the "Davis-Bacon Act."
  - (1) The wage rates at the time of this bid offering are provided in Exhibit 2. The wage rate in effect at the time of the bid opening shall be the final wage rate in effect for the duration of the contract.

**13. Buy America Preferences for Infrastructure Projects.** This Contract is subject to the Build America, Buy America Act, which requires all of the iron, steel, manufactured products, and construction materials

incorporated into the Project to be produced in the United States. The document titled "Buy America Preferences for Infrastructure Projects" attached as Exhibit 3 is incorporated into and made a part of this Contract. Contractor shall comply with the requirements of Exhibit 3, specifically §184.3 through §184.6.

14. **Independent Contractor.**

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

15. **Non-Discrimination.**

- (A) In accordance with Indiana Code § 22-9-1-10, a contractor in any contractor tier shall not discriminate against any employee or applicant for employment to be employed in the performance of this Contract, with respect to the employee or applicant's hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee or applicant's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of the Contract.
- (B) In accordance with Indiana Code § 5-16-6-1, the Contractor agrees:
  - (1) That in the hiring of employees for the performance of work under this Contract or any subcontract hereunder, no contractor, or subcontractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, religion, color, sex, national origin or ancestry, discriminate against any citizen of the state of Indiana who is qualified and available to perform the work to which the employment relates;
  - (2) That no contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this Contract on account of race, religion, color, sex, national origin or ancestry;
  - (3) That there may be deducted from the amount payable to Contractor by City under this Contract, a penalty of Five Dollars (\$5.00) for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the Contract; and
  - (4) That this Contract may be cancelled or terminated by City, and all money due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this section of the Contract.
- (C) This section shall also apply to a contractor in any contractor tier.

16. **Employment Eligibility Verification.**

- (A) In accordance with Indiana Code § 22-5-1.7 et seq., Contractor shall enroll in and verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program as defined in Indiana Code § 22-5-1.7-3. Contractor is not required to participate in the E-Verify program should the program cease to exist. Contractor is not required to participate in the E-Verify program if Contractor is self-employed and does not employ any employees.
- (B) Contractor shall not knowingly employ or contract with an unauthorized alien, and Contractor shall not retain an employee or continue to contract with an individual that Contractor subsequently

learns is an unauthorized alien. By execution of the Contract, Contractor affirms that Contractor does not knowingly employ an unauthorized alien.

- (C) Contractor shall require their subcontractors, who perform work under this Contract, to certify to Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.
- (D) City may terminate the Contract if Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by City of a breach.
- (E) In accordance with Indiana Code § 5-16-13-11(1), before an individual who is required to be verified under Indiana Code § 22-5-1.7 begins work on the Project, Contractor shall submit to City the E-Verify case verification number for the individual. An individual who is required to be verified under Indiana Code § 22-5-1.7 whose final case result is final non-confirmation may not be employed on the Project.
- (F) This section shall also apply to a contractor in any contractor tier.

17. **Employee Drug Testing Program.**

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

18. **Contractor Compliance with Other Laws.**

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

19. **Indemnification.** Contractor shall indemnify and hold harmless the City of Goshen and City's agents, officers, and employees from and against any and all liability, obligations, claims, actions, causes of action, judgments, liens, damages, penalties, injuries, or accidental deaths caused by any intentional, reckless, or

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

20. **Insurance.**

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

21. **Force Majeure.** In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party affected shall immediately provide written notice to the other party. The notice shall provide evidence of the Force Majeure Event to the satisfaction of the other party. The party shall do everything possible to resume performance. If the period of non-performance exceeds thirty (30) days from receipt of the notice of the Force Majeure Event, the party whose ability to perform has not been affected may, by giving written notice, terminate the Contract and the other party shall have no recourse.

22. **Default.**

- (A) If Contractor fails to perform the work or comply with the provisions of this Contract, then Contractor may be considered in default.
- (B) It shall be mutually agreed that if Contractor fails to perform the work or comply with the provisions of this Contract, City may issue a written notice of default and provide a period of time that shall not be less than thirty (30) days in which Contractor shall have the opportunity to cure. If the default is not cured within the time period allowed, the Contract may be terminated by the City. In the event of default and failure to satisfactorily remedy the default after receipt of written notice, the City may otherwise secure similar work in any manner deemed proper by the City, and Contractor shall be liable to the City for any excess costs incurred
- (C) Contractor may also be considered in default by the City if any of the following occur:
  - (1) There is a substantive breach by Contractor of any obligation or duty owed under the provisions of this Contract.
  - (2) Contractor is adjudged bankrupt or makes an assignment for the benefit of creditors.
  - (3) Contractor becomes insolvent or in an unsound financial condition so as to endanger performance under the Contract.
  - (4) Contractor becomes the subject of any proceeding under law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors.

- (5) A receiver, trustee, or similar official is appointed for Contractor or any of Contractor's property.
- (6) Contractor is determined to be in violation of federal, state, or local laws or regulations and that such determination renders Contractor unable to perform the work described under these Specifications and Contractor Documents.
- (7) The Contract or any right, monies or claims are assigned by Contractor without the consent of the City.

23. **Termination.**

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

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

25. **Change Orders.**

- (A) If in the course of the work it becomes necessary to change or alter the original specifications, City may issue a change order to add, delete or change an item(s) in the original Contract, with the Contract price and/or substantial completion date, being adjusted accordingly. The change order shall be prepared by the licensed architect or engineer assigned to the Project.
- (B) If the change order requires an increase or decrease in units of materials that are included in the original Contract, the cost of these units must be the same as shown in the original Contract.
- (C) Except in the case of an emergency, Contractor shall not commence any additional work or change in scope of the work until the change order is authorized in writing and signed by both parties. Contractor shall make no claim for additional compensation in the absence of a prior written and authorized change order signed by both parties.

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

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

28. **Applicable Laws.**

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



29. **Miscellaneous.**

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

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

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

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

Contractor: E. Lee Construction, Inc.  
 Attention: Robert Lee, President  
 6223 1/2 Kiggins Rd.  
 Delphos, OH 45833  
 Email: tami@eleeconstruction.com

32. **Binding Effect.** All provisions, covenants, terms and conditions of this Contract apply to and bind the parties and their legal heirs, representatives, successors and assigns.

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

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

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

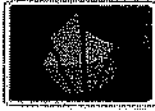
**E. Lee Construction, Inc.**

\_\_\_\_\_  
Gina M. Leichty, Mayor

\_\_\_\_\_  
Robert Lee, President

Date: \_\_\_\_\_

Date: \_\_\_\_\_



E. LEE CONSTRUCTION, INC.  
BUILDING RESTORATION CONTRACTORS  
SINCE 1955  
EQUAL OPPORTUNITY EMPLOYER

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March 18, 2025

Proposal/Bid Date February 13, 2025

Bid Item # 1           \$976,960.00  
Bid Item #2           \$83,187.00

Unit Cost per ft       \$639.90

Allowance             \$69,000.00

1. New Ludowici Tile-all special order trim tiles, that are not a stocked item by Ludowici, that may be needed to complete the work.  
This will be determined after removal of the existing Corasura tile is completed.
2. Scaffolding Cost
3. Clean Existing Tile

Note: The above items will be costed against the Allowance.

