



Board of Public Works & Safety and Stormwater Board

Regular Meeting Agenda

2:00 p.m. February 8, 2021

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

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

Call to Order by Mayor Jeremy Stutsman

Approval of Minutes – Feb. 1

Approval of Agenda

- (1) Request for Water/Sewer Charge Relief: 227 S. Main St. (Jason Oswald, Elephant Bar)
- (2) Requests for Fire & Ice Festival, Feb. 27 (Adrienne Nesbitt, Eyedart Creative Studio)
- (3) Change Order #5: E. Goshen Water Main Replacement, JN; 2019-0037
- (4) Occupancy Permit Agreement with Andrew Weddle, 1805 Amberwood Dr.
- (5) Occupancy Permit Agreement with A. Weddle & Granite Ridge Builders, 1805 Amberwood
- (6) Agreement with Barkes, Kolbus, Rife & Shuler LLP for Attorney Services
- (7) Resolution 2021-04: Agreement with Elk. Co. 4H & Ag Exposition: Utility Extension/Tap
- (8) Acceptance of Utility Easement from Elk. Co. 4H & Ag Exposition
- (9) Acceptance of Monroe St. & Elk. Co. 4H Fair Water Main, 3-yr Maintenance Bond
- (10) Acceptance of Plat with Easements: Replat of Lot #1 of Eisendorff Field subdivision



- (11) Electrical Maintenance Contract for Civil City 2021: L&M Electric
- (12) Electrical Maintenance Contract for Utilities 2021: Middlebury Electric
- (13) Agreement with BakerTilly US, LLP for Financial Advisory and Planning Services
- (14) Resolution 2021-05: Agreement with Eaton Corp. for WWTP Switchgear breakers
- (15) Agreement with Lexipol for Fire Department Policy Services
- (16) Agreement with Peerless Midwest for Filter Repairs
- (17) Temporary Lane Closure: Skyview Rd. Feb. 8-12

Privilege of the Floor

Approval of Civil City and Utility Claims

Adjournment



MINUTES of February 1, 2021 Regular Meeting

Board of Public Works & Safety and Stormwater Board

Held 2:00 p.m. Goshen Police & Court Building, 111 East Jefferson Street, Goshen, Indiana

Present: Chair Jeremy Stutsman, Member Mary Nichols, Member Mike Landis

Absent: None

Minutes from January 25, 2021 were presented.

Nichols/Landis moved to approve the minutes of January 25, 2021 as presented. Passed 3-0

Mayor Jeremy Stutsman asked to remove Item #16 (Basketball Goal in Right-of-Way).

Nichols/Landis moved to approve the agenda as amended. Passed 3-0

Open Bids - 2021 Civil City Electrical Maintenance, JN: 2021-0005

Mayor Stutsman opened the sealed bid.

L&M Electric - \$28,850.00

Stutsman/Nichols moved to refer the bid to the Legal Department. Passed 3-0

Open Bids – 2021 Utilities Electrical Maintenance, JN: 2021-0006

Mayor Stutsman opened the sealed bid.

Middlebury Electric - \$39,488.00

Stutsman/Nichols moved to refer the bid to the Legal Department. Passed 3-0

Permission to Advertise for Bids: 16th St. Reconstruction, JN: 2020-0038

Director of Public Works Dustin Sailor presented the packet memo.

**Nichols/Landis moved to approve Engineering's request to advertise for 16th St. Reconstruction Project.
Passed 3-0**



Change Order #9: Police Training Facility

Sailor presented the packet memo.

Mayor Stutsman stated that no further extensions will be approved unless directly requested by the City. Mayor said he had visited the project site with Police Chief José Miller. Mayor said he did not think contractor had dedicated sufficient resources to the project.

Nichols/Landis moved to approve Change Order #9 for the Goshen Police Department Shooting Range Training Center Project for a deduction of (\$647.20) and addition of five days. Passed 3-0

Ratify Financial Commitment: Community Crossings Grant, JN: 2021-0016

Sailor presented the packet memo.

Nichols/Landis moved to ratify the financial commitment letter for the 2021-1 CCMG application, committing the amount of \$170,602.65 toward project costs. Passed 3-0

Contract Amendment with Merrell Bros., Inc. for Biosolid Handling

Legal Compliance Administrator Shannon Marks presented the packet memo.

Stutsman asked whether the lagoon at this location would be eliminated. Sailor stated that it would be and that biosolids would most likely be taken to the landfill or go to a local farmer.

Nichols/Landis moved to approve and execute the attached Contract Amendment with Merrell Bros., Inc. to extend the term through December 31, 2021. Passed 3-0

Agreement with Keifer Consulting for IDEM Biosolid Land Application Permit

Marks presented the packet memo.

Nichols/Landis moved to approve and execute the agreement with Keifer Consulting for modification of the City's land application permit. Passed 3-0

Agreement with Jones Petrie Rafinski Corp. – Courts Consolidation Traffic Impact Study

City Attorney Bodie Stegelmann presented the packet memo.



Nichols/Landis moved to approve the agreement with Jones Petrie Rafinski Corp. for Transportation Engineering Services – Traffic Impact Study related to the Elkhart County Courts Consolidation Project. Passed 3-0

Agreement with Arcadis U.S. Inc. for Software and Services

Stegelmann presented the packet memo.

Landis asked if in the past the City had used a firm, why the City is buying the software.

Water & Sewer Superintendent Kent Holdren stated that software was required by the Indiana Finance Authority as a condition of receiving State Revolving Fund financing. Said this is the first phase in the process of documenting utilities' capital assets in a comprehensive and useful way. Further discussion.

Nichols/Landis moved to approve the agreement with Arcadis U.S. Inc. for Utility Rehabilitation and Replacement Planning System Software and the corresponding Software License Agreements and authorize Mayor Stutsman to execute the Software License Agreement. Passed 3-0

Agreement with InvoiceCloud for Payment Processing

Clerk-Treasurer Adam Scharf presented the packet memo.

Utilities Business Office Manager Kelly Saenz stated in addition to customer benefits this would save her staff time and be more streamlined than the current system.

Nichols/Landis moved to approve the Biller Agreement, Statement of Work, and Biller Order Forms with InvoiceCloud, and authorize the Clerk-Treasurer to execute the documents. Passed 3-0

Request for Sewer Charge Relief: Elkhart County 4H Fairgrounds, 17746 CR 34

Holdren presented the packet memo.

Discussion about timing and nature of the leak, which Holdren stated was large and attributable to a burst pipe.

Nichols/Landis moved to grant sewer relief for the amount calculated by the Utilities Office of \$6,091.00. Passed 3-0



Lane Restriction on N. Main – Rock Run Sewer Improvements, JN: 2019-0025C

Sailor presented the packet memo.

Nichols/Landis moved to approve the temporary lane restriction on North Main Street between the new island and the bridge at Rock Run Creek for one day February 3, 2021. Passed 3-0

Lane Restriction on Lincoln & Olive, JN: 2019-0046

Sailor presented the packet memo.

Mayor Stutsman suggested changing the date to February 1 due to the crew already beginning work.

Nichols/Landis moved to approve the lane restriction along Lincoln Avenue and Olive Street starting today, February 1, 2021 until February 19, 2021. Passed 3-0

Temporary Road Closure: Westwood Rd. Feb. 2-5

Holdren presented the packet memo.

Nichols/Landis moved to approve the closure of Westwood Road to through traffic between Gra-Roy Drive and Mayflower Place February 2-5, 2021. Passed 3-0

Temporary Road Closure: Gray-Roy Dr. Feb. 3-8

Holdren presented the packet memo.

Holdren stated that forecast cold weather may cause delays.

Nichols/Landis moved to approve the closure of Gra-Roy Drive to thru traffic, between Westwood Road and Marilyn Avenue February 3-8. Passed 3-0

Privilege of the Floor:

No one spoke.



Stutsman/Nichols moved to approve Civil City and Utility claims and adjourn. Passed 3-0

Adjournment at 2:27 p.m.

APPROVED

Jeremy Stutsman, Chair

Michael Landis, Member

Mary Nichols, Member

ATTEST

Adam Scharf, Clerk-Treasurer



City Clerk-Treasurer

CITY OF GOSHEN

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

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

clerktreasurer@goshencity.com • www.goshenindiana.org

5 February 2021

To: Board of Public Works & Safety

From: Adam Scharf, City Clerk-Treasurer

Re: Request for Water/Sewer Charge Relief: 227 S. Main St.

Jason Oswald, representing Elephant Bar, plans to attend the February 8 meeting to request water/sewer charge relief at 227 S. Main St. Mr. Oswald cites a malfunctioning toilet as the cause of the unusually high charge.



City Clerk-Treasurer

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5 February 2021

To: Board of Public Works & Safety

From: Adam Scharf, City Clerk-Treasurer

Re: Fire & Ice Festival requests from Eyedart Creative Studio

Adrienne Nesbitt, representing Eyedart Creative Studio and on behalf of First Fridays, plans to attend the February 8 meeting with the following requests for February 27:

1. Closure and No Parking 8 a.m. to midnight for Main St. from Lincoln Ave. to Jefferson St.
2. Street Dept. trailer parked behind Electric Brew for trash maintenance
3. Two dozen barricades from Street Dept. to facilitate social distancing



**Engineering Department
CITY OF GOSHEN**

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

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

MEMORANDUM

TO: Board of Public Works & Safety

FROM: Engineering Department

RE: **CHANGE ORDER NO. 5 FOR EAST GOSHEN WATER MAIN
REPLACEMENT PROJECT – STEURY AVENUE TO BLACKPORT DRIVE
(JN: 2019-0037)**

DATE: February 8, 2021

Attached please find Change Order No. 5 for the East Goshen Water Main Replacement Project.

Change Order No. 5 includes additional water main fittings and other materials and labor required to complete necessary water main adjustments, side street water main connections, repair pavement and drives, as well as place more durable surface pavement.

The original contract amount plus additions from Change Order No. 1 through Change Order No. 4 was \$1,130,062.47. The quantities from Change Order No. 5 increase the contract amount by \$25,436.80, for a revised contract amount of \$1,155,499.27, an increase of 11.30% over the original contract price. No additional time is being added to the contract with this change order.

Requested motion:

Move to approve Change Order No. 5 for the East Goshen Water Main Replacement Project for an increase of \$25,436.80.

CHANGE ORDER FORM

Pg 1 of 3

Change Order No. 5

Date: 2/8/2021

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

OWNER: City of Goshen
PROJECT NAME: East Goshen Water Main Replacement - Steury to Blackport
PROJECT NUMBER: 2019-0037
CONTRACTOR: Selge Construction Co., Inc.

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

Change Order No. 5 includes additional water main fittings needed to make elevation changes, cap the existing 6" water main, make tie-ins with side street water mains, as well as make connections between HDPE and DI pipe. Change Order No. 5 also includes additional material and labor to install necessary valve op nut extensions, remove buried structures and pipe, and reset a culvert.

CO5.1	6" SDR 21/6" SCH40 Sanitary Sewer with Flowable Fill	4 EA	@	\$1,765.00		\$7,060.00
CO5.2	Water Main, Fitting, DI, Cap, 4"	1 EA	@	\$125.00		\$125.00
CO5.3	Water Main, Fitting, DI, Cap, 6"	3 EA	@	\$195.00		\$585.00
CO5.4	Water Main, Fitting, DI, Cap, 8"	1 EA	@	\$245.00		\$245.00
CO5.5	Water Main, Fitting, DI, Sleeve, 12"	4 EA	@	\$625.00		\$2,500.00
CO5.6	Water Main, Fitting, 45° Elbow, 12"	2 EA	@	\$725.00		\$1,450.00
CO5.7	HMA Surface - Max 15% RAP - Upcharge	483.75 TON	@	\$3.38		\$1,635.08
CO5.8	Pavement Removal	303 SYD	@	\$25.35		\$7,681.05
CO5.9	Resetting Culvert at 305 Steury	1 LSUM	@	\$536.60		\$536.60
CO5.10	Op Nut Extension Rod Installation for (3) Valves	1 LSUM	@	\$1,192.65		\$1,192.65
CO5.11	Install 6" Cap on Existing Water Main - Lincoln & Steury	1 LSUM	@	\$1,537.42		\$1,537.42
CO5.12	Replacing Concrete around Drywell at N. 21st Street	7 SYD	@	\$127.00		\$889.00
					Subtotal -	\$25,436.80

CHANGE ORDER FORM

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Change Order No. 5

II. ADJUSTMENTS IN AMOUNT OF CONTRACT

1. Amount of original contract	\$1,038,228.25
2. Net (Addition/ Reduction) due to all Previous Contract Supplements Numbers 0 to <u>4</u>	\$91,834.22
3. Amount of Contract, not including this supplement	\$1,130,062.47
4. Addition/ Reduction to Contract due to this supplement	\$25,436.80
5. Amount of Contract, including this supplemental	\$1,155,499.27
6. Total (Addition/ Reduction) due to all Change Orders (Line 2 + Line 4)	\$117,271.02
7. Total percent of change in the original contract price Includes Change Order No. 1 to <u>5</u> (Line 6 divided by Line 1)	11.30%

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: May 14, 2021.
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 _____, 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 he will place under coverage of his Performance and Payment Bonds and contractor's insurance, all work covered by this Contract Supplement. The contractor will furnished 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) percent.

CHANGE ORDER FORM

Pg. 3 of 3

Change Order No. 5

RECOMMENDED FOR ACCEPTANCE



Bryce J. Gast, P.E.
Administrative City Engineer

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

Mayor

Member

Member

ACCEPTED: CONTRACTOR

Selge Construction Co., Inc.

BY: _____
Signature of authorized representative

Printed

Title



CITY OF GOSHEN LEGAL DEPARTMENT

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

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

February 8, 2021

To: Goshen Board of Public Works and Safety and Stormwater Board
From: Shannon Marks
Subject: Occupancy Permit Agreement with Andrew Weddle

Attached for the Board's approval is an Occupancy Permit Agreement with Andrew Weddle concerning the completion of the construction project at 1805 Amberwood Drive. The construction project is now substantially complete except for certain exterior work that cannot be completed due to weather conditions.

With the exception of the work to be completed under the agreement, once all City Code requirements have been met, the agreement has been executed by all parties, and a surety in the amount of One Thousand One Hundred Five Dollars (\$1,105) is provided to the City by Andrew Weddle to insure the timely completion of the remaining work, the City will issue a certificate of occupancy for the location.

Suggested Motion:

Approve and authorize the Mayor to execute the Occupancy Permit Agreement with Andrew Weddle concerning the completion of the construction project at 1805 Amberwood Drive.

OCCUPANCY PERMIT AGREEMENT

THIS AGREEMENT is entered into on February _____, 2021, between the **City of Goshen, Indiana** by and through the Goshen Board of Public Works and Safety and Stormwater Board (“Goshen”), and **Andrew Weddle** (“Permittee”).

Permittee obtained a building permit for the construction of a building on Permittee’s real estate at 1805 Amberwood Drive, Goshen, Indiana (“Site”). The construction project is substantially complete except for certain exterior work that cannot be completed due to weather conditions.