Proposal 5675

Option B             \$229,960.00

Total Cost:         \$1,290,107.00

Robert Lee  
President  
E Lee Construction

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6223 Kiggins Road, Delphos, Ohio 45833

Phone: 419.692-2661 Fax: 419.692.2011

[www.eleeconstruction.com](http://www.eleeconstruction.com)  
[sales@eleeconstruction.com](mailto:sales@eleeconstruction.com)

Proposal  
5675

  
**E LEE CONSTRUCTION INC**  
BUILDING RESTORATION CONTRACTORS  
SINCE 1955  
6223 KIGGINS RD, DELPHOS OH 45833  
PH 419-692-2661 FAX 419-692-2011  
WWW.ELEECONSTRUCTION.COM

Proposal Submitted To: City of Goshen		Date: March 6, 2025
202 S Fifth St Goshen IN 46528	Job Location: Annex Building 204 E Jefferson Goshen IN 46528	
	Attn: Greg Kil Dustin Sailor	

Proposed Additions to E Lee Construction Base Bid of \$1,060,147.00

Option A:

1. Install 1 ply of high temp ice & water shield over all areas to be reroofed.
2. Install 16 oz copper flashing into all valleys, parapet wall flashings, chimney flashings and around dormers, install lead flashing around all pipes.

**Add to base bid:  
\$159,990.00**

Option B:

1. To install 2 ply of high temp ice and water shield over all areas to be reroofed.
2. Install 16 oz copper flashing into all valleys, parapet wall flashings, chimney flashings and around dormers, install lead flashing around all pipes.
3. Reline all built in gutters throughout building with 20 oz copper, installing expansion joints as per SMACNA specifications, solder all splice joints, corners, drain outlets, etc.

**Add to base bid:  
\$229,960.00**

**CONDITIONS** – Owner to furnish electrical, water, restrooms, a place to park tool trailer, and equipment. Notify contractor of any dissatisfaction or difficulties. Contractor will furnish all labor, material, insurance, equipment and have a supervisor or foreman on job site at all times. All work to be completed in a substantial workmanlike manner according to specifications submitted per standard practices. All work shall be completed during regular business hours, 7 a.m. to 4 p.m. Any alteration or deviation from above specifications involving extra costs shall be executed only upon written orders and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Workman's Compensation Insurance.

All material is guaranteed to be as specified.

All workmanship is guaranteed for one (1) year.

Terms: Net 30 2% added after 30 days

Note: Price subject to change.

**Signed Robert Lee, President**

# EXHIBIT 1

## REQUIRED CONTRACT PROVISIONS FOR FEDERAL-AID CONSTRUCTION CONTRACTS

-- Revised August 23, 2023

- I. Davis-Bacon and Related Act Provisions
- II. Contract Work Hours and Safety Standards Act Provisions

### I. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters".

#### 1. Minimum wages (29 CFR 5.5 (a)(1))

i. All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in

§ 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

ii. (A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The

Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

iii. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

iv. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

## 2. Withholding (29 CFR 5.5(a)(2))

The [STATE] shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the State contracting agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

## 3. Payrolls and basic records (29 CFR 5.5(a)(3))

i. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

ii. (A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the [STATE] if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner as the case may be, for transmission to the Department of Energy and Environment. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <https://www.dol.gov/agencies/whd/government-contracts/construction/payroll-certification> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the (write in name of

appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

1. That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

2. That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

3. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

iii. The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the [STATE] or the Department of Labor, and shall permit such

representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### 4. Apprentices and trainees (29 CFR 5.5(a)(4))

i. **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program.

Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable

apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

ii. **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

iii. **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

**5. Compliance with Copeland Act requirements.**

The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

**6. Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the [STATE] may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

**9. Disputes concerning labor standards.** As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the State contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**10. Certification of eligibility (29 CFR 5.5(a)(10))**

i. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

ii. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

iii. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

**11. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (29 CFR 5.5(b))**

Pursuant to 29 CFR 5.5(b), the following clauses apply



to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

**1. Overtime requirements (29 CFR 5.5(b)(1)).** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

**2. Violation; liability for unpaid wages; liquidated damages (29 CFR 5.5(b)(2)).** In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1)

of this section, in the sum of \$31 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

**3. Withholding for unpaid wages and liquidated damages (29 CFR 5.5(b)(3)).** The [STATE] shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

**4. Subcontracts (29 CFR 5.5(b)(4)).** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

Superseded General Decision Number: IN20240005

State: Indiana

Construction Type: Building

Counties: Elkhart, Jasper, Kosciusko, Lagrange, Marshall, Newton, Pulaski and Starke Counties in Indiana.

LAGRANGE COUNTY

BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including 4 stories).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

<p>If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:</p>	<ul style="list-style-type: none"> <li>. Executive Order 14026 generally applies to the contract.</li> <li>. The contractor must pay all covered workers at least \$17.75 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2025.</li> </ul>
<p>If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:</p>	<ul style="list-style-type: none"> <li>. Executive Order 13658 generally applies to the contract.</li> <li>. The contractor must pay all covered workers at least \$13.30 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2025.</li> </ul>

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number      Publication Date  
 0                              01/03/2025

ASBE0017-008 06/01/2024

NEWTON COUNTY:

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR.....	\$ 55.02	35.75
HAZARDOUS MATERIAL HANDLER (INCLUDES PREPARATION, WETTING, STRIPPING REMOVAL SCRAPPING, VACUUMING, BAGGING AND DISPOSAL OF ALL INSULATION MATERIALS, WHETHER THEY CONTAIN ASBESTOS OR NOT, FROM MECHAINCAL SYSTEMS).....	\$ 44.02	32.76

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 ASBE0041-001 07/01/2024

LAGRANGE COUNTY

	Rates	Fringes
HAZARDOUS MATERIAL HANDLER (includes preparation, wettings, stripping, removal, scrapping, vaccuming, bagging & disposing of all insulation materails, whether they contain asbestos or not, from mechanical systems).....	\$ 35.10	19.39
Insulator/asbestos worker (Includes application of all insulating materials, protective coverings, coatings and finishings to all types of mechanical systems).....	\$ 35.10	19.39

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 ASBE0075-001 06/01/2023

REMAINING COUNTIES

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR.....	\$ 39.00	27.54
HAZARDOUS MATERIAL HANDLER (includes preparation, wetting, stripping, removal, scrapping, vaccuming, bagging, and disposal of all insulation materials, whether they contain asbestos or not, from mechanical systems).....	\$ 39.00	27.54

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 BOIL0374-004 01/01/2024

	Rates	Fringes
BOILERMAKER.....	\$ 42.41	35.72

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BRIN0006-001 06/01/2023

JASPER, NEWTON & STARKE COUNTIES

	Rates	Fringes
BRICKLAYER (Including Stonemason, and Pointer, Caulker & Cleaner).....	\$ 42.05	28.22
Tile, Marble & Terrazzo Worker...	\$ 42.05	28.22