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

WORK

Permittee agrees to complete the following remaining item(s) of work (“Work”) as soon as conditions permit, but no later than June 15, 2021:

- (1) Permanently stabilize the Site which shall include grading, adding topsoil where needed, seeding and mulching of the grounds. This shall specifically include stabilization of approximately 8,500 square feet of disturbed area with seed and a temporary stabilization measure such as anchored mulch, hydromulch, or erosion control blankets. In addition, all adjacent and/or affected inlets shall be kept covered until the Site has been completely and permanently stabilized.
- (2) Removal of a temporary gravel ramp at the north garage door.

SURETY

Permittee agrees to provide Goshen a surety in the amount of One Thousand One Hundred Five Dollars (\$1,105) (“Surety”) to insure the timely and proper completion of the Work under the terms of this agreement. The Surety may be in the form of a surety bond, letter of credit, or cash bond, including a corporate check or cashier’s check (which City Clerk-Treasurer will cash). The Surety is to insure the timely and proper completion of the obligations under this agreement and is not intended for the benefit of any third party, including Permittee’s contractors or subcontractors. Upon satisfactory completion of the Work, Goshen will release the Surety.

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

CERTIFICATE OF OCCUPANCY

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

FORCE MAJEURE

If Permittee's performance under this agreement is prevented because of an occurrence that is beyond the control of the Permittee which could not have been avoided by exercising reasonable diligence, Permittee's time for performance will be extended. Such extension shall be for no longer than necessary given the nature of the occurrence which causes the delay. Examples of such occurrences are tornadoes, floods, or more than a typical number of days where rainfall prohibits the performance required of the Permittee.

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

DEFAULT

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

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

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

SUBCONTRACTING OR ASSIGNMENT OF CONTRACT

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

AMENDMENTS

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

WAIVER OF RIGHTS

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

NOTICES

All written notices, properly addressed and sent by U.S. mail or delivered personally to the address provided below shall constitute sufficient notice whenever written notice is required for any purpose in this agreement. Notice will be considered given five (5) days after the notice is deposited in the U.S. mail or when received at the appropriate address.

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

Address for Permittee: Andrew Weddle
 19679 Riverview Drive
 Goshen, IN 46526

APPLICABLE LAWS

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

In addition, all provisions required by law to be inserted into this agreement shall be deemed to be inserted whether they are actually included or not. Any provision of this agreement or incorporated documents, if any, shall be interpreted in such a way that they are consistent with all provisions required by law to be inserted into the agreement.

In the event of a conflict between this agreement and applicable laws, rules, regulations or ordinances, the most stringent or legally binding requirement shall govern.

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

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

SEVERABILITY

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

BINDING EFFECT

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

ENTIRE AGREEMENT

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

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

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

Permittee

Jeremy P. Stutsman, Mayor

Andrew Weddle

Date: February _____, 2021

Date: February _____, 2021



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February 8, 2021

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

From: Shannon Marks

Subject: Occupancy Permit Agreement with
Andrew Weddle and Granite Ridge Builders, Inc.

Attached for the Board's approval is an Occupancy Permit Agreement with Andrew Weddle and Granite Ridge Builders, Inc. concerning the completion of the construction project at 1805 Amberwood Drive. The construction project is now substantially complete except for certain exterior work that cannot be completed due to weather conditions. In addition, the agreement also permits a temporary gravel driveway that has been installed for the site until such time as the concrete driveway can be installed.

With the exception of the work to be completed under the agreement, once all City Code requirements have been met, the agreement has been executed by all parties, and a surety in the amount of Four Thousand Fifty-five Dollars (\$4,055) is provided to the City by Granite Ridge Builders, Inc. to insure the timely completion of the remaining work, the City will issue a certificate of occupancy for the location.

Suggested Motion:

Approve and authorize the Mayor to execute the Occupancy Permit Agreement with Andrew Weddle and Granite Ridge Builders, Inc. concerning the completion of the construction project at 1805 Amberwood Drive.

OCCUPANCY PERMIT AGREEMENT

THIS AGREEMENT is entered into on February _____, 2021, between the **City of Goshen, Indiana** by and through the Goshen Board of Public Works and Safety and Stormwater Board (“Goshen”), and **Andrew Weddle and Granite Ridge Builders, Inc.**, (hereinafter collectively referred to as “Permittee”).

Permittee obtained a building permit for the construction of a building on Andrew Weddle’s real estate at 1805 Amberwood Drive, Goshen, Indiana (“Site”). The construction project is substantially complete except for certain exterior work that cannot be completed due to weather conditions.

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

WORK

Permittee agrees to complete the following remaining item(s) of work (“Work”) as soon as conditions permit, but no later than June 15, 2021:

- (1) Install approximately 1,165 square feet of hard surface driveway for the Site. Permittee has installed a temporary gravel driveway, and Goshen will permit the installation of the temporary gravel driveway until such time as the permanent hard surface driveway can be installed.
- (2) Install approximately 70 square feet of concrete sidewalk at the Site which includes installation of new sidewalk to the building entrance and replacement of damaged sidewalk adjacent to Amberwood Drive.

SURETY

Permittee agrees to provide Goshen a surety in the amount of Four Thousand Fifty-five Dollars (\$4,055) (“Surety”) to insure the timely and proper completion of the Work under the terms of this agreement. The Surety may be in the form of a surety bond, letter of credit, or cash bond, including a corporate check or cashier’s check (which City Clerk-Treasurer will cash). The Surety is to insure the timely and proper completion of the obligations under this agreement and is not intended for the benefit of any third party, including Permittee’s contractors or subcontractors. Upon satisfactory completion of the Work, Goshen will release the Surety.

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

CERTIFICATE OF OCCUPANCY

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

FORCE MAJEURE

If Permittee's performance under this agreement is prevented because of an occurrence that is beyond the control of the Permittee which could not have been avoided by exercising reasonable diligence, Permittee's time for performance will be extended. Such extension shall be for no longer than necessary given the nature of the occurrence which causes the delay. Examples of such occurrences are tornadoes, floods, or more than a typical number of days where rainfall prohibits the performance required of the Permittee.

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

DEFAULT

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

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

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

SUBCONTRACTING OR ASSIGNMENT OF CONTRACT

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

AMENDMENTS

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

WAIVER OF RIGHTS

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

NOTICES

All written notices, properly addressed and sent by U.S. mail or delivered personally to the address provided below shall constitute sufficient notice whenever written notice is required for any purpose in this agreement. Notice will be considered given five (5) days after the notice is deposited in the U.S. mail or when received at the appropriate address.

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

Address for Permittee: Andrew Weddle
19679 Riverview Drive
Goshen, IN 46526

and

Granite Ridge Builders, Inc.
705 W. Union Street
Ligonier, IN 46767

APPLICABLE LAWS

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

In addition, all provisions required by law to be inserted into this agreement shall be deemed to be inserted whether they are actually included or not. Any provision of this agreement or incorporated documents, if any, shall be interpreted in such a way that they are consistent with all provisions required by law to be inserted into the agreement.

In the event of a conflict between this agreement and applicable laws, rules, regulations or ordinances, the most stringent or legally binding requirement shall govern.

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

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

SEVERABILITY

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

BINDING EFFECT

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

ENTIRE AGREEMENT

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

AUTHORITY TO EXECUTE

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

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

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

Permittee

Jeremy P. Stutsman, Mayor

Andrew Weddle

Date: February _____, 2021

Date: February _____, 2021

Granite Ridge Builders, Inc.

By: _____

Printed: _____

Title: _____

Date: February _____, 2021



CITY OF GOSHEN LEGAL DEPARTMENT

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

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

February 8, 2021

To: Board of Public Works and Safety
From: Shannon Marks, Legal Compliance Administrator
Subject: Agreement with Barkes, Kolbus, Rife & Shuler, LLP

Attached for the Board's approval and execution is an agreement with Barkes, Kolbus, Rife & Shuler, LLP for attorney services for 2021 with an automatic renewal for 2022.

It was discovered that the current agreement dated November 26, 2019, did not include language to increase the bi-weekly salary paid to Jim Kolbus or the hourly rates paid to the firm in 2021. For 2021, the bi-weekly salary to Jim Kolbus is increased 2% to \$307.91 to act Planning and Zoning Attorney. Beginning 2021, the firm will be paid \$190 per hour for all other services rendered on behalf of the City or its departments, provided such services are not covered by the compensation paid to Jim Kolbus as Planning and Zoning Attorney or the legal services provided to Redevelopment and the Civil City covered by the monthly payments. The firm will be compensated \$237 per hour for projects where City's legal fees are paid from a non-City funding source. If the agreement is renewed for 2022, these amounts will increase the same percentage as the increase in wages paid to the City's full-time employees in 2022.

The monthly payments to the firm beginning January 2021 for an attorney to provide legal services to Redevelopment and the Civil City were already established in the 2019 agreement and have not changed. If the agreement is renewed for 2022, the monthly amounts will increase 2% beginning January 2022.

Suggested Motion:

Approve and execute the agreement with Barkes, Kolbus, Rife & Shuler, LLP for attorney services.

AGREEMENT

THIS AGREEMENT is made and entered into on February ____, 2021, between the City of Goshen, hereinafter referred to as "City", and the law firm of Barkes, Kolbus, Rife & Shuler, LLP, hereinafter referred to as "BKRS".

Section 1. EMPLOYMENT

City agrees to employ and BKRS agrees to accept employment upon the terms and conditions of this agreement.

Section 2. TERM

The term of this agreement shall begin on January 1, 2021 and shall terminate on December 31, 2021. The agreement shall be automatically renewed for an additional one (1) year period under the same terms and conditions unless written notice of the intent to terminate the contractual relationship is delivered by either party to the other sixty (60) days before anniversary date.

Section 3. COMPENSATION

City will pay a bi-weekly salary of Three Hundred Seven and 91/100 Dollars (\$307.91) to James W. Kolbus, a partner in the law firm of BKRS to act as Planning and Zoning Attorney. As additional compensation for James W. Kolbus, City will provide James W. Kolbus with medical insurance on the same terms and conditions as medical insurance is provided to full-time employees of the City of Goshen and agrees to pay for James W. Kolbus's membership in the Indiana Municipal Lawyers Association.

BKRS will be paid at the rate of One Hundred Ninety Dollars (\$190) per hour for all services rendered on behalf of the City or its departments, provided such services are not covered by the salary paid to James W. Kolbus or by the payments provided in Sections 5 and 6 of this agreement.

BKRS will be paid at the rate of Two Hundred Thirty-Seven Dollars (\$237) per hour for projects where City's legal fees are paid from a non-City funding source.

BKRS will be reimbursed for all expenses incurred in rendering services to the City, including, but not limited to filing fees, long distance telephone calls, deposition costs, and other costs which are reasonably incidental to the rendering of legal services on behalf of the City.

BKRS will be reimbursed for expenses to attend any seminar or training session, including the costs of the seminar, meals, lodging and transportation if attendance is approved by the Board of Public Works and Safety or Mayor.

In the event the agreement remains in effect for 2022, the bi-weekly salary paid to James W. Kolbus and the hourly rates paid to BKRS set forth above shall increase the same percentage as the increase in wages paid to full-time City of Goshen employees in 2022.

Section 4. DUTIES

In exchange for the salary paid to James W. Kolbus, he or another full-time attorney of BKRS will on his behalf render the following services:

1. Attend meetings of the City Plan Commission.

2. Attend meetings of the Board of Zoning Appeals (BZA).
3. Give general legal advice to the members of the City Planning Commission and members of the BZA on matters before the Plan Commission or BZA.
4. Attend two (2) days of seminars or training sessions if requested or approved by the Mayor or Board of Public Works and Safety.

Section 5. REDEVELOPMENT

The attorneys at BKRS will designate an attorney for the following legal services in exchange for a monthly payment from the Redevelopment Commission in the amount of Four Thousand Three Hundred Ninety-Nine Dollars (\$4,399) each month beginning January 15, 2021 and ending December 15, 2021. In the event the agreement remains in effect for 2022, the monthly payment shall increase two percent (2%) beginning January 15, 2022 and ending December 15, 2022.

The assigned attorney will provide legal services to the Redevelopment Commission and the Redevelopment Department that include:

1. Attend all Redevelopment Commission regular and special meetings.
2. Prepare resolutions and ordinances that relate to the issues brought before the Redevelopment Commission.
3. Review and implement statutory changes that affect the activities of the Redevelopment Commission or Redevelopment Department.
4. Negotiate and obtain approval for the establishment or amendment of Tax Increment Financing areas.
5. Provide support in any litigation filed against the Redevelopment Commission or initiated on behalf of the Redevelopment Department. This does not include court appearances on behalf of Redevelopment, preparation for court appearances, or appellate work.
6. Implement eminent domain to obtain real estate for projects funded by the Redevelopment Commission. This does not include legal services related to eminent domain after a suit is filed. It does include assistance to the attorney who files court proceedings for the eminent domain.
7. Negotiate and prepare agreements or other documents connected with issues directly involving the Redevelopment Commission.

The expectation of the City and BKRS is that these services will require twelve (12) hours a week on average.

Section 6. CIVIL CITY

The attorneys at BKRS will designate an attorney for the following legal services in exchange for a monthly payment from the City of Goshen Legal/Professional Services Line (101-510-05-431.0000) in the amount of Five Thousand Eight Hundred Fifty-Six Dollars (\$5,856) each month beginning with payment due on January 15, 2021 and ending December 15, 2021. In the event the agreement remains in

effect for 2022, the monthly payment shall increase two percent (2%) beginning January 15, 2022 and ending December 15, 2022.

The assigned attorney will provide the following services to the Board of Public Works and Safety:

1. Negotiate the agreement with the Teamsters Union in 2021 and/or 2022 if either City or Union request to open wage negotiations.
2. Provide vacant housing and unsafe building enforcement to the point where a complaint is filed with a court.
3. Prepare annexations when necessary.
4. Prepare water and sewer agreements.
5. Prepare other contractual agreements as assigned by the City Attorney.
6. Work on condemnation proceedings prior to filing complaint in court.
7. Work on real estate transactions as assigned by the City Attorney.
8. Draft ordinances and resolutions as assigned by the City Attorney.
9. Review new legislation and modify existing ordinances, resolutions, and policies affected by the new legislation as assigned by the City Attorney.
10. Other duties assigned by the City Attorney such that the total assignments do not routinely require more than sixteen (16) hours per week.

The expectation of the City and BKRS is that all these listed services will require sixteen (16) hours a week on average.

Section 7. HOURLY BILLED SERVICES

In addition to the duties covered in Section 4, 5, and 6, BKRS may be assigned the following duties for which additional compensation will be paid on an hourly basis in accordance with this agreement. Such duties will be performed by BKRS other than the attorney assigned to fulfill the obligations in Sections 5 and 6.

1. Prosecution of violations of city ordinances.
2. Examine title searches, and abstracts, prepare documents, negotiate and draft real estate contracts and leases and attend real estate closings to the extent that such are required in any public work, including opening, closing or changing any street, alley or public place.
3. Prepare ordinances requested or authorized by Mayor or a board of the City.
4. Review newly enacted state legislation and update any affected ordinance.
5. Represent the City in litigation, threatened or filed, on behalf or against the City or a board of the City.