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BRIN0018-003 06/01/2023

MARSHALL and PULASKI COUNTIES

	Rates	Fringes
Bricklayer, Caulker, Cleaner, Pointer.....	\$ 34.00	19.71
Terrazzo Worker Finisher.....	\$ 32.50	21.11
TERRAZZO WORKER/SETTER.....	\$ 34.50	23.62
Tile & Marble Finisher.....	\$ 32.50	21.11
Tile, Marble Setter.....	\$ 34.50	23.62

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BRIN0018-004 06/01/2021

	Rates	Fringes
BRICKLAYER BRICKLAYERS, POINTER, CLEANER & CAULKERS.....	\$ 31.11	18.40
TERRAZZO FINISHERS.....	\$ 30.00	15.54
TILE AND MARBLE FINISHERS...	\$ 31.00	19.16
TILE AND MARBLE WORKERS.....	\$ 33.00	22.33

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CARP0232-002 06/01/2024

Lagrange County

	Rates	Fringes
Carpenter & Piledrivermen.....	\$ 31.74	24.48

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CARP0413-001 06/01/2024

ELKHART, KOSCIUSKO and MARSHALL COUNTIES

	Rates	Fringes
Carpenter & Piledrivermen.....	\$ 33.11	24.28

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CARP1010-001 06/01/2024

JASPER, NEWTON, PULASKI & STARKE COUNTIES

	Rates	Fringes
CARPENTER.....	\$ 43.58	34.66
MILLWRIGHT.....	\$ 45.68	35.63

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CARP1029-001 06/01/2024

ADAMS, ALLEN, CASS, DEKALB, ELKHART, FULTON, GRANT, HOWARD,  
HUNTINGTON, KOSCIUSKO, LAGRANGE, MARSHALL, MIAMI, NOBLE, ST.  
JOSEPH, STEUBEN, TIPTON, WABASH, WELLS and WHITLEY COUNTIES

	Rates	Fringes
MILLWRIGHT.....	\$ 33.90	29.08

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 ELEC0153-003 06/01/2023

ELKHART, KOSCIUSKO and MARSHALL COUNTIES

	Rates	Fringes
Communication Technician.....	\$ 26.50	18.33
ELECTRICIAN.....	\$ 38.00	26.47

Includes the installation, operation, inspection, modification, maintenance and repair of systems used for the transmission and reception of signals of any nature, for any purpose, including but not limited to , sound and voice transmission/transference systems, communication systems that transmit or receive information and /or control systems, television and video systems, micro-processor controlled fire alarm systems, and security systems and the performance of any task directly related to such installation or service. The scope of work shall exclude the installation of electrical power wiring and the installation of conduit raceways exceeding fifteen (15) feet in length.

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 ELEC0305-001 12/01/2023

LAGRANGE COUNTIES

	Rates	Fringes
ELECTRICIAN.....	\$ 38.31	27.43%+10.66

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 ELEC0531-002 05/31/2023

JASPER, PULASKI, and STARKE COUNTIES

	Rates	Fringes
ELECTRICIAN.....	\$ 43.50	30.64

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 ELEC0697-002 06/01/2024

NEWTON COUNTY

	Rates	Fringes
ELECTRICIAN.....	\$ 48.10	31.28

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 ELEC0697-005 08/31/2024

NEWTON COUNTY

	Rates	Fringes
Telecommunication Technician.....	\$ 39.50	29.87

Work covers low voltage installation, maintenance and removal of telecommunication facilities (voice, sound, data and video) including, telephone and data inside wire,

interconnect, terminal equipment, central offices, PABX, fiber optic cable and equipment, micro waves, V/SAT, bypass, CATV, WAN (wide area networks), LAN (local area networks), and ISDN (integrated system digital network). Work does not cover any work which properly comes under the work description of Inside JW (Journeyman Wireman), but shall cover the pulling of wire in raceways, ut not the installation of raceways.

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 ELEV0034-005 01/01/2024

JASPER, NEWTON and PULASKI COUNTIES

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 57.68	37.885+a+b

a) PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Vetern's Day, Thanksgiving Day, the Friday after Thanksgiving, and Christmas Day.

b) Employer contributes 8% of regular hourly rate to vacation pay credit for employee with more than 5 years of service; 6% for less than 5 years' service.

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 ELEV0044-003 01/01/2024

ELKHART, KOSCIUSKO, LAGRANGE, MARSHALL and STARKE COUNTIES

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 59.71	37.885+a+b

a) PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, the Friday after Thanksgiving, and Christmas Day.

b) Employer contributes 8% of regular hourly rate to vacation pay credit for employee with more than 5 years of service; 6% for less than 5 years' service.

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 ENGI0150-002 06/01/2024

	Rates	Fringes
POWER EQUIPMENT OPERATOR ELKHART, KOSCIUSKO, LAGRANGE AND MARSHALL COUNTIES		
GROUP 1.....	\$ 33.15	37.30
GROUP 2.....	\$ 31.80	37.30
GROUP 3.....	\$ 31.00	37.30
GROUP 4.....	\$ 30.20	37.30
GROUP 5.....	\$ 27.60	37.30
JASPER, NEWTON, PULASKI & STARKE COUNTIES		
GROUP 1.....	\$ 46.55	44.48
GROUP 2.....	\$ 45.75	44.48
GROUP 3.....	\$ 41.45	44.48
GROUP 4.....	\$ 39.25	44.48
GROUP 5.....	\$ 33.80	44.48

## POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 1: Mechanic, Asphalt Plant, Auto Grader; Batch Plant, Benoto (requires 2 Engineers), Boiler and Throttle Valve, Boring Machine, (Mining machine Caisson Rigs, Central Redi-mix Plant, Combination Backhoe, Endloader with Backhoe Bucket over 1/2 cu. yd., Combination Tugger Hoist and Air Compressor, Compressor and Throttle, Concrete Breaker (Truck Mounted), Concrete Conveyor (truck mounted), Concrete Paver 27E cu. ft. and under, Concrete Paver over 27E cu. ft., Concrete Pump/grout pump with boom (Truck Mounted), Concrete Tower, Cranes and backhoes (all), Cranes, Hammerhead Tower, Crete Crane, Derricks (all), Derricks (traveling) Forklift, Lull Type, Forklift (10 ton & over, Hoist 1, 2, and 3 drums, Hoist, 2 Tugger one floor, Hydraulic Boom Truck, Laser screed, Locomotives, All Motor Patrol, Mucking Machine, Pile Driving & Skid Rig, Pit Machines, Pre-Stress Machines, Pump Cretes & Similar Types, Rock Drill (Self-Propelled), Rock Drill (Truck Mounted), Slip-Form Paver, Straddle Buggies, Tractor with Boom & Side Boom, Trenching Machine, Winch Tractor

GROUP 2: Air compressors (30 feeding and common receivers, Asphalt Spreader, Boilers, Bulldozers, Combination Backhoe-end loader with Backhoe bucket 1/2 cu. ft. and under, Grader-Elevating, Greaser Engineer, Guard rail post driver, Grouting Machines; Highlift Shovels or Front Endloader Hoist (automatic), Corboy Drilling Machines, Hoist (all Elevators), Hoists drawn, Stone Crushers, Tounapull, Winch Trucks, Tugger single drum, post hole digger, rollers (all), scoops, tractor drawn .

GROUP 3: Concrete Mixer (2 bag and over), Conveyor, Portable, Steam Generators, Tractors (farm and similar type), Air Compressor (small 150 and under - 1 to 5 to exceed a total of 300 ft., Air Compressor (large over 150), Combination (small equipment operator), Forklift (under 10 tons), Generator, Pumps (1 to 3 not to exceed a total of 300 ft., Pumps (well points), Welding Machines (2 through 5, Winches (4 electric Drill Winches).

GROUP 4: Heaters, Mechanical (1 to 5), Oilers, Swithmen, Bull Gang (crane erection crew).

GROUP 5: Forklifts

For ELKHART, KOSCIUSKO, LAGRANGE AND MARSHALL COUNTIES

## POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 1: Mechanic, Asphalt Plant, Asphalt Spreader, Auto Grader; Batch Plant, Benoto (requires 2 Engineers), Boiler and Throttle Valve, Boring Machine (road), Bulldozers with engines of 140net horsepower or more, Caisson Rigs, Central Redi-mix plant, Concrete Conveyor Systems, Concrete Paver (over 27E cu. ft.), Concrete Paver (27E cu. ft. and under), Concrete placer, concrete placing boom, Concrete Pumps (Truck Mounted), Concrete Tower, Cranes and backhoes (all attachments), Cranes, Hammerhead, Creter Crane, Derricks (all), Forklift (capable of hoisting and mechanically moving forks horizontally), Grader, Elevating, Highlift Shovels or Front End Loaders, Hoists (2 or more drums), Laser screed, Locomotives (all), Motor Patrol, Pile Drivers and Skid Rig, Pre-Stress Machines, Rock Drill (Self-Propelled), Rock



Drill (Truck Mounted), Scoops (tractor drawn), Slip-form Paver, Tournapull, Tractor with Boom & Side Boom, Trenching Machine (12 or more inches in width), Combination Backhoe Front End Loader Machine with 1/2 cu. yd. or attachments.

GROUP 2: Air Compressor (600 cu. ft. and over), Bob Cat (over 3/4 cu. yd.), Boilers, Broom (all powered propelled), Bull Dozers with engines less than 140 net horsepower, Combination backhoe frontend machine 1/2 cu yd backhoe bucket oir under or with attachments Compressor and Throttle Valve, Concrete Breaker (truck mounted), Concrete Mixer (of moore than 21 cu. ft. capacity), Forklift (with fixed or tilt mast), Greaser, Highlift shovel or frontend loader (3 yd bucket and under), Hoists (1 drum), Hydraulic Boom Truck, Post Hole Digger (vehicle mounted), Pumps Cretes (squeeze crete type pumps, Gypsum bulker and pump), Rollers (all), Steam Generators, Stone Crushers, Straddle Buggies, Tractors, Winch Trucks (with ""a"" frame).

GROUP 3: Buck Hoist, Combination (small equipment operator), Conveyor (portable), Grouting Machine, Hoist Elevators (material and personnel), Hydraulic Power Units, Grouting and Pile Driving, Stud Welder, Trenching Machines less than 12 inches in width, Welding Machines (8 through 15).

GROUP 4: Bobcat (up to and including 3/4 cu. yd.). Compressor (over 210 cu. ft. and less than 600 cu. ft.), Generator (over 50 kw.), Heaters, Mechanical, Hoists (all elevator, permanent installation), Hoist (automatic), Hoist (tugger single drum), Oilers, Pumps, Well Points and electric submersible, Small Rubber Tired End Loaders (1/4 cu. yd. and under), Tractors (farm type) Welding Machines (2 through 8).

GROUP 5: Bobcats and forklifts (commercial or residential

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IRON0022-007 06/01/2024

JASPER (SOUTHEASTERN 1/2), NEWTON (SOUTHERN HALF), PULASKI (REMAINDER OF COUNTY)

	Rates	Fringes
IRONWORKER.....	\$ 36.70	26.09

The following holidays shall be observed: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the day after Thanksgiving and Christmas Day. Any holiday which occurs on a Sunday shall be observed the following Monday, unless the legal observance of these holidays is changed by law.

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IRON0147-005 06/01/2024

KOSCIUSKO (REMAINDER OF COUNTY) and LAGRANGE (REMAINDER OF COUNTY)

	Rates	Fringes
IRONWORKER.....	\$ 34.20	26.39

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IRON0292-004 06/01/2024

ELKHART, KOSCIUSKO (Northwest Half excluding Warsaw), LAGRANGE (Western Half including city of Lagrange), MARSHALL, MIAMI (Northwestern Tip), NOBLE (Northwestern Tip), PULASKI (Northeast Half), and STARKE COUNTIES

	Rates	Fringes
IRONWORKER.....	\$ 37.83	24.75

IRON0395-002 06/01/2024

JASPER (NORTHERN 1/2), NEWTON (NORTHERN 1/2), PULASKI (NORTHWESTERN TIP) COUNTIES

	Rates	Fringes
IRONWORKER		
IRONWORKERS.....	\$ 46.33	39.67
SHEETER.....	\$ 46.58	39.67

LAB00041-002 06/01/2024

JASPER and NEWTON COUNTIES

	Rates	Fringes
Laborers:		
GROUP 1.....	\$ 39.26	28.90
GROUP 2.....	\$ 40.75	28.90
GROUP 3.....	\$ 41.26	28.90

LABORER CLASSIFICATIONS

GROUP 1: Building and Construction Laborers; Scaffold Builders (other than for Mason or Plasterers); Mechanic Tenders; Rodmen and Chainmen, Railroad Workers, Masonry Wall Workers, (interior & exterior); Roofer Tenders, Cement Finisher Tenders, Carpenter Tenders, Portable Water, Pumps with discharge up to 3 inches; Waterproofing; Hauling of Creosote Lumber or Lutemen; Asphalt Rakers; Kettlem, Earth Compactors; Jackman and Sheetmen in Ditches more than 6 ft. deep; Laborers in ditches 6' deep or deeper; Assembly of Uncrete Pump; Tile Layers (sewer or field); Sewer Pipe Layers; Motor driven Wheelbarrows and Concrete Buggies; Hyster Operator; Pump Crete Assemblers; Core Drill Operator; Cement, Line or Silica Clay Handers; Handling of Toxic Materials damaging to clothing; Pneumatic Spikers; Deck Engine and Winch Operator; Water Main and Cable Ducking; Screed Man or Screw Operator on Asphalt Paver; Chain Saw and Demolition Saw Operator; Concrete Conveyor Assembler.