6. Any legal work rendered on behalf of a board of the City other than attendance at regular meetings, including, but not limited to attendance and work related to administrative hearings of the board.
7. Participate in the negotiation of the employment or union contracts of City employment if requested to do so by Mayor.
8. The collection of monies owed to the City.
9. Trips made outside the city on the City's behalf and at the request of the Mayor or a board of the City.
10. Services performed in litigation and administration of City water and sewage utilities, including rate change requests.
11. Legal services rendered in connection to the issue or sale of general obligation bonds or revenue bonds for City utilities or other entities.
12. Services rendered to the Board of Zoning Appeals or Planning Commission other than attending regular meetings, including rendering general legal opinions and preparation and/or review of ordinances affecting planning and zoning.
13. Draft contracts for execution by City or its various departments.
14. Attend meetings of the Aviation Board when the matters to be considered by the Board require the attention of legal counsel and render any legal services requested by the Board.
15. Attend meetings of the Cemetery Board when the matters to be considered by the Board require the attention of legal counsel and render any legal services requested by the Board.
16. Attend meetings of the Park Board when the matters to be considered by the Board require the attention of legal counsel and render any legal services requested by the Board.
17. A matter assigned or authorized by a Board of the City, the Mayor, or the City Attorney.

Section 8. NOTICES

Any notice required or desired to be given under this agreement shall be deemed sufficient if it is made in writing and sent by regular United States mail to City at City of Goshen, 202 South Fifth Street, Goshen, Indiana 46528, and Barkes, Kolbus, Rife & Shuler, LLP at Barkes, Kolbus, Rife & Shuler, LLP, 118 North Main Street, Goshen, Indiana 46526, or such other place as the parties may designate from time to time in writing.

Section 9. WAIVER OF BREACH

No waiver of a breach under this agreement shall operate to be considered a waiver of any subsequent breach. No waiver shall be valid unless it is in writing.

Section 10. CONFLICTS

BKRS agrees not to accept any other employment if that employment would put BKRS in a position to be in conflict with the interests of the City without the written consent of City. When such conflict first becomes apparent, BKRS agrees to advise the City of the conflict immediately upon discovery.

Section 11. ASSIGNMENT

Neither party can assign or delegate its duties or obligations under this agreement without the written consent of the other party.

Section 12. MODIFICATIONS

The terms of this agreement may not be altered except in writing signed by the party against whom enforcement of the waiver, modification or extension is sought.

Section 13. EMPLOYE ELIGIBILITY VERIFICATION

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

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

BKRS shall require any subcontractor, who performs work under this contract to certify to BKRS 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. BKRS agrees to maintain this certification throughout the duration of the term of a contract with any subcontractor.

BKRS affirms under the penalties of perjury that it does not knowingly employ an unauthorized alien.

Section 14. TERMINATION OF AGREEMENT

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

IN WITNESS WHEREOF, the parties have set their hands to this agreement as set forth below.

Barkes, Kolbus, Rife & Shuler, LLP

City of Goshen
Board of Public Works and Safety

James W. Kolbus, Partner

Jeremy P. Stutsman, Mayor

Donald R. Shuler, Partner

Michael A. Landis, Member

Date: February _____, 2021

Mary Nichols, Member

Date: February _____, 2021



CITY OF GOSHEN LEGAL DEPARTMENT

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February 8, 2021

To: Board of Public Works and Safety

From: Shannon Marks

Subject: Resolution 2021-04, Agreement with Elkhart County 4-H and Agricultural Exposition, Inc.

On October 28, 2019 the Board approved a preliminary agreement with Elkhart County 4-H and Agricultural Exposition, Inc. (“4-H”) to begin the construction to extend the public water main east along County Road 34 (Monroe Street) and connect the new arena facility to the City’s water system. This preliminary agreement contemplated City and 4-H entering into a more detailed agreement concerning the water main extension, the provision of City water services and sanitary sewer services to 4-H real estate, and provisions regarding the future annexation of 4-H’s real estate. The parties have negotiated this final agreement. Resolution 2021-04 is to approve the terms and conditions of the Agreement with Elkhart County 4-H and Agricultural Exposition, Inc. and authorize the Mayor to execute the Agreement on behalf of the Board of Public Works and Safety and City of Goshen.

Suggested Motion:

Move to adopt Resolution 2021-04, Agreement with Elkhart County 4-H and Agricultural Exposition, Inc.

RESOLUTION 2021-04

Agreement with Elkhart County 4-H and Agricultural Exposition, Inc.

WHEREAS the Goshen Board of Public Works and Safety approved a preliminary agreement on October 28, 2019 to permit Elkhart County 4-H and Agricultural Exposition, Inc. ("4-H") to begin the construction to extend the public water main east along County Road 34 (Monroe Street) and connect the new arena facility to the City's water system.

WHEREAS the preliminary agreement as presented to 4-H contemplated City and 4-H entering into a more detailed agreement concerning the water main extension, the provision of City water services and sanitary sewer services to 4-H real estate, and provisions regarding the future annexation of 4-H's real estate.

WHEREAS City and 4-H have fully negotiated the final agreement for the water main extension, the provision of City water services and sanitary sewer services to 4-H real estate, and provisions regarding the future annexation of 4-H's real estate.

WHEREAS Goshen Common Council adopted a resolution on February 2, 2021 approving the terms and conditions of the attached agreement; ratifying and approving the construction and extension of the City's public water utility main east along County Road 34 (Monroe Street) outside of the Goshen corporate limits; and approving the connection of the new arena facility to the City's water system and waiving the standard water connection charge for the new arena facility.

NOW, THEREFORE, BE IT RESOLVED that:

- (1) The Goshen Board of Public Works and Safety approves the terms and conditions of the Agreement with Elkhart County 4-H and Agricultural Exposition, Inc., a copy of which is attached to and made and part of this resolution.
- (2) Mayor Stutsman is authorized to execute the Agreement with Elkhart County 4-H and Agricultural Exposition, Inc. on behalf of the Goshen Board of Public Works and Safety and the City of Goshen.

PASSED and ADOPTED by the Goshen Board of Public Works and Safety on February _____, 2021.

Jeremy P. Stutsman, Mayor

Michael A. Landis, Board Member

Mary Nichols, Board Member

AGREEMENT

THIS AGREEMENT is entered into on January 19th, 2021, by and between the **City of Goshen, Indiana**, a municipal corporation and political subdivision of the State of Indiana, acting through the Goshen Board of Public Works and Safety (“City”), and **Elkhart County 4-H and Agricultural Exposition, Inc.**, an Indiana nonprofit corporation (“4-H”).

RECITALS

WHEREAS 4-H is the owner of the real estate more commonly known as the Elkhart County Fairgrounds located on the south side of County Road 34 (Monroe Street) and east of the railroad.

WHEREAS a portion of 4-H’s real estate is currently served by City water services and sanitary sewer services pursuant to a 1991 Municipal Sanitary Sewer & Water Services Agreement which provided for the extension of City’s public water main and public sanitary sewer main along County Road 34 (Monroe Street) generally to the Gate 2 entrance of the Elkhart County Fairgrounds. The 1991 Agreement also provided for 4-H’s connection within a reasonable time to City water services and sanitary sewer services the existing Agricultural building, Community building, and Elkhart County Community Center building, and the connection of food service buildings, other major buildings and newly constructed buildings subject to adequate financing and financial conditions permitting. The parties did not contemplate connecting livestock barns to City water services and sanitary sewer services.

WHEREAS 4-H is planning to construct or has constructed a new facility at the Fairgrounds. The location of the new facility is east of the Gate 2 entrance of the Elkhart County Fairgrounds. The real estate upon which the new facility is located is not covered under the 1991 Agreement. In order to provide adequate fire suppression to the new facility, it is necessary for City’s public water main to be extended further east along County Road 34 (Monroe Street).

WHEREAS 4-H has contracted with Beer & Slabaugh, Inc. to extend City’s public water main further east along County Road 34 (Monroe Street) generally from the Gate 2 entrance of the Elkhart County Fairgrounds to a location east of the Gate 3 entrance (hereinafter the “Monroe water main extension”).

WHEREAS Indiana Code § 8-1.5-2-3 requires the Goshen Common Council to consent to the construction of utilities outside of the Goshen corporate limits. A portion of the Monroe water main extension is outside the Goshen corporate limits.

WHEREAS 4-H requests to be reimbursed a fair pro rata share of the 4-H's cost of construction of the Monroe water main extension should any person or entity that is not a party to this agreement subsequently connect to or further extend that portion of the City's public water main constructed by 4-H under this agreement.

WHEREAS 4-H requests that City continue to waive the water connection fees for the connection of 4-H's new facility to City's public water main. The connection fee waiver of the 1991 Agreement was intended to cover connections made to the public water main and public sanitary sewer main extended to the Gate 2 entrance. Therefore, it is necessary to obtain approval of the Goshen Common Council for the waiver of all or any portion of the connection fee(s) for connection of 4-H's new facility to the Monroe water main extension.

WHEREAS as part of Monroe water main extension, the City's public water main was looped to increase water circulation by extending the public water main from Monroe Street and connecting to an existing dead-end public water main along Hillcrest Drive inside the Goshen corporate limits (hereinafter the "Hillcrest water main loop").

WHEREAS 4-H's contractor began construction the week of October 28, 2019.

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

- (1) In order to properly provide water services to the new facility constructed on 4-H real estate, 4-H agrees to construct and fund the extension of a twelve-inch (12") water main from the existing public water main located west of the Gate 2 entrance of the Elkhart County Fairgrounds to a location east of the Gate 3 entrance. The total length of the Monroe water main extension is approximately one thousand feet (1000'). The construction of the Monroe water main extension shall be in accordance with detailed plans and specifications approved by the Goshen Engineering Department in advance of construction.
- (2) 4-H will be responsible for the costs for right-of-way acquisition, design, field investigation, geotechnical work, permitting and construction of the Monroe water main extension.
- (3) The construction of the Monroe water main extension will be within the public right-of-way (existing and to be acquired) along County Road 34 or on real estate owned by 4-H along County Road 34.
- (4) 4-H agrees to donate any rights-of-way or easements necessary to construct and/or maintain the water main along County Road 34 to the extent that 4-H owns the real estate from which the rights-of-way need to be dedicated or from which the easements need to be granted.

- (5) Upon satisfactory completion and final inspection by the City of Goshen and approval of the Goshen Board of Public Works and Safety, the public water main along County Road 34 and appurtenant facilities will be dedicated to and will be accepted by the City for maintenance. At the time of dedication to the City and approval by the Goshen Board of Public Works and Safety, the City will assume the cost of maintenance of the public water main along County Road 34 and any appurtenant facilities.
- (6) Any person or entity that is not a party to this agreement that either subsequently connects to the Monroe water main extension constructed by 4-H or further extends the City's public water main from the Monroe water main extension constructed by 4-H shall pay to 4-H a fair pro rata share of the cost of construction of the Monroe water main extension calculated as follows:
 - (a) The fair pro rata share shall be based on 4-H's cost to construct the Monroe water main extension divided by the number of 4-H's acres benefitted or served by the Monroe water main extension to obtain a cost per acre.
 - (b) The person or entity that is not a party to this agreement that subsequently connects to or further extends the City's public water main shall reimburse 4-H based on the cost per acre determined under paragraph (a) multiplied by the new acreage connecting to or benefitting from 4-H's construction of the Monroe water main extension.
- (7) 4-H shall not be entitled to reimbursement in excess of 4-H's cost for the construction of the Monroe water main extension.
- (8) 4-H shall not be entitled to reimbursement for any connection or extension occurring on or after January 1, 2030.
- (9) 4-H will construct and maintain at 4-H's expense all building water lines that are necessary for the proper connection of the new facility to City's public water main. All building water lines servicing the new facility on the 4-H's real estate shall be considered private building lines. The construction of the building water lines shall be at 4-H's expense and in accordance with detailed plans and specifications approved by the Goshen Engineering Department in advance of construction.
- (10) 4-H agrees that the new facility requiring water service shall not be occupied until the Monroe water main extension is completed and after the Goshen Common Council has approved the extension of the public water main outside the Goshen corporate limits.
- (11) As part of the Monroe water main extension described under paragraph (1), 4-H agrees to construct the extension of an eight-inch (8") water main within City's existing right-of-way of Hillcrest Drive inside the Goshen corporate limits (the "Hillcrest water main loop"). The Hillcrest water main loop will extend the City's water main approximately ninety-five feet (95') from the end of the existing dead-end water main on Hillcrest Drive south to the existing catch basin on County Road 34 (Monroe Street). City agrees to pay 4-H the sum of Thirty-two Thousand Two Hundred Dollars (\$32,200) for the Hillcrest water main loop.

City will issue payment to 4-H within forty-five (45) days after completion and City's acceptance of the Hillcrest water main loop.

- (12) No additional extension of City water or sanitary sewer utilities, whether public or private, shall be permitted without the prior approval of the City of Goshen upon the recommendation of the City Engineer.
- (13) City administration will recommend to the Goshen Common Council the ratification of 4-H's construction and extension of the public water utility main outside of the Goshen corporate limits.
- (14) City administration will recommend to the Goshen Common Council the waiver of the City standard water connection fee for the connection of 4-H's new facility to City's public water main. 4-H agrees to pay City's inspection fees, and fees for all metering equipment at the time of the connection.
- (15) City and 4-H agree that all real estate covered by the 1991 Municipal Sanitary Sewer & Water Services Agreement has been annexed into the Goshen corporate limits except for parcel number 20-11-14-101-003.000-014 (part of the western parking area of the Elkhart County Fairgrounds) which is owned by 4-H. City and 4-H agree that the 1991 Agreement shall be terminated.
- (16) 4-H and any successor in title waives and releases any right to remonstrate against any pending or future annexation of all or any portion of the 4-H real estate. This waiver is given in consideration for the right to connect to the City's water mains and sanitary sewer mains and to receive City water services and sanitary sewer services. The parties agree that any person who connects to the City's water system or sanitary sewer system is considered to waive and release any right to remonstrate against the annexation of the real estate accommodated or serviced by the City's water system or sanitary sewer system.
- (17) City agrees that City will not petition or seek to annex all or any portion of the real estate owned by 4-H which is not within the City limits unless and until the conditions in subparagraphs (17)(a) and (17)(b) exist:
 - (a) a developer is prepared to develop real estate north, south or east of the real estate owned by 4-H which meets one of the following conditions:
 - i. A commercial or industrial development containing buildings which are collectively two hundred thousand (200,000) square feet or more.
 - ii. A residential development of fifty (50) single-family lots or more.
 - iii. A multi-unit residential development of one hundred (100) units or more.

The conditions in this subparagraph (17)(a) shall not be triggered by development on Parcel Numbers 20-11-14-478-001.000-015; 20-11-14-426-002.000-015; 20-11-13-300-001.000-015; or 20-11-13-400-006.000-014 ("Excluded Parcels" depicted on Exhibit A in the dashed area).

- (b) At least some portion of real estate owned by 4-H which is not within the City limits must be annexed to achieve contiguity requirements found in Indiana Code 36-4-3 relative to any possible development that occurs under subparagraph (17)(a).
- (18) This agreement shall be binding upon and inure to the benefit of the parties to this agreement.
- (19) This agreement shall be construed and enforced in accordance with the laws of the State of Indiana. The venue for any action brought by either party relating to or arising out of this agreement shall be in Elkhart County, State of Indiana.
- (20) If it becomes necessary for any party to this agreement to institute litigation in order to enforce or construe the terms and provisions of this agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs incurred in such litigation from the non-prevailing party.
- (21) No remedy conferred upon any party in this agreement is intended to be exclusive of any other remedy provided or permitted by law, but each remedy shall be cumulative and shall be in addition to any other remedy given under the terms of this agreement or existing at law or equity. Every power or remedy provided in this agreement may be exercised concurrently or independently and as often as deemed appropriate.
- (22) This agreement contains the entire agreement between the parties respecting the matters set forth.