GROUP 2: Plaster Tenders, Masons Tenders; Mortar Mixers; Welders (acetylene or electric); Cutting Torch or Burner; Cement Nozzle; Cement Gun; Scaffold Builders when working for Plasterers, and Mason; Water Blast Machine Operator; Air Tool Operators and all Pheumatic Tool Operators; Air and Electric Vibrators and Chipping Hammer Operators; Asbestos Removal; Hazardous Waste Removal

GROUP 3: Dynamite Men; Drillers, Air Track or Wagon Drilling

for explosives; Laborer Specialist

LAB00081-005 06/01/2024

STARKE COUNTY

	Rates	Fringes
LABORERS		
GROUP 1.....	\$ 39.26	28.90
GROUP 2.....	\$ 40.01	28.90
GROUP 3.....	\$ 40.26	28.90

LABORER CLASSIFICATIONS (BUILDING CONSTRUCTION)

GROUP 1: Building and Construction Laborers; Scaffold Builders (other than for Mason or Plasterers); Mechanic Tenders; Rodmen and Chainmen, Railroad Workers, Masonry Wall Workers, (interior & exterior); Roofer Tenders, Cement Finisher Tenders, Carpenter Tenders, Portable Water, Pumps with discharge up to 3 inches; Waterproofing; Hauling of Creosote Lumber or Lutemen; Asphalt Rakers; Kettlem, Earth Compactors; Jackman and Sheetmen in Ditches more than 6 ft. deep; Laborers in ditches 6' deep or deeper; Assembly of Uncrete Pump; Tile Layers (sewer or field); Sewer Pipe Layers; Motor driven Wheelbarrows and Concrete Buggies; Hyster Operator; Pump Crete Assemblers; Core Drill Operator; Cement, Line or Silica Clay Handers; Handling of Toxic Materials damaging to clothing; Pneumatic Spikers; Deck Engine and Winch Operator; Water Main and Cable Ducking; Screed Man or Screw Operator on Asphalt Paver; Chain Saw and Demolition Saw Operator; Concrete Conveyor Assembler.

GROUP 2: Plaster Tenders, Masons Tenders; Mortar Mixers; Welders (acetylene or electric); Cutting Torch or Burner; Cement Nozzle; Cement Gun; Scaffold Builders when working for Plasterers, and Mason; Water Blast Machine Operator; Air Tool Operators and all Pheumatic Tool Operators; Air and Electric Vibrators and Chipping Hammer Operators; Asbestos Removal; Hazardous Waste Removal

GROUP 3: Dynamite Men; Drillers, Air Track or Wagon Drilling for explosives; Laborer Specialist

LAB00274-002 06/01/2024

PULASKI COUNTY

	Rates	Fringes
Laborers:		
GROUP 1.....	\$ 26.98	18.00
GROUP 2.....	\$ 27.73	18.00
GROUP 3.....	\$ 28.48	18.00

LABORER CLASSIFICATIONS

GROUP 1: Building and Construction Laborers; Scaffold Builders (other than for Mason or Plasterers); Mechanic Tenders; Rodmen and Chainmen, Railroad Workers, Masonry Wall Workers, (interior & exterior); Roofer Tenders, Cement Finisher Tenders, Carpenter Tenders, Portable Water, Pumps

with discharge up to 3 inches; Waterproofing; Hauling of Creosote Lumber or Lutemen; Asphalt Rakers; Kettlem, Earth Compactors; Jackman and Sheetmen in Ditches more than 6 ft. deep; Laborers in ditches 6' deep or deeper; Assembly of Uncrete Pump; Tile Layers (sewer or field); Sewer Pipe Layers; Motor driven Wheelbarrows and Concrete Buggies; Hyster Operator; Pump Crete Assemblers; Core Drill Operator; Cement, Lime or Silica Clay Handers; Handling of Toxic Materials damaging to clothing; Pneumatic Spikers; Deck Engine and Winch Operator; Water Main and Cable Ducking; Screed Man or Screw Operator on Asphalt Paver; Chain Saw and Demolition Saw Operator; Concrete Conveyor Assembler.

GROUP 2: Plaster Tenders, Mortar Mixers; Welders (acetylene or electric); Cutting Torch or Burner; Cement Nozzle; Cement Gun; Scaffold Builders when working for Plasterers, and Mason; Water Blast Machine Operator; Air Tool Operators and all Pneumatic Tool Operators; Air and Electric Vibrators and Chipping Hammer Operators; Asbestos Removal; Hazardous Waste Removal.

GROUP 3: Dynamite Men; Drillers, Mason Tenders; Air Track or Wagon Drilling for explosives; Laborer Specialist.

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LAB00645-003 06/01/2024

BUILDING CONSTRUCTION

REMAINING COUNTIES

	Rates	Fringes
Laborers:		
GROUP 1.....	\$ 28.43	18.00
GROUP 2.....	\$ 28.93	18.00
GROUP 3.....	\$ 30.43	18.00

BUILDING CONSTRUCTION

GROUP 1: Building and Construction Laborers; Scaffold Builders (other than for Plasterers); Mechanic Tenders; Window Washers and cleaners; Waterboys and Toolhousemen; Roofers Tenders; Railroad Workers; Masonry Wall Washers (interior and exterior); Cement Finisher Tenders; Carpenter Tenders; All Portable Water pumps with discharge up to (3) inches; Plaster Tenders; Flag & Signal Person.

GROUP 2: Waterproofing; Handling of Creosot Lumber or like treated material (excluding railroad material); Asphalt Rakers and Lutemen; Kettlemen; Air Tool Operators and all Pneumatic Tool Operators; Air and Electric Vibrators and Chipping Hammer Operators; Earth Compactors Jackmen and Sheetmen working Ditches deeper than (6) ft.in depth; Laborers working in ditches (6) ft.in depth or deeper; Assembly of Uncrete Pump; Tile Layers (sewer or field) and Sewer Pipe Layer (metallic or non-metallic); Motor driven Wheelbarrows and Concrete Buggies; Hyster Operators; Pump Crete Assemblers; Core Drill Operators; Cement, Lime or Silica Clay Handlers (bulk or bag); Handling of Toxic Materials damaging to clothing; Pneumatic Spikers; Deck Engine and Winch Operators; Water Main and Cable Ducking (metallic and non-metallic); Screed Man or Screw Operator on Asphalt Paver; Chain and Demolition Saw Operators;

Concrete Conveyor Assemblers.

GROUP 3: Water Blast Machine Operator; Mortar Mixers; Welders (Acetylene or electric); Cutting Torch or Burner; Cement Nozzle, Laborers; Cement Gun Operator; Scaffold Builders when Working for Plasterers. Dynamite Men; Drillers - Air Track or Wagon Drilling for explosives Hazardous and Toxic material handler, Mason Tenders, asbestos removal or handler.

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PAIN0027-005 06/01/2024

NEWTON COUNTY, West of Highway #41

	Rates	Fringes
GLAZIER.....	\$ 51.55	43.99

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PAIN0091-006 06/01/2024

	Rates	Fringes
PAINTER		
Brush & Roller, Drywall		
Taping & Finishing,		
Vinyl/Paper Hanging.....	\$ 31.00	18.62
Spray.....	\$ 31.50	18.62

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PAIN0460-001 06/01/2024

JASPER, NEWTON, PULASKI AND STARKE COUNTIES:

	Rates	Fringes
Painters:		
Brush & Roller.....	\$ 39.00	28.76
Drywall Finisher.....	\$ 39.80	30.96

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PAIN0469-003 06/01/2023

LAGRANGE COUNTY

	Rates	Fringes
Painters:		
Brush, Roller,		
Paperhanger, & Drywall		
Finishing.....	\$ 25.04	15.32
Lead Abatement.....	\$ 30.24	15.32
Spray & Sandblast Pot		
Tenders and Ground		
Personnel.....	\$ 25.04	15.32
Spray, Sandblast, Power		
Tools, Waterblast, & Steam		
Cleaning.....	\$ 25.04	15.32

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PAIN1165-006 07/01/2024

JASPER, NEWTON (EAST OF HIGHWAY #41)

	Rates	Fringes
GLAZIER.....	\$ 42.09	29.23

PAIN1165-011 07/01/2024

ELKHART, KOSCIUSKO, LAGRANGE, MARSHALL, PULASKI, and STARKE COUNTY

	Rates	Fringes
GLAZIER.....	\$ 32.22	23.57

PLAS0101-004 06/01/2018

MARSHALL COUNTY AND PULASKI (SOUTHERN 1/2)

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 28.84	14.48
PLASTERER.....	\$ 26.81	12.40

PLAS0101-005 06/01/2018

ELKHART, KOSCIUSKO AND LAGRANGE COUNTIES

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 28.84	14.48
PLASTERER.....	\$ 25.69	11.75

PLAS0165-002 07/01/2018

NEWTON COUNTY

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 37.28	18.53
PLASTERER.....	\$ 32.70	17.70

PLAS0406-002 07/01/2018

JASPER (REMAINDER OF COUNTY, INCLUDING WHEATFIELD), PULASKI (N 1/2) and STARKE COUNTIES

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 35.48	21.68
PLASTERER.....	\$ 33.28	17.32

PLAS0438-002 06/01/2018

PULASKI (NORTHERN 2/3), JASPER (N. EASTERN PORTION OF, WEST TO, BUT NOT INCLUDING WHEATFIELD), STARKE (ENTIRETY)

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 36.01	25.40

PLUM0166-002 06/01/2024

ELKHART, KOSCIUSKO, and LAGRANGE COUNTIES

	Rates	Fringes
PLUMBER.....	\$ 41.50	21.66

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PLUM0172-001 06/01/2024

JASPER (S of the N. Side of the City of Rensselaer), MARSHALL,  
PULASKI and STARKE COUNTIES

	Rates	Fringes
Plumber, Pipefitter, Steamfitter.....	\$ 40.78	23.09

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PLUM0210-003 09/01/2024

JASPER (to the City of Rensselaer) and NEWTON COUNTIES

	Rates	Fringes
PLUMBER.....	\$ 47.52	28.41

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PLUM0597-004 06/01/2018

JASPER (Excluding the city limits of Rensselaer), AND NEWTON  
(Entire County)

	Rates	Fringes
PIPEFITTER.....	\$ 48.50	31.12

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ROOF0023-001 06/01/2024

ELKHART, KOSCIUSKO, LAGRANGE, MARSHALL, PULASKI, and STARKE  
COUNTIES

	Rates	Fringes
ROOFER		
COMPOSITION.....	\$ 34.55	21.04
SLATE & TILE.....	\$ 36.05	21.04

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ROOF0026-001 06/01/2024

JASPER AND NEWTON COUNTIES

	Rates	Fringes
ROOFER.....	\$ 45.97	26.06

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SFIN0669-002 04/01/2024

	Rates	Fringes
SPRINKLER FITTER.....	\$ 45.40	27.29

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SHEE0020-006 07/01/2023

	Rates	Fringes
SHEET METAL WORKER		
Elkhart, Kosciusko, & Marshall.....	\$ 38.40	28.05
Jasper, Newton, Pulaski, & Starke.....	\$ 47.60	29.31



Lagrange.....\$ 37.82                      26.37

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TEAM0135-005 04/01/2024

JASPER and NEWTON COUNTIES

	Rates	Fringes
Truck drivers:		
GROUP 1.....	\$ 32.10	a
GROUP 2.....	\$ 32.60	a
GROUP 3.....	\$ 32.80	a
GROUP 4.....	\$ 32.95	a
GROUP 5.....	\$ 33.45	a

A: \$36.40 PER DAY & 450.00 PER WEEK.

TRUCK DRIVER CLASSIFICATIONS

GROUP 1: Single Axle Trucks seven (7) cu.yds. or less than ten and one-half (10 1/2) tons, dumpsters, scoop-mobiles five (5) cu.yds. and under or less than seven and one-half (7 1/2) tons, mixer trucks three (3) cu.yds. and under, air compressors and welding machines, including those pulled by separate units, batch trucks-wet or dry-2 "34-E" batches or less, truck driver helpers, warehousemen, mechanic's helpers, greasers and tiremen, all pick-up trucks and other vehicles. Drivers on dumpsters or similar dumpsters, mounted on four (4) wheel truck rated two (2) cu.yds. or less, and small pallet type fork-lift operator and drivers on pallet jacks or similar type equipment.

GROUP 2: Drivers on tandem axle eighteen (18) cu.yds. or twenty-four (24) tons gross, six (6) wheel trucks, Koehring or similar dumpsters, tract rucks, Euclids, hug bottom dumps, tournapulls, tournatrailers, tournarockers, or similar equipment when used for transportation purposes under nine (9) cu.yds. or less than thirteen and one-half (13 1/2) tons, tandems and semi-trailer service trucks, mixer trucks over three (3) cu.yds., fork lift, four (4) wheel A-frame trucks when used for transportation purposes, four (4) wheel winch trucks, pavement breakers, batch trucks-wet or dry-over 2 up to and including 4 - "34-E" batches two (2) men oil distributors, fork-lift under four (4) ton and vacuum trucks.

GROUP 3: Koehring or similar dumpsters, tract trucks, semi-trailer water trucks, Euclids, hug bottom dumps, tournapulls, tournatrailers, tournarockers, tractor-trailers, tandems Q-frame winch trucks, hydrolift trucks or similar equipment when used for transportation purposes, mixer trucks over six and one-half (6 1/2) cu.yds. batch trucks wet or dry over 4 - "34-E" batches single axle low boy trailers, and Contractor's mechanics when working on equipment operated by employees within this Bargaining Unit. Six (6) wheel pole trailers and one (1) man oil distributors, fork-lift over four (4) ton and mobile mixers.

GROUP 4: Drivers on heavy equipment over sixteen (16) cu.yds. or twenty-four ton, such as Koehring or similar dumpsters, tract trucks, Euclids, hug bottom dumps, trounapulls, tournarockers or similar equipment when used for transportation purposes, pole trailers over six (6) wheels, water pulls, low-boy trailers, tandem axles, quad axle or

more no-weight limitation, diseal and/or heavy equipment mechanics when working on equipment operated by employees with this Bargaining unit.

GROUP 5: Mechanic furnishing his own tools.

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TEAM0364-001 06/01/2024

BUILDING

ELKHART, KOSCIUSKO, LAGRANGE & MARSHALL COUNTIES:

	Rates	Fringes
TRUCK DRIVER		
GROUP 1.....	\$ 32.75	a+b
GROUP 2.....	\$ 32.95	a+b
GROUP 3.....	\$ 33.25	a+b
GROUP 4.....	\$ 33.75	a+b

FOOTNOTE:

a. FRINGE BENEFITS: \$422.50 per week

b. HOLIDAYS: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day

TRUCK DRIVERS BUILDING CLASSIFICATIONS

- GROUP 1: Pickup Trucks
- GROUP 2: Single Axle Trucks
- GROUP 3: Tandem, Triaxle and Fuel Trucks
- GROUP 4: Semi Trailer Trucks

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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 Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

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The body of each wage determination lists the classifications and wage rates that have been found to be prevailing for the type(s) of construction and geographic area covered by the wage determination. The classifications are listed in alphabetical order under rate identifiers indicating whether the particular rate is a union rate (current union negotiated rate), a survey rate, a weighted union average rate, a state adopted rate, or a supplemental classification rate.