IN WITNESS WHEREOF, the parties have executed this agreement as of the dates written below.

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

 Jeremy P. Stutsman, Mayor

Date: _____

EXECUTED and DELIVERED in my presence:

Witness Signature: _____

Witness Printed Name: _____

Elkhart County 4-H and Agricultural Exposition, Inc.



Trent Hostetler, President

Date: 1/19/21

EXECUTED and DELIVERED in my presence:

Witness Signature:  _____

Witness Printed Name: Jeffrey Lund

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public in and for said County and State, personally appeared Jeremy P. Stutsman, Mayor of the City of Goshen, Indiana and on behalf of the Goshen Board of Public Works and Safety, being known to me or whose identity has been authenticated by me to be the person who acknowledged the execution of the foregoing instrument as the person's voluntary act for the purpose stated therein.

Witness my hand and Notarial Seal this ____ day of _____, 2021.

Shannon Marks
Notary Public of Elkhart County, Indiana
My Commission Expires: May 17, 2024
Commission Number: NP0685467

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public in and for said County and State, personally appeared [Witness Name] _____, being known to me or whose identity has been authenticated by me to be the person whose name is subscribed as a Witness to the foregoing instrument, who, being duly sworn by me, deposes and says that the foregoing instrument was executed and delivered by Jeremy P. Stutsman, Mayor of the City of Goshen, Indiana and on behalf of the Goshen Board of Public Works and Safety, in the above-named subscribing Witness's presence, and that the above-named subscribing Witness is not a party to the transaction described in the foregoing instrument and will not receive any interest in or any proceeds as a result of the transaction.

Witness my hand and Notarial Seal this ____ day of _____, 2021.

Shannon Marks
Notary Public of Elkhart County, Indiana
My Commission Expires: May 17, 2024
Commission Number: NP0685467

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public in and for said County and State, personally appeared Trent Hostetler, President of Elkhart County 4-H and Agricultural Exposition, Inc., being known to me or whose identity has been authenticated by me to be the person who acknowledged the execution of the foregoing instrument as the person's voluntary act for the purpose stated therein.

Witness my hand and Notarial Seal this 19th day of January, 2021.



KATHERINE A. STEWART
NOTARY PUBLIC
State of Indiana, Elkhart County
My commission expires Aug. 3, 2026
Commission Number 715183

Katherine A. Stewart
Printed Name: _____
Notary Public of _____ County, Indiana
My Commission Expires: _____
Commission Number: _____

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public in and for said County and State, personally appeared [Witness Name] Jeffrey Lund, being known to me or whose identity has been authenticated by me to be the person whose name is subscribed as a Witness to the foregoing instrument, who, being duly sworn by me, deposes and says that the foregoing instrument was executed and delivered by Trent Hostetler, President of Elkhart County 4-H and Agricultural Exposition, Inc., in the above-named subscribing Witness's presence, and that the above-named subscribing Witness is not a party to the transaction described in the foregoing instrument and will not receive any interest in or any proceeds as a result of the transaction.

Witness my hand and Notarial Seal this 19th day of January, 2021.



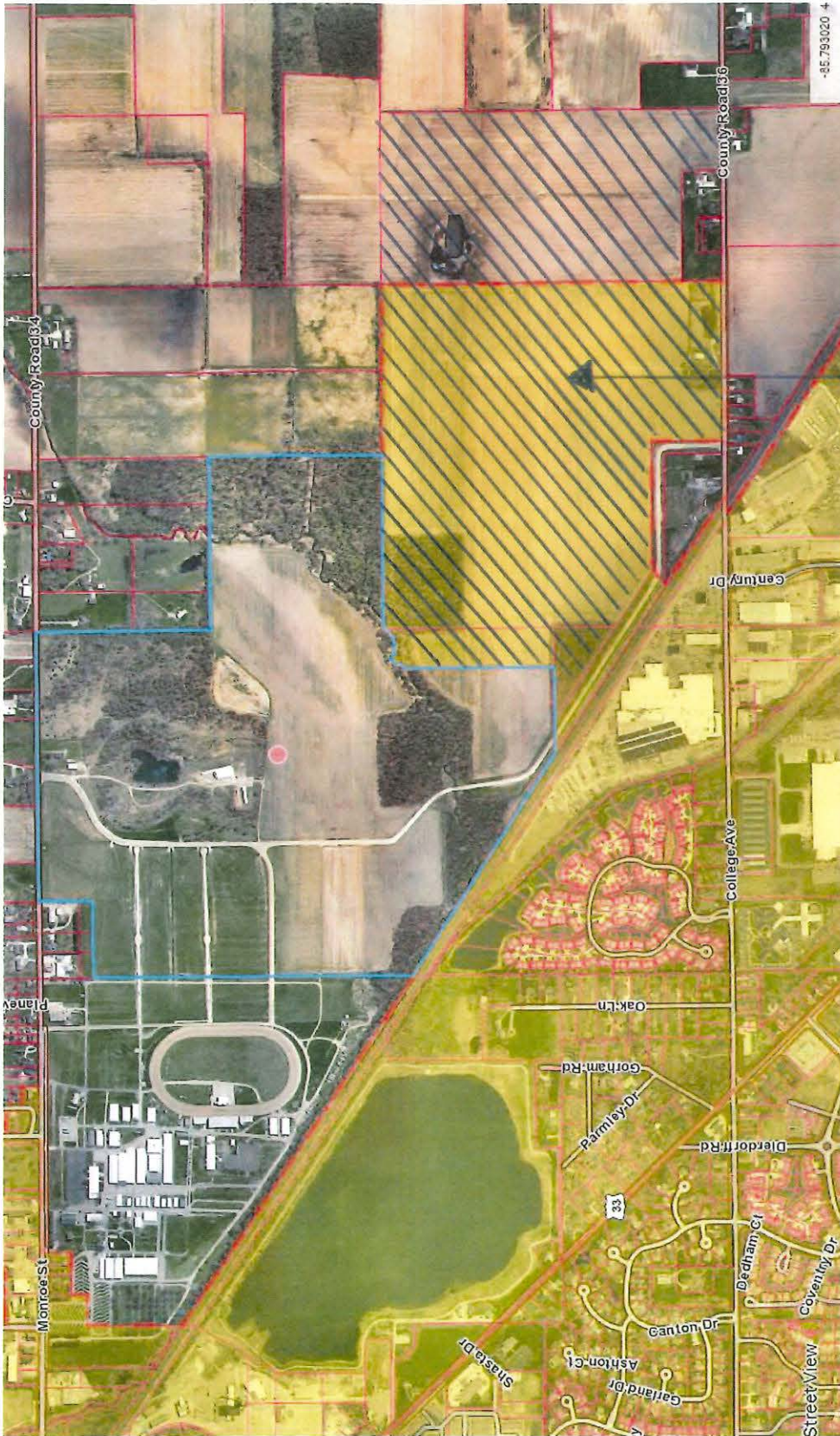
KATHERINE A. STEWART
NOTARY PUBLIC
State of Indiana, Elkhart County
My commission expires Aug. 3, 2026
Commission Number 715183

Katherine A. Stewart
Printed Name: _____
Notary Public of _____ County, Indiana
My Commission Expires: _____
Commission Number: _____

Prepared by Larry A. Barks, Attorney No. 3568-20, City of Goshen Legal Department, 204 East Jefferson Street, Suite 2, Goshen, Indiana 46528, (574) 533-9536.

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law (Larry A. Barks).

Exhibit A



"Excluded
Parcels"



CITY OF GOSHEN LEGAL DEPARTMENT

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

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

February 8, 2021

To: Board of Public Works and Safety

From: Shannon Marks

Subject: Acceptance of Easement

It is recommended that the Board accept the attached Easement from Elkhart County 4-H and Agricultural Exposition, Inc. This is for an approximate 300 feet by 10 feet easement for Goshen City utility purposes adjacent to the south side of the East Monroe Street/County Road 34 right-of-way as depicted on the attached drawing.

Suggested Motion:

Move to accept the Easement for Goshen City utility purposes from Elkhart County 4-H and Agricultural Exposition, Inc., and authorize the Mayor to execute the Acceptance.

EASEMENT

Elkhart County 4-H and Agricultural Exposition, Inc. (Grantor), grants to the **City of Goshen, Indiana** (City), a municipal corporation and political subdivision of the State of Indiana, whose mailing address is 202 South Fifth Street, Goshen, Indiana 46528, for One Dollar (\$1) and other good and valuable consideration, an easement on the real estate (Easement) situated in Elkhart County, State of Indiana, as depicted upon the attached Easement Sketch and more particularly described as follows:

A PART OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 36 NORTH, RANGE 6 EAST, ELKHART TOWNSHIP, ELKHART COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 14; THENCE NORTH 89 DEGREES 27 MINUTES 01 SECOND EAST ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 14 AND THE CENTERLINE OF EAST MONROE STREET (COUNTY ROAD NUMBER 34), A DISTANCE OF 879.80 FEET; THENCE SOUTH 00 DEGREES 46 MINUTES 01 SECOND WEST, A DISTANCE OF 45.01 FEET TO A POINT ON THE SOUTH LINE OF THE RIGHT OF WAY OF SAID EAST MONROE STREET (COUNTY ROAD NUMBER 34), ALSO BEING THE SOUTH LINE OF A PARCEL OF LAND KNOWN AS PARCEL 9E CONVEYED TO CITY OF GOSHEN, INDIANA AS DESCRIBED AND RECORDED IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY IN INSTRUMENT NUMBER 2012-027075, THE POINT OF BEGINNING OF THIS EASEMENT DESCRIPTION; THENCE CONTINUING SOUTH 00 DEGREES 46 MINUTES 01 SECOND WEST ALONG THE EAST LINE OF SAID PARCEL 9E AND THE EXTENSION THEREOF, A DISTANCE OF 10.00 FEET; THENCE SOUTH 89 DEGREES 27 MINUTES 01 SECOND WEST PARALLEL WITH THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 14, A DISTANCE OF 299.77 FEET; THENCE NORTH 00 DEGREES 32 MINUTES 59 SECONDS WEST, A DISTANCE OF 10.00 FEET TO A POINT ON THE SOUTH LINE OF THE RIGHT OF WAY OF SAID EAST MONROE STREET (COUNTY ROAD

NUMBER 34) AND THE SOUTH LINE OF SAID PARCEL 9E; THENCE NORTH 89 DEGREES 27 MINUTES 01 SECOND EAST ALONG THE SOUTH LINE OF THE RIGHT OF WAY OF SAID EAST MONROE STREET (COUNTY ROAD NUMBER 34) AND THE SOUTH LINE OF SAID PARCEL 9E, A DISTANCE OF 300.00 FEET TO THE POINT OF BEGINNING OF THIS EASEMENT DESCRIPTION, CONTAINING 2,999 SQUARE FEET OR 0.069 OF AN ACRE, MORE OR LESS, BEING SUBJECT TO ALL EASEMENTS, RESTRICTIONS, AND PUBLIC RIGHTS OF WAY OF RECORD.

The Easement is part of the real estate more commonly known as 17746 County Road 34, Goshen, Indiana, and part of Parcel Number 20-11-14-101-008.000-014. Grantor obtained title to the real estate by Deed dated August 10, 1960 and recorded August 12, 1960 in the Office of the Recorder of Elkhart County, Indiana in Deed Record Vol. 227, pages 630 and 631.

The Easement is granted to City for Goshen City utilities purposes.

Grantor is installing a water utility main and dedicating the water utility main to City for public utility purposes. Grantor grants City access to the Easement for the purposes of installing, operating and maintaining the Goshen City utilities within the Easement.

City shall restore the surface of the Easement after any entry by City to as good as or better condition than it was prior to the entry. City shall promptly pay for or otherwise rectify any damage caused by City to Grantor's adjoining real estate.

City is not obligated to replace any improvements extending over or into the Easement that may be damaged or removed during any subsequent entry.

Grantor may use, occupy and possess the Easement in a manner that is consistent with and does not interfere with City's rights contained in this Easement.

The terms of this Easement shall be binding upon and inure to the benefit of the heirs, assigns and successors in interest of the parties.

The undersigned represents and certifies that such person is a duly authorized representative of Grantor and has been fully empowered to execute this Easement on behalf of Grantor; that the Grantor has full capacity to grant the Easement described; and that all necessary action for granting this Easement has been taken.

1/21/21 IN WITNESS WHEREOF, the undersigned has executed this Easement on January 21, 2021.

**Elkhart County 4-H and Agricultural
Exposition, Inc.**



Trent Hostetler, President

EXECUTED and DELIVERED in my presence:

Witness Signature:

Jeffrey Lund

Witness Printed Name:

Jeffrey Lund

STATE OF INDIANA)

) SS:

COUNTY OF ELKHART)

Before me, the undersigned Notary Public in and for said County and State, personally appeared Trent Hostetler, President of Elkhart County 4-H and Agricultural Exposition, Inc., being known to me or whose identity has been authenticated by me to be the person who acknowledged the execution of the foregoing instrument as the person's voluntary act for the purpose stated therein.

Witness my hand and Notarial Seal this 19th day of January, 2021.



KATHERINE A. STEWART
NOTARY PUBLIC
State of Indiana, Elkhart County
My commission expires Aug. 3, 2026
Commission Number 715183

Katherine A. Stewart

Printed Name: _____

Notary Public of _____ County, Indiana

My Commission Expires: _____

Commission Number: _____

STATE OF INDIANA)

) SS:

COUNTY OF ELKHART)

Before me, the undersigned Notary Public in and for said County and State, personally appeared [Witness Name] Jeffrey Lund, being known to me or whose identity has been authenticated by me to be the person whose name is subscribed as a Witness to the foregoing instrument, who, being duly sworn by me, deposes and says that the foregoing instrument was executed and delivered by Trent Hostetler, President of Elkhart County 4-H and Agricultural Exposition, Inc., in the above-named subscribing Witness's presence, and that the above-named subscribing Witness is not a party to the transaction described in the foregoing instrument and will not receive any interest in or any proceeds as a result of the transaction.

Witness my hand and Notarial Seal this 19th day of January, 2021.