#### Union Rate Identifiers

A four-letter identifier beginning with characters other than ""SU"", ""UAVG"", ?SA?, or ?SC? denotes that a union rate was prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an identifier of the union whose collectively bargained rate prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2024 in the example, is the effective date of the most current negotiated rate.

Union prevailing wage rates are updated to reflect all changes over time that are reported to WHD in the rates in the collective bargaining agreement (CBA) governing the classification.

#### Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE: UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a weighted union average rate. OH indicates the State of Ohio. The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

#### Survey Rate Identifiers

The ""SU"" identifier indicates that either a single non-union rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As a weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that classification. FL indicates the State of Florida. 2022 is the year of the survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 6/27/2024 in the example, indicates the survey completion date

for the classifications and rates under that identifier.

?SU? wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c)(1).

#### State Adopted Rate Identifiers

The ""SA"" identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the ?SA? identifier took effect under state law in the state from which the rates were adopted.

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#### WAGE DETERMINATION APPEALS PROCESS

1) Has there been an initial decision in the matter? This can be:

- a) a survey underlying a wage determination
- b) an existing published wage determination
- c) an initial WHD letter setting forth a position on a wage determination matter
- d) an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to [davisbaconinfo@dol.gov](mailto:davisbaconinfo@dol.gov) or by mail to:

Branch of Wage Surveys  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to [BCWD-Office@dol.gov](mailto:BCWD-Office@dol.gov) or by mail to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2) If an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to [dba.reconsideration@dol.gov](mailto:dba.reconsideration@dol.gov) or by mail to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210.

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END OF GENERAL DECISION"

## EXHIBIT 3 Buy America Preferences for Infrastructure Projects

### 2 CFR Subtit. A, Ch. I, Pt. 184

This document is current through the Jan. 10, 2025 issue of the Federal Register, with the exception of the amendments appearing at 90 FR 1636, 90 FR 2332, 90 FR 2434, and 90 FR 1847.

#### LEXISNEXIS' CODE OF FEDERAL REGULATIONS

##### Title 2 Federal Financial Assistance

##### Subtitle A — Office of Management and Budget Guidance for Federal Financial Assistance

##### Chapter I — Office of Management and Budget Government-Wide Guidance for Federal Financial Assistance

##### Part 184 — Buy America Preferences for Infrastructure Projects

### **Part 184 — Buy America Preferences for Infrastructure Projects**

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#### **§ 184.1 Purpose and policy.**

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(a) Purpose. This part provides guidance to Federal agencies on the implementation of the Buy America Preference applicable to Federal financial assistance set forth in part I of subtitle A, Buy America Sourcing Preferences, of the Build America, Buy America Act included in the Infrastructure Investment and Jobs Act (*Pub. L. 117-58*) at division G, title IX, subtitle A, part I, sections 70911 through 70917.

(b) Policy. The head of each Federal agency must ensure that none of the funds made available for a Federal award for an infrastructure project may be obligated unless all of the iron, steel, manufactured products, and construction materials incorporated into the project are produced in the United States. See section 70914(a) of the Build America Buy America Act.

#### **§ 184.2 Applicability, effective date, and severability.**

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(a) Non-applicability of this part to existing Buy America Preferences. This part does not apply to a Buy America Preference meeting or exceeding the requirements of section 70914 of the Build America, Buy America Act applied by a Federal Agency to Federal awards for infrastructure projects before November 15, 2021.

(b) Effective date of this part. The effective date of this part is October 23, 2023. Except as provided in paragraph (c) of this section, this part applies to Federal awards obligated on or after its effective date. Awards obligated on or after May 14, 2022, the effective date of the Build America, Buy America Act, and before the effective date of this part, are instead subject to OMB Memorandum M-22-11.

(c) Modified effective date of this part for certain infrastructure projects. If an infrastructure project that has previously received a Federal award obligated on or after May 14, 2022, but before the effective date of this part receives an additional Federal award obligated within one year of the effective date of this part, the

additional Federal award is subject to OMB Memorandum M-22-11. However, if significant design or planning changes are made to the infrastructure project, the Federal agency may apply this part to the additional Federal award. Federal awards for an infrastructure project obligated after one year from the effective date of this part are subject to this part, regardless of whether this part applied to previous awards for the project.

(d) Severability. The provisions of this part are separate and severable from one another. OMB intends that if a provision of this part is held to be invalid or unenforceable as applied to a particular person or circumstance, the provision should be construed so as to continue to give the maximum effect permitted by law as applied to other persons not similarly situated or to dissimilar circumstances. If any provision is determined to be wholly invalid and unenforceable, it should be severed from the remaining provisions of this part, which should remain in effect.

## **§ 184.3 Definitions.**

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Acronyms used in this part have the same meaning as provided in 2 CFR 200.0. Terms not defined in this part have the same meaning as provided in 2 CFR 200.1, except for the terms "equipment," "expenditures," and "supplies," which are not specifically defined for this part. As used in this part:

Build America, Buy America Act means division G, title IX, subtitle A, parts I-II, sections 70901 through 70927 of the Infrastructure Investment and Jobs Act (*Pub. L. 117-58*).

Buy America Preference means the "domestic content procurement preference" set forth in section 70914 of the Build America, Buy America Act, which requires the head of each Federal agency to ensure that none of the funds made available for a Federal award for an infrastructure project may be obligated unless all of the iron, steel, manufactured products, and construction materials incorporated into the project are produced in the United States.

Component means an article, material, or supply, whether manufactured or unmanufactured, incorporated directly into: a manufactured product; or, where applicable, an iron or steel product.

Construction materials means articles, materials, or supplies that consist of only one of the items listed in paragraph (1) of this definition, except as provided in paragraph (2) of this definition. To the extent one of the items listed in paragraph (1) contains as inputs other items listed in paragraph (1), it is nonetheless a construction material.

(1) The listed items are:

- (i) Non-ferrous metals;
- (ii) Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- (iii) Glass (including optic glass);
- (iv) Fiber optic cable (including drop cable);
- (v) Optical fiber;
- (vi) Lumber;
- (vii) Engineered wood; and
- (viii) Drywall.

(2) Minor additions of articles, materials, supplies, or binding agents to a construction material do not change the categorization of the construction material.

Infrastructure project means any activity related to the construction, alteration, maintenance, or repair of infrastructure in the United States regardless of whether infrastructure is the primary purpose of the project. See also paragraphs (c) and (d) of § 184.4.

Iron or steel products means articles, materials, or supplies that consist wholly or predominantly of iron or steel or a combination of both.

Manufactured products means:

(1) Articles, materials, or supplies that have been:

(i) Processed into a specific form and shape; or

(ii) Combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies.

(2) If an item is classified as an iron or steel product, a construction material, or a section 70917(c) material under § 184.4(e) and the definitions set forth in this section, then it is not a manufactured product. However, an article, material, or supply classified as a manufactured product under § 184.4(e) and paragraph (1) of this definition may include components that are construction materials, iron or steel products, or section 70917(c) materials.