KATHERINE A. STEWART
NOTARY PUBLIC
State of Indiana, Elkhart County
My commission expires Aug. 3, 2026
Commission Number 715183

Katherine A. Stewart

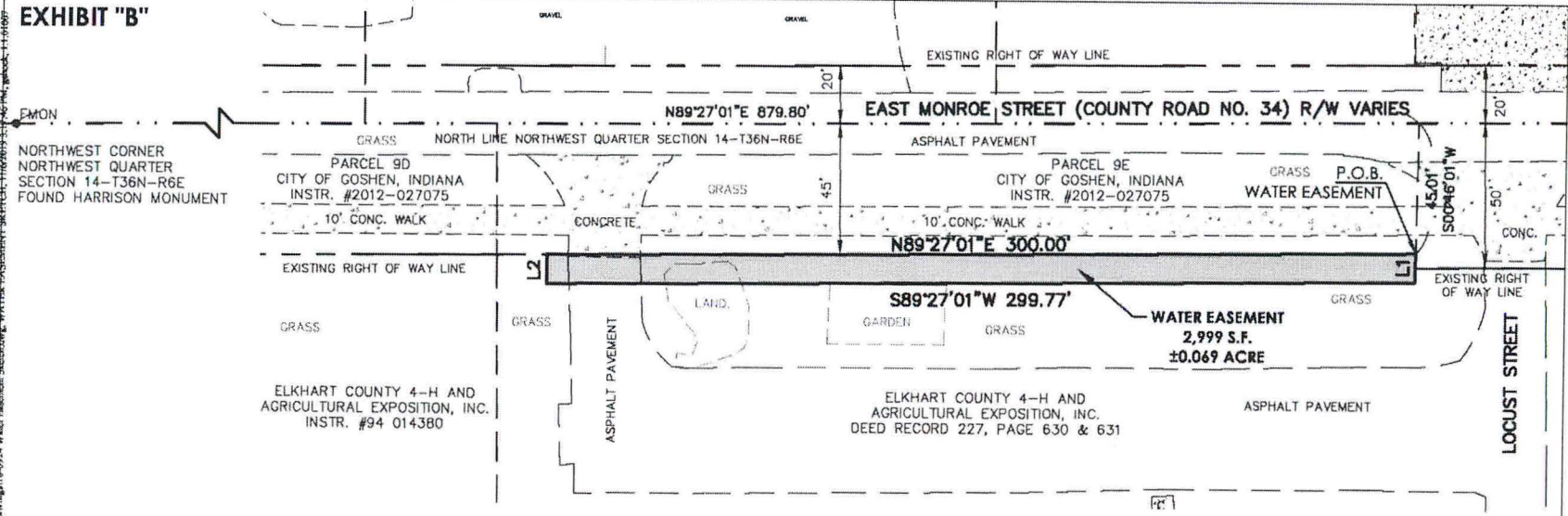
Printed Name: _____

Notary Public of _____ County, Indiana

My Commission Expires: _____

Commission Number: _____

EXHIBIT "B"



LINE DATA

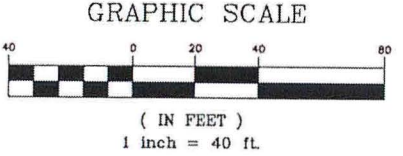
NUMBER	DIRECTION	DISTANCE
L1	S00°46'01\"W	10.00'
L2	N00°32'59\"W	10.00'

EASEMENT SKETCH

WATER EASEMENT FOR THE CITY OF GOSHEN, INDIANA
 ELKHART COUNTY 4-H FAIR AND AGRICULTURAL EXPO
 A PART OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 36
 NORTH, RANGE 6 EAST, ELKHART TOWNSHIP, ELKHART COUNTY, INDIANA.



JOB #: 18-0924
 DATE: 11/05/19



ABONMARCHE

1009 South Ninth Street
 Goshen, IN, 46526
 T 574.533.9913
 F 574.533.9911
 abonmarche.com

Bottle Creek
 Benton Harbor
 South Haven

Goshen
 Hobart
 Lafayette
 South Bend
 Valparaiso

Engineering - Architecture - Land Surveying

C:\Projects\18-0924\18-0924_Hobart_County_4-H_Fair_Agricultural_Expo_Survey\Drawings\18-0924-Water_Easement_Sketch.dwg, 11/05/19

ACCEPTANCE

The **City of Goshen, Indiana**, by the Goshen Board of Public Works and Safety, acknowledges the receipt of this Easement from **Elkhart County 4-H and Agricultural Exposition, Inc.** and accepts the same on this ____ day of _____, 2021.

Jeremy P. Stutsman, Mayor

EXECUTED and DELIVERED in my presence:

Witness Signature: _____

Witness Printed Name: _____

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public in and for said County and State, personally appeared Jeremy P. Stutsman, Mayor of the City of Goshen, Indiana on behalf of the Goshen Board of Public Works and Safety, being known to me or whose identity has been authenticated by me to be the person who acknowledged the execution of the foregoing instrument as the person’s voluntary act for the purpose stated therein.

Witness my hand and Notarial Seal this ____ day of _____, 2021.

Shannon Marks
Notary Public of Elkhart County, Indiana
My Commission Expires May 17, 2024
Commission Number NP0685467

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public in and for said County and State, personally appeared [Witness Name] _____, being known to me or whose identity has been authenticated by me to be the person whose name is subscribed as a Witness to the foregoing instrument, who, being duly sworn by me, deposes and says that the foregoing instrument was executed and delivered by Jeremy P. Stutsman, Mayor of the City of Goshen, Indiana on behalf of the Goshen Board of Public Works and Safety, in the above-named subscribing Witness’s presence, and that the above-named subscribing Witness is not a party to the transaction described in the foregoing instrument and will not receive any interest in or any proceeds as a result of the transaction.

Witness my hand and Notarial Seal this ____ day of _____, 2021.

Shannon Marks
Notary Public of Elkhart County, Indiana
My Commission Expires May 17, 2024
Commission Number NP0685467

Prepared by Bodie J. Stegelmann, Attorney No. 18180-20, City of Goshen Legal Department,
204 East Jefferson Street, Suite 2, Goshen, Indiana 46528, (574) 537-3820.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law. Bodie J. Stegelmann.



**Engineering Department
CITY OF GOSHEN**

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

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

MEMORANDUM

TO: Board of Public Works, Safety and Stormwater

FROM: Engineering Department

RE: **APPROVAL & ACCEPTANCE OF INFRASTRUCTURE
MONROE STREET & ELKHART COUNTY FAIR WATER MAIN EXTENSION
(PN: 2019-0040)**

DATE: 02/08/2021

The installation of infrastructure (water main) has been satisfactorily completed for the above listed project. The Engineering Department recommends that the infrastructure be accepted for maintenance. The three-year maintenance bond in the amount of \$13,900.00 (10% of the construction costs) for the infrastructure has been submitted to the City of Goshen Engineering Department.

Requested Motion: Move to accept the infrastructure and 3-year maintenance bond for the Monroe Street & Elkhart County Fair Water Main Extension. Copies of the bond are attached for your review.

BOARD OF PUBLIC WORKS & SAFETY CITY OF GOSHEN, INDIANA

Jeremy Stutsman, Mayor

Mary Nichols, Member

Michael Landis, Member

Attachments: Maintenance Bond for water main

Cc: Contractor
W&S Dept.
Street Dept.
Planning Dept.
Clerk Treasurer

INFRASTRUCTURE DETAILS / ASSET VALUES

PROJECT NAME	Monroe Street & Elkhart County Fairgrounds Water Main Extension	PROJECT #	2019-0040
LOCATION	DATE 1/28/2021	DRAWING #	X-2509
		DATE TO BOW	2/8/2021

INFRASTRUCTURE	QUANTITY	# OF HYDRANTS OR STRUCTURES	CONTRACTOR OR BONDING PARTY	BOND EXP DATE	CONSTRUCTION COST	10% MAINTENANCE BOND
Sanitary Sewer			Beer & Slabaugh			
Water Main	1,017 LFT - 12" DI 105 LFT - 8" DI	2 Fire Hydrants		1/10/2023	\$133,453.00	\$13,900.00
Storm Sewer						
Street						
Curbing						
Sidewalk & ADA Ramps						
Drive Approaches						
Total Const. Cost						\$133,453.00

STREET DETAILS

Segment No	Start	End	Surface Type	Width	Length	Class-ification	CURBS			SIDEWALKS			Year Constructed	Year Constructed	Cost	Right-of-Way width (ft)	Antique Street Lights
							1 or 2 sides	None	None	1 or 2 sides	Year Constructed						

							CURBS			SIDEWALKS							

							CURBS			SIDEWALKS							



President
Trent Hostetler

President Elect
Mike Christofeno

Vice President
Fred Jessup

Treasurer
Duane Miller

Secretary
Kelly Ropp

Directors at Large
Harold Schmucker
Monica Gould
Shelly Steury
Randi Yoder

Immediate
Past President
Josh Culp

County
Extension Director
Robert Kelly

Attorney
Jeff Lund

Fair Foundation
Mark Kritzman

General
Manager
Miranda Muir, CFE

Marketing
Coordinator
Jeremy D'Angelo

Special Events
Coordinator
Jamie Eymer

Program
Coordinator
Kristine Ambrosen

01/26/2021

City of Goshen
204 E Jefferson Street, Ste 1 email: mattbontrager@goshencity.com
Goshen, Indiana 46528

**RE: ELKHART COUNTY 4H FAIRGROUNDS – WATER MAIN DEDICATION
(JN: 2019-0040)**

Attention: Matt Bontrager

Mr. Bontrager

This letter serves as our formal dedication of the water main within the public right-of-way of Monroe Street from Gate 1 to Gate 4 and the utility easement assigned to the City of Goshen.

The utility infrastructure was installed by Beer & Slabaugh, Inc. The construction cost associated with the work being dedicated is \$144,054.00.

The length of the water main being dedicated is approximately 1000 feet.

In addition to this letter, Abonmarche Engineering and Surveying, Inc. has provided the City with both hard copy and an electronic file of the record drawings for the installed infrastructure. Beer & Slabaugh, Inc. has provided the required three-year maintenance bond representing 10% of the construction costs for the utility infrastructure.

Please accept this infrastructure and its ongoing maintenance.

Sincerely,

Trent Hostetler,
2021 Elkhart County 4-H Fair President
17746-D CR 34
Goshen, IN 46528

THE CINCINNATI INSURANCE COMPANY
CINCINNATI, OHIO

MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we
Beer and Slabaugh Inc
as Principal and THE CINCINNATI INSURANCE COMPANY, a corporation organized under the laws of the
State of Ohio, with principal office at Cincinnati, Ohio, as Surety, are held and firmly bound unto
City of Goshen, 204 E Jefferson St, Goshen IN 46528

(hereinafter called the Obligee), in the penal sum of

Thirteen thousand nine hundred & 00/100 *****
Dollars, for the payment of which, well and truly to be made, we do hereby bind ourselves, our heirs,
executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Dated this January day of 10th 20 20

WHEREAS, the said Principal has heretofore entered into a contract with the Obligee above named for
Elkhart County 4H Fairgrounds Water Main project on County Road 34, Goshen IN
and,

WHEREAS, the work called for under said contract has now been completed and accepted by said
Obligee;

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, That if said Principal shall,
for a period of Three (3) year(s) from the date of completion and Owner acceptance of the project, indemnify
the Obligee against any loss or damage directly arising by reason of any defect in the material or workmanship
which may be discovered within the period, aforesaid, then this obligation shall be void; otherwise to be and
remain in full force and virtue in law.

PROVIDED, HOWEVER, that in the event of any default on the part of said Principal, written statement
of the particular facts showing such default and the date thereof shall be delivered to the Surety by registered
mail, at its Home Office in the City of Cincinnati, Ohio, promptly and in any event within ten (10) days after the
Obligee or his representative shall learn of such default, and that no claim, suit, or action by reason of any
default of the Principal shall be brought hereunder after the expiration of thirty days from the end of the
maintenance period as herein set forth.

Beer and Slabaugh Inc

(Principal)

(Seal)

X *Rodney Bear*

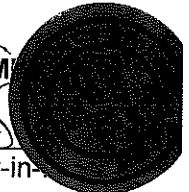
Rodney Bear

(Title)

THE CINCINNATI INSURANCE COMPANY

By: *Sally L Miller*

Attorney-in-fact



THE CINCINNATI INSURANCE COMPANY
THE CINCINNATI CASUALTY COMPANY

Fairfield, Ohio

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That THE CINCINNATI INSURANCE COMPANY and THE CINCINNATI CASUALTY COMPANY, corporations organized under the laws of the State of Ohio, and having their principal offices in the City of Fairfield, Ohio (herein collectively called the "Companies"), do hereby constitute and appoint

John B. Leavitt; Sally L. Miller; Scot L. Wolf; Stephanie S. Kowalski; Catherine E. Coddington and/or Selma Custovic

of Goshen, Indiana their true and legal Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and deliver on behalf of the Companies as Surety, any and all bonds, policies, undertakings or other like instruments, as follows:

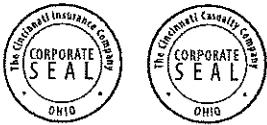
Any such obligations in the United States, up to
Ten Million and No/100 Dollars (\$10,000,000.00).

This appointment is made under and by authority of the following resolutions adopted by the Boards of Directors of The Cincinnati Insurance Company and The Cincinnati Casualty Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the President or any Vice President be hereby authorized, and empowered to appoint Attorneys-in-Fact of the Company to execute any and all bonds, policies, undertakings, or other like instruments on behalf of the Corporation, and may authorize any officer or any such Attorney-in-Fact to affix the corporate seal; and may with or without cause modify or revoke any such appointment or authority. Any such writings so executed by such Attorneys-in-Fact shall be binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company.

RESOLVED, that the signature of the President or a Vice President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Secretary and the Seal of the Company may be affixed by facsimile to any certificate of any such power and any such power of certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certified by certificate so executed and sealed shall, with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS WHEREOF, the Companies have caused these presents to be sealed with their corporate seals, duly attested by their President or a Senior Vice President this 19th day of December, 2018.



THE CINCINNATI INSURANCE COMPANY
THE CINCINNATI CASUALTY COMPANY

STATE OF OHIO)SS:
COUNTY OF BUTLER)

Stephen A. Ventre

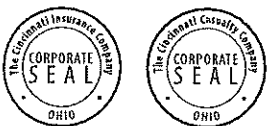
On this 19th day of December, 2018 before me came the above-named President or Vice President of The Cincinnati Insurance Company and The Cincinnati Casualty Company, to me personally known to be the officer described herein, and acknowledged that the seals affixed to the preceding instrument are the corporate seals of said Companies and the corporate seals and the signature of the officer were duly affixed and subscribed to said instrument by the authority and direction of said corporations.



Keith Collett
Keith Collett, Attorney at Law
Notary Public – State of Ohio
My commission has no expiration date.
Section 147.03 O.R.C.

I, the undersigned Secretary or Assistant Secretary of The Cincinnati Insurance Company and The Cincinnati Casualty Company, hereby certify that the above is the Original Power of Attorney issued by said Companies, and do hereby further certify that the said Power of Attorney is still in full force and effect.

Given under my hand and seal of said Companies at Fairfield, Ohio, this _____ day of _____



Ed R



Rhonda L. Yoder, AICP
PLANNING & ZONING DEPARTMENT, CITY OF GOSHEN
204 East Jefferson Street, Suite 4 • Goshen, IN 46528-3405

Phone (574) 537-3815 • Fax (574) 533-8626 • TDD (574) 534-3185
rhodayoder@goshencity.com • www.goshenindiana.org

MEMORANDUM

To: Board of Public Works & Safety
From: Rhonda L. Yoder, Planning & Zoning Administrator
Date: February 8, 2021
RE: Acceptance of Plat
Replat of Lot #1 of Eisendorff Field Subdivision, Lots 1A and 2A

The Plan Commission at their meeting of July 21, 2020, granted primary approval for a two-lot major industrial subdivision, Replat of Lot #1 of Eisendorff Field.

The subject property is Lot 1 of Eisendorff Field subdivision, currently one tax parcel, containing ± 17.791 acres, developed with two industrial buildings, 1811 & 1853 Eisenhower Drive South, and zoned Industrial M-1 District.

The replat is requested to establish a lot for each existing building.

The subdivision was granted a variance by the Board of Zoning Appeals on August 25, 2020, for the existing 0' internal parking/aisle setback and shared access between the two lots, and an access easement has been established as part of the replat.

The revised drainage plan for the replat was reviewed by Goshen Engineering through the City's Technical Review process, and new drainage-related easements were established as part of the replat.

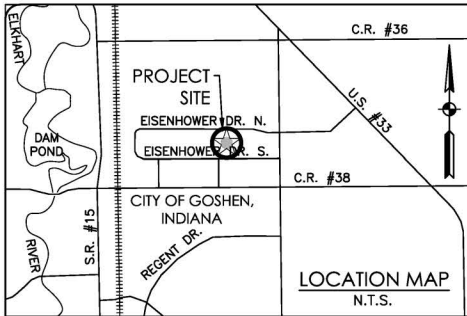
Dedication of right of way occurred as part of the Eisendorff Field plat, and there are no infrastructure improvements associated with the replat, so a performance bond is not required.

The subdivision meets Zoning and Subdivision Ordinance requirements.

The plat includes a number of easements.

Please accept the plat with easements and sign the plat.

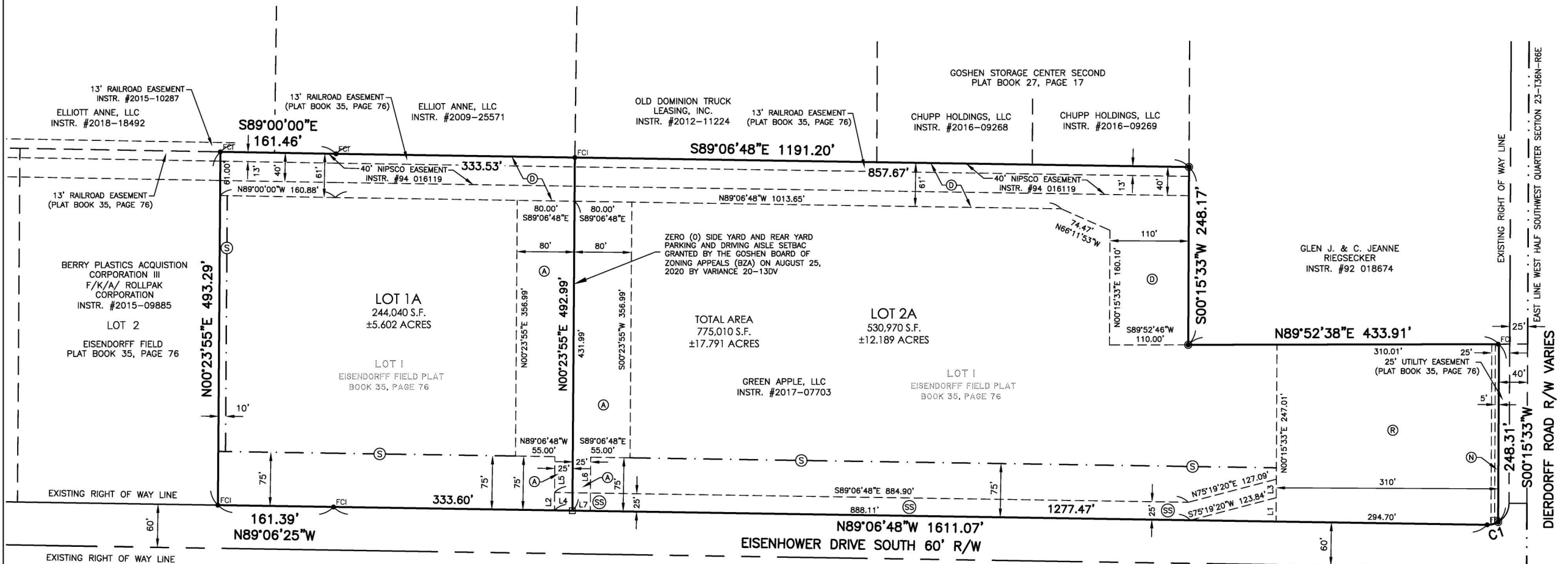
Suggested Motion: Move to accept the plat with easements for the Replat of Lot #1 of Eisendorff Field subdivision.



REPLAT OF LOT #1 OF EISENDORFF FIELD

LOT NUMBER ONE (1) OF EISENDORFF FIELD, A SUBDIVISION IN THE SOUTHEAST QUARTER OF SECTION 22 & THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 36 NORTH, RANGE 6 EAST, CITY OF GOSHEN, ELKHART TOWNSHIP, ELKHART COUNTY, INDIANA

LEGAL DESCRIPTION
 LOT NUMBER ONE (1) AS SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF EISENDORFF FIELD, A SUBDIVISION IN THE SOUTHEAST QUARTER OF SECTION 22 AND THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 36 NORTH, RANGE 6 EAST, CITY OF GOSHEN, ELKHART TOWNSHIP, ELKHART COUNTY, INDIANA, SAID PLAT BEING RECORDED IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA IN PLAT BOOK 35, PAGE 76, BEING SUBJECT TO ALL EASEMENTS, RESTRICTIONS, AND PUBLIC RIGHTS-OF-WAY OF RECORD.



O:\PROJECTS\2020\20-0747 GENESIS PRODUCTS EISENHOWER DRIVE SOUTH SUBDIVISION\CAD_SURVEY\DRAWINGS\20-0747 SECONDARY PLAT.DWG
 0:\PROJECTS\2020\0747 Genesis Products Eisenhower Drive South Subdivision\CAD_SURVEY\DRAWINGS\20-0747 SECONDARY PLAT.DWG
 11/20/2021 4:46:09 PM, emabk, ANCELE_C:\18_00_24_00_2400_2400_11

- LEGEND**
- - SET MAG NAIL
 - - SET 5/8" REBAR WITH CAP STAMPED "ABONMARCHE FIRM #50"
 - - FOUND CAPPED REBAR
 - Ⓐ - ACCESS & DRAINAGE EASEMENT
 - Ⓡ - STORMWATER RETENTION EASEMENT
 - Ⓢ - STORM SEWER EASEMENT
 - Ⓣ - STORMWATER RETENTION, DRAINAGE, AND RAILROAD EASEMENT
 - Ⓝ - 5' NO ACCESS EASEMENT
 - Ⓢ - MINIMUM BUILDING SETBACK AT DISTANCES INDICATED

LINE DATA

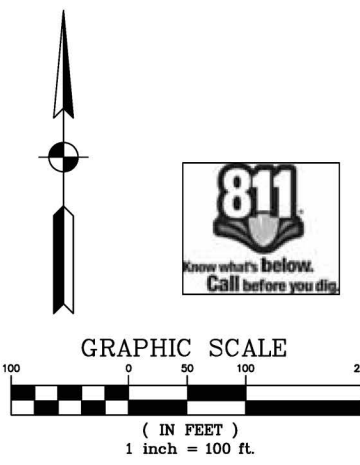
NUMBER	DIRECTION	DISTANCE
L1	N00°15'33"E	33.23'
L2	N00°23'55"E	25.00'
L3	S00°15'33"W	25.87'
L4	N89°06'48"W	25.00'
L5	N00°23'55"E	75.00'
L6	S00°23'55"W	75.00'
L7	S89°06'48"E	25.00'

CURVE DATA

NUMBER	RADIUS	ARC LENGTH	DELTA ANGLE	TANGENT	CHORD LENGTH	CHORD DIRECTION
C1	30.00'	16.02'	30°36'06"	8.21'	15.83'	S75°38'14"W

SETBACK STATEMENT
 THE FRONT YARD, SIDE YARD AND REAR YARD BUILDING SETBACKS WILL CONFORM TO THE CITY OF GOSHEN REQUIREMENTS AS SET OUT IN THE GOSHEN ZONING ORDINANCE FOR AN INDUSTRIAL M-1 DISTRICT.

VARIANCE STATEMENT
 ZERO (0) SIDE YARD AND REAR YARD PARKING AND DRIVING AISLE SETBACK ON ALONG THE LINE DIVIDING LOT 1A AND LOT 2A WAS GRANTED BY THE GOSHEN BOARD OF ZONING APPEALS (BZA) ON AUGUST 25, 2020 BY VARIANCE 20-13DV



FLOOD NOTE
 THIS PARCEL IS LOCATED WITHIN ZONE X AND IS NOT WITHIN 1% ANNUAL CHANCE FLOOD (SPECIAL FLOOD HAZARD AREA) AS SCALED AND DEPICTED ON THE FEMA/FIRM COMMUNITY PANEL NUMBER 18039C0266D, EFFECTIVE MAP DATE: AUGUST 2, 2011.

ABONMARCHE

1009 South Ninth Street
 Goshen, IN. 46526
 T 574.533.9913
 F 574.533.9911
 abonmarche.com



Portage/Kalamazoo
 Benton Harbor
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 Hobart
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Engineering · Architecture · Land Surveying

JOB NO.: 20-0747
 DATE: AUGUST, 2020
 SHEET 2 OF 2

REPLAT OF LOT # 1 OF EISENDORFF FIELD

LOT NUMBER ONE (1) OF EISENDORFF FIELD, A SUBDIVISION IN THE SOUTHEAST QUARTER OF SECTION 22 & THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 36 NORTH, RANGE 6 EAST, CITY OF GOSHEN, ELKHART TOWNSHIP, ELKHART COUNTY, INDIANA

CROSS-REFERENCES

THIS DOCUMENT TO BE CROSS-REFERENCED TO:

- 1. INSTRUMENT #2017-21518 (POST-CONSTRUCTION STORMWATER MANAGEMENT PLAN (PCSMP) GENESIS PRODUCTS, INC. - NEW FACILITY) AS RECORDED IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.
2. INSTRUMENT #2020-01032 (POST-CONSTRUCTION STORMWATER MANAGEMENT PLAN (PCSMP) GENESIS PRODUCTS, INC. - PLANT #9) AS RECORDED IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

ACCEPTANCE OF DEDICATION

BE IT RESOLVED BY THE BOARD OF PUBLIC WORKS AND SAFETY, CITY OF GOSHEN, INDIANA THAT THE DEDICATIONS ON THIS PLAT ARE HEREBY APPROVED AND ACCEPTED THIS

DAY OF 20

MAYOR JEREMY P. STUTSMAN MICHAEL A. LANDIS MARY NICHOLS

PLAN COMMISSION STAFF APPROVAL

UNDER THE AUTHORITY PROVIDED BY CHAPTER 174, ACTS OF 1947, ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF INDIANA AND ORDINANCE ADOPTED BY THE COMMON COUNCIL OF THE CITY OF GOSHEN, INDIANA, THIS PLAT WAS GIVEN APPROVAL BY THE CITY OF GOSHEN, AS FOLLOWS:

APPROVED BY THE ZONING ADMINISTRATOR ON BEHALF OF THE CITY PLANNING COMMISSION ON THIS

DAY OF 20

RHONDA YODER ZONING ADMINISTRATOR

STATEMENT OF UTILITIES

AN EASEMENT IS HEREBY GRANTED TO THE CITY OF GOSHEN, ALL PUBLIC UTILITY COMPANIES INCLUDING GENERAL TELEPHONE COMPANY, NORTHERN INDIANA PUBLIC SERVICE COMPANY, AND SEVERAL PRIVATE UTILITY COMPANIES WHERE THEY HAVE A CERTIFICATE OF TERRITORIAL AUTHORITY TO RENDER SERVICE AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, TO INSTALL, PLACE, AND MAINTAIN SEWERS, WATER MAINS, GAS MAINS, CONDUITS, CABLES, POLES AND WIRES, EITHER OVERHEAD OR UNDERGROUND WITH ALL NECESSARY BRACES, GUYS, ANCHORS, AND OTHER APPLIANCES IN, UPON, ALONG AND OVER THE STRIPS OF LAND DESIGNATED ON THE PLAT MARKED "UTILITY EASEMENT" FOR THE PURPOSES OF SERVICING THE PUBLIC IN GENERAL WITH SEWER, WATER, GAS, ELECTRIC, AND TELEPHONE SERVICE, INCLUDING THE RIGHT TO USE THE STREETS, WHERE NECESSARY AND TO OVERHANG LOTS WITH AERIAL SERVICE WIRES TO SERVE ADJACENT LOTS, TOGETHER WITH THE RIGHT TO ENTER UPON SAID EASEMENTS FOR PUBLIC UTILITIES AT ALL TIMES FOR ANY OF THE PURPOSES AFORESAID AND TO TRIM AND KEEP TRIMMED ANY TREES, SHRUBS, OR SAPLINGS THAT INTERFERE WITH ANY SUCH UTILITY EQUIPMENT. NO PERMANENT BUILDING SHALL BE PLACED ON SAID EASEMENT, BUT SAME MAY BE USED FOR GARDENS, SHRUBS, LANDSCAPING, AND OTHER PURPOSES THAT DO NOT INTERFERE WITH THE USE OF SAID EASEMENT FOR SUCH PUBLIC UTILITY PURPOSES.

CITY OF GOSHEN, INDIANA DRAINAGE MAINTENANCE STATEMENT

THE CITY OF GOSHEN, INDIANA IS A MUNICIPAL SEPARATE STORM SEWER (MS4) COMMUNITY GOVERNED BY INDIANA ADMINISTRATIVE CODE 327-15-13. THE CITY OF GOSHEN'S POST CONSTRUCTION STORM WATER ORDINANCE REQUIRES THE OWNER AND ITS ASSIGNS TO EXECUTE A STORM WATER MAINTENANCE COVENANT FOR THE OPERATION, MAINTENANCE, AND REPAIR OF ALL STORM WATER MANAGEMENT FACILITIES, AS DESCRIBED IN THE DEVELOPMENT'S "POST CONSTRUCTION STORM WATER MANAGEMENT PLAN". TO ADMINISTER THE "POST CONSTRUCTION STORM WATER MANAGEMENT PLAN", THE OWNER AND ITS ASSIGNS SHALL MAINTAIN AN ACCESS AND MAINTENANCE EASEMENT OVER THE STORM WATER SYSTEM AND A FUNDING MECHANISM FOR THE MAINTENANCE OF SAID STORM WATER SYSTEM. ANY CHANGES TO THE MAINTENANCE AGREEMENT BY THE DEVELOPMENT AND/OR THE ASSIGNS SHALL BE APPROVED BY THE DEPARTMENT OF STORM WATER MANAGEMENT AND THEN RECORDED WITH THE ELKHART COUNTY RECORDER.

AT A MINIMUM, THE "STORM WATER MAINTENANCE POLLUTION PREVENTION PLAN" SHALL REQUIRE THE MAINTENANCE OF ALL DRAINAGE FACILITIES INCLUDING CULVERTS AND SWALES. NO OWNER OR ITS ASSIGN SHALL PERMIT, ALLOW OR CAUSE ANY OF SAID FACILITIES TO BE OBSTRUCTED, REMOVED OR IN ANY WAY IMPED THE FLOW OF WATER ACROSS OR THROUGH SAID FACILITIES. IN THE EVENT ANY SUCH FACILITIES BECOME DAMAGED OR IN DISREPAIR, IT SHALL BE THE RESPONSIBILITY OF THE OWNER AND ITS ASSIGNS TO REPAIR SUCH FACILITIES AT THE COLLECTIVE'S EXPENSE.