Manufacturer means the entity that performs the final manufacturing process that produces a manufactured product.

Predominantly of iron or steel or a combination of both means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components.

Produced in the United States means:

(1) In the case of iron or steel products, all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) In the case of manufactured products:

(i) The product was manufactured in the United States; and

(ii) The cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard that meets or exceeds this standard has been established under applicable law or regulation for determining the minimum amount of domestic content of the manufactured product. See § 184.2(a). The costs of components of a manufactured product are determined according to § 184.5.

(3) In the case of construction materials, all manufacturing processes for the construction material occurred in the United States. See § 184.6 for more information on the meaning of "all manufacturing processes" for specific construction materials.

Section 70917(c) materials means cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives. See section 70917(c) of the Build America, Buy America Act.

## **§ 184.4 Applying the Buy America Preference to a Federal award.**

(a) Applicability of Buy America Preference to infrastructure projects. The Buy America Preference applies to Federal awards where funds are appropriated or otherwise made available for infrastructure projects in the United States, regardless of whether infrastructure is the primary purpose of the Federal award.

(b) Including the Buy America Preference in Federal awards. All Federal awards with infrastructure projects must include the Buy America Preference in the terms and conditions. The Buy America Preference must be included in all subawards, contracts, and purchase orders for the work performed, or products supplied under



the Federal award. The terms and conditions of a Federal award flow down to subawards to subrecipients unless a particular section of the terms and conditions of the Federal award specifically indicate otherwise.

(c) Infrastructure in general. Infrastructure encompasses public infrastructure projects in the United States, which includes, at a minimum, the structures, facilities, and equipment for roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property; and structures, facilities, and equipment that generate, transport, and distribute energy including electric vehicle (EV) charging.

(d) Interpretation of infrastructure. The Federal agency should interpret the term "infrastructure" broadly and consider the description provided in paragraph (c) of this section as illustrative and not exhaustive. When determining if a particular project of a type not listed in the description in paragraph (c) constitutes "infrastructure," the Federal agency should consider whether the project will serve a public function, including whether the project is publicly owned and operated, privately operated on behalf of the public, or is a place of public accommodation, as opposed to a project that is privately owned and not open to the public.

(e) Categorization of articles, materials, and supplies.

(1) An article, material, or supply should only be classified into one of the following categories:

- (i) Iron or steel products;
- (ii) Manufactured products;
- (iii) Construction materials; or
- (iv) Section 70917(c) materials.

(2) An article, material, or supply should not be considered to fall into multiple categories. In some cases, an article, material, or supply may not fall under any of the categories listed in paragraph (e)(1) of this section. The classification of an article, material, or supply as falling into one of the categories listed in paragraph (e)(1) must be made based on its status at the time it is brought to the work site for incorporation into an infrastructure project. In general, the work site is the location of the infrastructure project at which the iron, steel, manufactured products, and construction materials will be incorporated.

(f) Application of the Buy America Preference by category. An article, material, or supply incorporated into an infrastructure project must meet the Buy America Preference for only the single category in which it is classified.

## **§ 184.5 Determining the cost of components for manufactured products.**

In determining whether the cost of components for manufactured products is greater than 55 percent of the total cost of all components, use the following instructions:

- (a) For components purchased by the manufacturer, the acquisition cost, including transportation costs to the place of incorporation into the manufactured product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
- (b) For components manufactured by the manufacturer, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (a) of this section, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the manufactured product.

## **§ 184.6 Construction material standards.**

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(a) The Buy America Preference applies to the following construction materials incorporated into infrastructure projects. Each construction material is followed by a standard for the material to be considered "produced in the United States."

(1) Non-ferrous metals. All manufacturing processes, from initial smelting or melting through final shaping, coating, and assembly, occurred in the United States.

(2) Plastic and polymer-based products. All manufacturing processes, from initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, occurred in the United States.

(3) Glass. All manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the United States.

(4) Fiber optic cable (including drop cable). All manufacturing processes, from the initial ribboning (if applicable), through buffering, fiber stranding and jacketing, occurred in the United States. All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others.

(5) Optical fiber. All manufacturing processes, from the initial preform fabrication stage through the completion of the draw, occurred in the United States.

(6) Lumber. All manufacturing processes, from initial debarking through treatment and planing, occurred in the United States.

(7) Drywall. All manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, occurred in the United States.

(8) Engineered wood. All manufacturing processes from the initial combination of constituent materials until the wood product is in its final form, occurred in the United States.

(b) Except as specifically provided, only a single standard under paragraph (a) of this section should be applied to a single construction material.

## **§ 184.7 Federal awarding agency's issuance of a Buy America Preference waiver.**

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(a) Justification of waivers. A Federal agency may waive the application of the Buy America Preference in any case in which it finds that:

(1) Applying the Buy America Preference would be inconsistent with the public interest (a "public interest waiver");

(2) Types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality (a "nonavailability waiver"); or

(3) The inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall infrastructure project by more than 25 percent (an "unreasonable cost waiver").

(b) Requesting a waiver. Recipients may request waivers from a Federal agency if the recipient reasonably believes a waiver is justified under paragraph (a) of this section. A request from a recipient to waive the

application of the Buy America Preference must be provided to the Federal agency in writing. Federal agencies must provide waiver request submission instructions and guidance on the format, contents, and supporting materials required for waiver requests from recipients.

(c) Before issuing a proposed waiver. Before issuing a proposed waiver, the Federal agency must prepare a detailed written explanation for the proposed determination to issue the waiver based on a justification listed under paragraph (a) of this section, including for waivers requested by a recipient.

(d) Before issuing a final waiver. Before issuing a final waiver, the Federal agency must:

- (1) Make the proposed waiver and the detailed written explanation publicly available in an easily accessible location on a website designated by the Federal agency and the Office of Management and Budget;
- (2) Except as provided in paragraph (e) of this section, provide a period of not less than 15 calendar days for public comment on the proposed waiver; and
- (3) Unless the Director of OMB provides otherwise, submit the waiver determination to the Made in America Office in OMB for final review pursuant to Executive Order 14005 and section 70923(b) of the Build America, Buy America Act.

(e) Waivers of general applicability. Waivers of general applicability mean waivers that apply generally across multiple Federal awards. A Federal agency must provide a period of not less than 30 days for public comment on a proposal to modify or renew a waiver of general applicability.

## **§ 184.8 Exemptions to the Buy America Preference.**

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(a) The Buy America Preference does not apply to expenditures for assistance authorized under section 402, 403, 404, 406, 408, or 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170a, 5170b, 16 5170c, 5172, 5174, or 5192) relating to a major disaster or emergency declared by the President under section 401 or 501, respectively, of such Act (42 U.S.C. 5170, 5191) or pre and post disaster or emergency response expenditures.

(b) "Pre and post disaster or emergency response expenditures" consist of expenditures for financial assistance that are:

- (1) Authorized by statutes other than the Stafford Act, 42 U.S.C. 5121 et seq.; and
- (2) Made in anticipation of or response to an event or events that qualify as an "emergency" or "major disaster" within the meaning of the Stafford Act, 42 U.S.C. 5122(1), (2).