THE CITY OF GOSHEN WILL ENFORCE THE "POST CONSTRUCTION STORM WATER MANAGEMENT PLAN," AND SHALL TAKE LEGAL ACTION, IF NECESSARY, AGAINST ANY PARTY IN NON-COMPLIANCE.

IN THE EVENT AN OWNER OR ITS ASSIGNS FAIL TO MAINTAIN SUCH DRAINAGE FACILITIES IN GOOD WORKING ORDER AND REPAIR, THE CITY OF GOSHEN, INDIANA, MAY REPAIR SUCH DRAINAGE FACILITIES AND INVOICE THE COSTS OF SUCH REPAIR TO THE OWNER AND ITS ASSIGNS. THE CITY OF GOSHEN, INDIANA, IS GRANTED AN EASEMENT ACROSS THE OWNER AND ASSIGN'S REAL ESTATE FOR THE PURPOSE OF REPAIRING AND INSPECTING ANY DRAINAGE FACILITIES ON SAID OWNER OR ASSIGNS' REAL ESTATE. THE AMOUNT OF ANY ASSESSMENT FOR THE COSTS OF REPAIR, AS ASSESSED BY THE CITY, SHALL CONSTITUTE A LIEN UPON THE REAL ESTATE OF THE OWNER AND ASSIGNS, AND AN ENCUMBRANCE UPON THE TITLE TO SAID REAL ESTATE.

THE CITY OF GOSHEN, INDIANA, IS FURTHER GRANTED RIGHT OF ACTION FOR THE COLLECTION OF SAID INDEBTEDNESS FROM THE OWNER AND ASSIGNS, AND FOR THE FORECLOSURE OF SAID LIEN IN THE MANNER IN WHICH MORTGAGES ARE FORECLOSED UNDER THE LAWS OF SAID STATE OF INDIANA. ANY SUCH COLLECTION AND/OR FORECLOSURE ACTION SHALL BE MAINTAINED IN THE COURTS OF GENERAL JURISDICTION OF THE STATE OF INDIANA, AND SHALL BE COMMENCED IN ELKHART COUNTY, INDIANA.

CERTIFICATE OF PROOF

WITNESS TO THE SIGNATURES ON THE FOREGOING INSTRUMENT TO WHICH THIS PROOF IS ATTACHED:

WITNESS SIGNATURE

WITNESS NAME

PROOF:

STATE OF

COUNTY OF

BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, ON PERSONALLY APPEARED THE ABOVE NAMED WITNESS TO THE FOREGOING INSTRUMENT, WHO, BEING BY ME

DULY SWORN, DID DEPOSE AND SAY THAT HE/SHE KNOWS TO BE THE INDIVIDUAL(S) DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT; THAT SAID WITNESS WAS

PRESENT AND SAW SAID THE SAME; AND THAT SAID WITNESS AT THE SAME TIME SUBSCRIBED HIS/HER NAME AS A WITNESS THERETO.

NOTARY PUBLIC

PRINTED NAME

RESIDENT OF

MY COMMISSION EXPIRES:

COMMISSION NUMBER:



AUDITOR

DULY ENTERED FOR TAXATION THIS DAY OF

20 ELKHART COUNTY AUDITOR.

PATRICIA A. PICKENS

RECORDER

RECEIVED FOR RECORD THIS DAY OF

20 AT AND RECORDED IN PLAT BOOK PAGE

FEE: ELKHART COUNTY RECORDER

JENNIFER L. DORIOT

CERTIFICATE OF OWNERSHIP

WE, THE UNDERSIGNED, DO HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY DESCRIBED IN THE ABOVE CAPTIONED AND THAT AS SUCH OWNERS WE HAVE CAUSED THE ABOVE DESCRIBED TO BE SURVEYED AS SHOWN ON THE HEREON DRAWN PLAT AS OUR FREE AND VOLUNTARY ACT AND DEED.

GREEN APPLE, LLC

JONATHAN WENGER, MANAGER

DEED OF DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED, AS PROPRIETORS, HAVE CAUSED THE ABOVE DESCRIBED LAND TO BE SURVEYED AND SUBDIVIDED AS SHOWN ON THE PLAT OPPOSITE, THAT SAID SUBDIVISION IS TO BE KNOWN AS "REPLAT OF LOT #1 OF EISENDORFF FIELD" AND THAT THE LOTS HAVE THEIR RESPECTIVE DIMENSIONS GIVEN IN FEET AND DECIMAL PARTS THEREOF, AND THAT THE STREETS INCLUDED IN SAID SUBDIVISION ARE HEREBY DEDICATED FOR PUBLIC USE.

GREEN APPLE, LLC

JONATHAN WENGER, MANAGER

NOTARY PUBLIC CERTIFICATE

STATE OF INDIANA) SS:

COUNTY OF)

BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY CAME THE ABOVE OWNER, AND ACKNOWLEDGED THE EXECUTION OF THIS PLAT.

WITNESS MY HAND AND SEAL THIS DAY OF 20

NOTARY PUBLIC

MY COMMISSION EXPIRES

RESIDENT OF COUNTY, INDIANA

PRINTED NAME

COMMISSION NUMBER



LAND SURVEYOR'S CERTIFICATE

I, GREGORY C. SHOCK, HEREBY CERTIFY THAT I AM A LAND SURVEYOR, LICENSED IN COMPLIANCE WITH THE LAWS OF THE STATE OF INDIANA, THAT THIS PLAT CORRECTLY REPRESENTS A SURVEY COMPLETED OR CERTIFIED BY ME; THAT ALL MONUMENTS ARE OR WILL BE (WITHIN SIX MONTHS OF RECORDING PLAT) INSTALLED IN ACCORDANCE WITH THE PROVISIONS OF THE PLATTING ORDINANCE; AND THAT THEIR LOCATION, SIZE, TYPE, AND MATERIAL ARE ACCURATELY SHOWN.

THIS PLAT IS IN ACCORDANCE WITH TITLE 865, ARTICLE 1, CHAPTER 12, SECTION 1 THROUGH 29 OF THE INDIANA ADMINISTRATIVE CODE. THE BOUNDARY LINES OF THIS PLAT CONFORM TO THE PLAT OF EISENDORFF FIELD AS RECORDED IN PLAT BOOK 35, PAGE 76 AND RETRACEMENT SURVEY DATED JULY 25, 2005 AND RECORDED IN INSTRUMENT NUMBER 2005-39310, SAID PLAT AND SURVEY ARE RECORDED IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

I, GREGORY C. SHOCK, AFFIRM, UNDER PENALTIES OF PERJURY, THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW.

DATED THIS 22nd DAY OF AUGUST, 20 20

GREGORY C. SHOCK P.L.S. #S0484



1009 South Ninth Street Goshen, IN. 46526 T 574.533.9913 F 574.533.9911 abonmarche.com

Portage/Kalamazoo Goshen Benton Harbor Hobart South Haven Lafayette South Bend Valparaiso Engineering Architecture Land Surveying

JOB NO.: 20-0747 DATE: AUGUST, 2020

SHEET 1 OF 2



**Engineering Department
CITY OF GOSHEN**

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

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

MEMORANDUM

TO: Board of Works and Safety and Stormwater Board

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

RE: **CIVIL CITY ELECTRICAL MAINTENANCE CONTRACT – (JN: 2021-0006)**

DATE: February 2, 2021

Electrical maintenance quotes for Civil City were received at the Board of Works and Safety meeting on Monday, February 1, 2021. One quote was received from L&M Electric for an estimated service cost of \$28,850.00.


L&M Electric has provided excellent service to Goshen and we request the Board of Works and Safety and Stormwater Board accept L&M Electric's quote and enter into an agreement with them.

Requested Motion: Approve Contract with L&M Electric for the 2021 Civil City Electrical Maintenance in the amount of \$28,850.00.

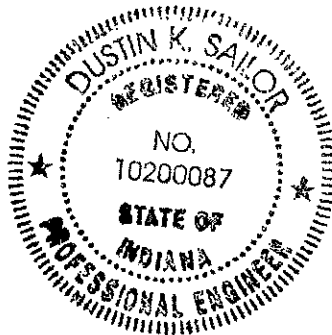
CIVIL CITY ELECTRICAL MAINTENANCE CONTRACT - JN: 2021-0005
MATERIAL BID TAB
BID DUE DATE - FEBRUARY 1, 2021

Item No.	Estimated Quantity	Unit	Description	L&M Electric	
				Unit Price	Amount
1	150	HRS	Yearly Electrical & Associated Equipment Repair and Maintenance, Traffic signals, School zone flashers, & lighting at signalized intersections	\$75.00	\$11,250.00
2	150	HRS	Yearly Electrical & Associated Equipment Repair and Maintenance, Ornamental Street Lights	\$54.00	\$8,100.00
3	50	HRS	Yearly Electrical & Associated Equipment Repair and Maintenance, City Buildings	\$54.00	\$2,700.00
4	50	HRS	Yearly electrical and associated equipment repair and maintenance, Airport	\$60.00	\$3,000.00
5	1	HRS	Minimum Service Charge Fee, First Hour of Service	\$80.00	\$80.00
6	1	HRS	Boom Truck, 35-feet and lower	\$75.00	\$75.00
7	1	HRS	Boom Truck, 36 to 50 feet and lower	\$75.00	\$75.00
8	30	HRS	811 Utility Locating	\$54.00	\$1,620.00
9	13	EA	Traffic Signal Controller (Year-one) Evaluation & Report	\$150.00	\$1,950.00
Total Contract Amount Only:					\$28,850.00

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

 02.02.21

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



CONTRACT
ELECTRICAL MAINTENANCE SERVICE FOR THE CITY'S
TRAFFIC SIGNALS, SCHOOL FLASHERS, LIGHTING, CITY BUILDINGS & AIRPORT
PROJECT NO. 2021-0005

THIS CONTRACT is made and entered into on this ____ day of _____, 2021, by and between the City of Goshen by its Board of Public Works and Safety, hereinafter referred to as "City," and _____, hereinafter referred to as "Contractor."

WITNESSETH, that the City and the Contractor mutually agree as follows:

SCOPE OF SERVICES

The Contractor shall provide all labor, equipment, materials, tools, supplies, insurance, supervision, work and all other items necessary to perform and complete in a workmanlike manner the "Electrical Maintenance Service for Traffic Signals, School Flashers, Lighting, City Buildings & Airport, Project No. 2021-0005" in accordance with and as described in further detail in the Specification Documents attached to this contract. The scope of work shall include services, supplies, equipment and/or materials for the electrical maintenance of the City's traffic signals, lighting, buildings and airport lighting on a 24 hour/7 days a week on-call basis.

The most recent Indiana state adopted edition of National Electric Code, prepared by the:
National Fire Protection Association, Inc.
1 Batterymarch Park
Quincy, Massachusetts 02169-7471

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

In the event of a conflict between a provision in the Specification Documents and the Contractor's quote, the Specification Documents shall control unless specifically modified by this contract.

In the event of a conflict between a provision in this contract and a provision in a document or in the Specification Documents, the provision in this contract shall control

In construing the intent and meaning of the terms and conditions of this contract, the following information and items shall be considered:

1. Contractor's Itemized Quote;
2. Non Collusion Affidavit;
3. Any addenda or changes to the contract documents and specifications, including properly approved change orders; and
4. Notice to proceed

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

EFFECTIVE DATE; CONTRACT TERM

Contractor acknowledges that time is of the essence and that the timely performance of its work is an important element of this contract. Contractor shall perform all work as expeditiously as is consistent with professional skill and care in the orderly progress of the project.

The contract shall become effective on the day of execution and approval by the City of Goshen Board of Public Works and Safety and the Contractor.

The initial term of the contract shall be from February 18, 2021, through December 31, 2021. Upon written approval of the contracting parties, the contract may be renewed for three (3) additional one (1) year terms under the same terms and conditions.

COMPENSATION, BASIS AND METHOD OF PAYMENT

The City agrees to compensate Contractor for the work performed in this contract in accordance with the unit prices for labor and materials as set forth in Contractor's itemized quote as shown in the table below and based on the hours actually worked for an amount not to exceed Twenty Eight Thousand Eight Hundred Fifty Dollars (\$28,850.00).

All payment obligations are subject to the appropriation and encumbrance of monies and shall be made in arrears unless specifically stated otherwise in this solicitation. Payment to the Contractor for the work under this contract shall be made upon completion and acceptance of the work. The Contractor shall submit a detailed invoice based on established contract price to City of Goshen for payment. Contractor is required to have a current W9 Form on file with the City before the City will issue any payment. Payment will be made within forty-five (45) calendar days of the receipt of a detailed invoice, provided satisfactory performance of the Contractor has been attained. Payment is deemed to be made on the date of mailing the check. Any payment made by the City before final acceptance of the work shall not affect the obligation of the Contractor to repair or replace any defective parts, or otherwise correct any work completed.

INDEPENDENT CONTRACTOR STATUS

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

NON-DISCRIMINATION

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

INDEMNIFICATION

The Contractor agrees to indemnify, defend, and hold harmless the City of Goshen, its agents, officers, and employees from any and all liability, obligations, claims, and suits, including court costs, attorneys fees, and other expenses, caused by an act or omission of the Contractor and its agents, officers, and employees or resulting from or related to the Contractor's performance or failure to perform as specified in this contract.

INSURANCE

Prior to commencing work, the Contractor shall furnish the City of Goshen a certificate of insurance in accordance with the following minimum requirements, shall maintain the insurance in full force and effect, and shall keep on deposit at all times during the term of the contract with the City the certificates of proof

issued by the insurance carrier that such insurance is in full force and effect. The Contractor shall specifically include coverage for the City of Goshen as an additional insured for Workers Compensation & Employer's Liability General, Liability and Automobile Liability.

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

- (1) Workers Compensation and Employer's Liability Statutory Limits
- (2) General Liability Combined Bodily Injury and Property Damage
\$1,000,000 Each Occurrence and Aggregate
- (3) Automobile Liability Combined Bodily Injury and Property Damage
\$1,000,000 Each Occurrence and Aggregate
- (4) Excess Umbrella Coverage \$1,000,000 Each Occurrence

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

FORCE MAJEURE

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

If either party is delayed by force majeure, the party affected shall provide written notification to the other party immediately. The party shall do everything possible to resume performance. The notification shall provide evidence of the force majeure event to the satisfaction of the other party. If the period of non-performance exceeds thirty (30) calendar days, the party whose ability to perform has not been affected may, by giving written notice, terminate the contract and the other party shall have no recourse.

DEFAULT

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

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

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

- (1) There is a substantive breach by Contractor of any obligation or duty owed under the provisions of this 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 under the contract.
- (7) The contract or any right, monies or claims are assigned by Contractor without the consent of the City.

TERMINATION

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

- (1) The contract may be terminated in whole or in part, at any time, by mutual written consent of both parties. Contractor shall be paid for all work performed and expenses reasonably incurred prior to notice of termination.
- (2) The City may terminate this contract, in whole or in part, in the event of default by Contractor. In such event, the City may issue a written notice of default and provide a period of time in which Contractor shall have the opportunity to cure. If the default is not cured within the time period allowed, the contract may be terminated by the City. In the event of default and failure to satisfactorily remedy the default after receipt of written notice, the City may 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.
- (3) The rights and remedies of the parties under this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

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

SUBCONTRACTING OR ASSIGNMENT OF CONTRACT

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

EMPLOYMENT ELIGIBILITY VERIFICATION

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

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

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

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

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

AMENDMENTS

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

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.

NOTICES

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

Address for notices to the City:

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

Address for notices to Contractor:

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

And

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

APPLICABLE LAWS

The Contractor agrees to comply with all applicable federal, state, and local laws, rules, regulations, or ordinances. All contractual provisions legally required to be included are incorporated by reference.

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.

In the event of a conflict between these contract documents and applicable laws, rules, regulations or ordinances, the most stringent or legally binding requirement shall govern. Any special conditions included with this contract which varies from these General Terms and Conditions shall have precedence.

This contract 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.

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

CONTRACTING WITH RELATIVES

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

SEVERABILITY

In the event that any provision of 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.

AUTHORITY TO BIND CONTRACTOR

Notwithstanding anything in the contract to the contrary, the signatory for the company/business represents that he or she has been duly authorized to execute contracts on behalf of the company/business and has obtained all necessary or applicable approvals to make this contract fully binding upon the company/business when his or her signature is affixed and is not subject to further acceptance

BINDING EFFECT

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

ENTIRE AGREEMENT

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

In witness whereof, the parties have executed this Agreement as set forth below.

City of Goshen
Board of Public Works and Safety

L&M Electric, Inc.

Jeremy Stutsman, Mayor

Cory Fowler, President

Mary Nichols, Member

Date: _____

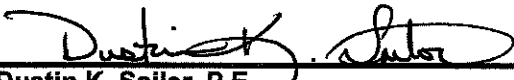
Michael Landis, Member

Date: _____

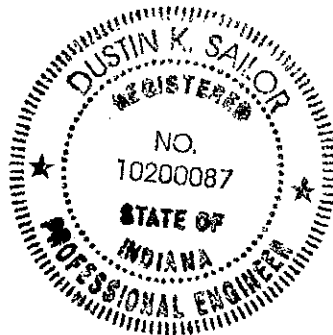
CIVIL CITY ELECTRICAL MAINTENANCE CONTRACT - JN: 2021-0005
MATERIAL BID TAB
BID DUE DATE - FEBRUARY 1, 2021

Item No.	Estimated Quantity	Unit	Description	L&M Electric	
				Unit Price	Amount
1	150	HRS	Yearly Electrical & Associated Equipment Repair and Maintenance, Traffic signals, School zone flashers, & lighting at signalized intersections	\$75.00	\$11,250.00
2	150	HRS	Yearly Electrical & Associated Equipment Repair and Maintenance, Ornamental Street Lights	\$54.00	\$8,100.00
3	50	HRS	Yearly Electrical & Associated Equipment Repair and Maintenance, City Buildings	\$54.00	\$2,700.00
4	50	HRS	Yearly electrical and associated equipment repair and maintenance, Airport	\$60.00	\$3,000.00
5	1	HRS	Minimum Service Charge Fee, First Hour of Service	\$80.00	\$80.00
6	1	HRS	Boom Truck, 35-feet and lower	\$75.00	\$75.00
7	1	HRS	Boom Truck, 36 to 50 feet and lower	\$75.00	\$75.00
8	30	HRS	811 Utility Locating	\$54.00	\$1,620.00
9	13	EA	Traffic Signal Contoller (Year-one) Evaluation & Report	\$150.00	\$1,950.00
Total Contract Amount Only:					\$28,850.00

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


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

02.02.21





**Engineering Department
CITY OF GOSHEN**

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

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

MEMORANDUM

TO: Board of Works and Safety and Stormwater Board

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

RE: **UTILITIES ELECTRICAL MAINTENANCE CONTRACT – (JN: 2021-0006)**

DATE: February 2, 2021

Electrical maintenance quotes for Water & Wastewater facilities were received at the Board of Works and Safety meeting on Monday, February 1, 2021. One quote was received from Middlebury Electric for an estimated service cost of \$39,488.00.

Middlebury Electric has provided excellent service to Goshen Utilities and we request the Board of Works and Safety and Stormwater Board accept Middlebury Electric's quote and enter into an agreement with them.

Requested Motion: Approve Contract with Middlebury Electric for the 2021 Utilities Electrical Maintenance in the amount of \$39,488.00.

UTILITIES ELECTRICAL MAINTENANCE CONTRACT - 2021-0006
MATERIAL BID TAB
BID DUE DATE - FEBRUARY 1, 2021

Item No.	Estimated Quantity	Unit	Description	Middlebury Electric	
				Unit Price	Amount
1	270	Hours	Yearly Electrical & Associated Equipment Repair and Maintenance, Wastewater Utility	\$88.00	\$23,760.00
2	160	Hours	Yearly Electrical & Associated Equipment Repair and Maintenance, Water Utility	\$88.00	\$14,080.00
3	16	Each	Annual testing of motor amperage and voltage draws with report	\$88.00	\$1,408.00
4	1	Hours	Minimum Service Charge Fee, First Hour of Service	\$125.00	\$125.00
5	1	Hours	Boom Truck, 35-feet and lower (Contractor Owned Equipment)	\$55.00	\$55.00
6	1	Hours	Boom Truck, 36 to 50-feet (Contractor Owned Equipment)	\$60.00	\$60.00
Total Contract Amount Only:					\$39,488.00

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

Dustin K. Sailor 02.02.21
Dustin K. Sailor, P.E., CPESC
Director of Public Works
City of Goshen



CONTRACT
ELECTRICAL MAINTENANCE SERVICE FOR THE CITY'S
MUNICIPAL WASTEWATER & WATER UTILITIES

PROJECT NO. 2021-0006

THIS CONTRACT is made and entered into on this _____ day of _____, 2021, by and between the City of Goshen by its Board of Public Works and Safety, hereinafter referred to as "City," and _____, hereinafter referred to as "Contractor."

WITNESSETH, that the City and the Contractor mutually agree as follows:

SCOPE OF SERVICES

The Contractor shall provide all labor, equipment, materials, tools, supplies, insurance, supervision, work and all other items necessary to perform and complete in a workmanlike manner the "Electrical Maintenance Service for the City's Municipal Wastewater & Water Utilities, Project No. 2021-0006" project in accordance with and as described in further detail in the Specification Documents attached to this contract. The scope of work shall include services, supplies, equipment and/or materials for the maintenance repair and/or replacement of electrical and other associated equipment for the City's Water and Wastewater Utilities on a 24 hour/7 days a week on-call basis.

The most recent Indiana state adopted edition of National Electric Code, prepared by the:
National Fire Protection Association, Inc.
1 Batterymarch Park
Quincy, Massachusetts 02169-7471

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

In the event of a conflict between a provision in the Specification Documents and the Contractor's quote, the Specification Documents shall control unless specifically modified by this contract.

In the event of a conflict between a provision in this contract and a provision in a document or in the Specification Documents, the provision in this contract shall control

In construing the intent and meaning of the terms and conditions of this contract, the following information and items shall be considered:

1. Contractor's Itemized Quote;
2. Non Collusion Affidavit;
3. Any addenda or changes to the contract documents and specifications, including properly approved change orders; and
4. Notice to proceed

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

EFFECTIVE DATE; CONTRACT TERM

Contractor acknowledges that time is of the essence and that the timely performance of its work is an important element of this contract. Contractor shall perform all work as expeditiously as is consistent with professional skill and care in the orderly progress of the project.

The contract shall become effective on the day of execution and approval by the City of Goshen Board of Public Works and Safety and the Contractor.

The initial term of the contract shall be from February 18, 2021, through December 31, 2021. Upon written approval of the contracting parties, the contract may be renewed for three (3) additional one (1) year terms under the same terms and conditions.

COMPENSATION, BASIS AND METHOD OF PAYMENT

The City agrees to compensate Contractor for the work performed in this contract in accordance with the unit prices for labor and materials as set forth in Contractor's itemized quote as shown in the table below and based on the hours actually worked for an amount not to exceed Thirty Nine Thousand Four Hundred Eighty Eight Dollars (\$39,488.00).

All payment obligations are subject to the appropriation and encumbrance of monies and shall be made in arrears unless specifically stated otherwise in this solicitation. Payment to the Contractor for the work under this contract shall be made upon completion and acceptance of the work. The Contractor shall submit a detailed invoice based on established contract price to City of Goshen for payment. Contractor is required to have a current W9 Form on file with the City before the City will issue any payment. Payment will be made within forty-five (45) calendar days of the receipt of a detailed invoice, provided satisfactory performance of the Contractor has been attained. Payment is deemed to be made on the date of mailing the check. Any payment made by the City before final acceptance of the work shall not affect the obligation of the Contractor to repair or replace any defective parts, or otherwise correct any work completed.

INDEPENDENT CONTRACTOR STATUS

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

NON-DISCRIMINATION

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

INDEMNIFICATION

The Contractor agrees to indemnify, defend, and hold harmless the City of Goshen, its agents, officers, and employees from any and all liability, obligations, claims, and suits, including court costs, attorneys fees, and other expenses, caused by an act or omission of the Contractor and its agents, officers, and employees or resulting from or related to the Contractor's performance or failure to perform as specified in this contract.

INSURANCE

Prior to commencing work, the Contractor shall furnish the City of Goshen a certificate of insurance in accordance with the following minimum requirements, shall maintain the insurance in full force and effect, and shall keep on deposit at all times during the term of the contract with the City the certificates of proof

issued by the insurance carrier that such insurance is in full force and effect. The Contractor shall specifically include coverage for the City of Goshen as an additional insured for Workers Compensation & Employer's Liability General, Liability and Automobile Liability.

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

- (1) Workers Compensation and Employer's Liability Statutory Limits
- (2) General Liability Combined Bodily Injury and Property Damage
\$1,000,000 Each Occurrence and Aggregate
- (3) Automobile Liability..... Combined Bodily Injury and Property Damage
\$1,000,000 Each Occurrence and Aggregate
- (4) Excess Umbrella Coverage \$1,000,000 Each Occurrence

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

FORCE MAJEURE

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

If either party is delayed by force majeure, the party affected shall provide written notification to the other party immediately. The party shall do everything possible to resume performance. The notification shall provide evidence of the force majeure event to the satisfaction of the other party. If the period of non-performance exceeds thirty (30) calendar days, the party whose ability to perform has not been affected may, by giving written notice, terminate the contract and the other party shall have no recourse.

DEFAULT

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

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

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

- (1) There is a substantive breach by Contractor of any obligation or duty owed under the provisions of this 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 under the contract.
- (7) The contract or any right, monies or claims are assigned by Contractor without the consent of the City.

TERMINATION

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

- (1) The contract may be terminated in whole or in part, at any time, by mutual written consent of both parties. Contractor shall be paid for all work performed and expenses reasonably incurred prior to notice of termination.
- (2) The City may terminate this contract, in whole or in part, in the event of default by Contractor. In such event, the City may issue a written notice of default and provide a period of time in which Contractor shall have the opportunity to cure. If the default is not cured within the time period allowed, the contract may be terminated by the City. In the event of default and failure to satisfactorily remedy the default after receipt of written notice, the City may 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.
- (3) The rights and remedies of the parties under this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

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

SUBCONTRACTING OR ASSIGNMENT OF CONTRACT

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

EMPLOYMENT ELIGIBILITY VERIFICATION

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

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

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

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

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

AMENDMENTS

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

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.

NOTICES

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

Address for notices to the City:

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

Address for notices to Contractor:

Middlebury Electric, Inc.
Attention: Jason Wogoman, President
65725 US 33
Goshen, IN 46526

And

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

APPLICABLE LAWS

The Contractor agrees to comply with all applicable federal, state, and local laws, rules, regulations, or ordinances. All contractual provisions legally required to be included are incorporated by reference.

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.

In the event of a conflict between these contract documents and applicable laws, rules, regulations or ordinances, the most stringent or legally binding requirement shall govern. Any special conditions included with this Contract which varies from these General Terms and Conditions shall have precedence.

This contract 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.

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

CONTRACTING WITH RELATIVES

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

SEVERABILITY

In the event that any provision of 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.

AUTHORITY TO BIND CONTRACTOR

Notwithstanding anything in the contract to the contrary, the signatory for the company/business represents that he or she has been duly authorized to execute contracts on behalf of the company/business and has obtained all necessary or applicable approvals to make this contract fully binding upon the company/business when his or her signature is affixed and is not subject to further acceptance

BINDING EFFECT

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

ENTIRE AGREEMENT

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

In witness whereof, the parties have executed this Agreement as set forth below.

City of Goshen
Board of Public Works and Safety

Middlebury Electric, Inc.

Jeremy Stutsman, Mayor

Jason Wogoman, President

Mary Nichols, Member

Date: _____

Michael Landis, Member

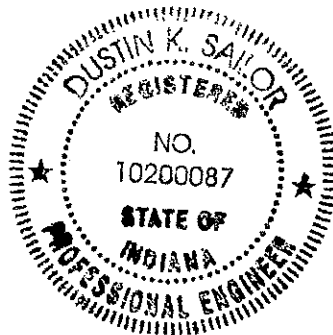
Date: _____

UTILITIES ELECTRICAL MAINTENANCE CONTRACT - 2021-0006
 MATERIAL BID TAB
 BID DUE DATE - FEBRUARY 1, 2021

Item No.	Estimated Quantity	Unit	Description	Middlebury Electric	
				Unit Price	Amount
1	270	Hours	Yearly Electrical & Associated Equipment Repair and Maintenance, Wastewater Utility	\$88.00	\$23,760.00
2	160	Hours	Yearly Electrical & Associated Equipment Repair and Maintenance, Water Utility	\$88.00	\$14,080.00
3	16	Each	Annual testing of motor amperage and voltage draws with report	\$88.00	\$1,408.00
4	1	Hours	Minimum Service Charge Fee, First Hour of Service	\$125.00	\$125.00
5	1	Hours	Boom Truck, 35-feet and lower (Contractor Owned Equipment)	\$55.00	\$55.00
6	1	Hours	Boom Truck, 36 to 50-feet (Contractor Owned Equipment)	\$60.00	\$60.00
Total Contract Amount Only:					\$39,488.00

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

Dustin K. Sailor 02.02.21
 Dustin K. Sailor, P.E., CPESC
 Director of Public Works
 City of Goshen





City Clerk-Treasurer

CITY OF GOSHEN

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

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

clerktreasurer@goshencity.com • www.goshenindiana.org

5 February 2021

To: Board of Public Works & Safety

From: Adam Scharf, City Clerk-Treasurer

Re: BakerTilly Municipal Advisors Engagement and Scope, 2021-2022

The proposed service agreement with BakerTilly continues the accounting and financial advisory support services for both Civil City and Utilities that BakerTilly (previously Umbaugh) has capably provided for many years. One agreement will serve both Civil City and Utilities, which had previously been under separate agreements. Respective billing and not-to-exceed charge amounts will remain separate.

Added to service scope is development of a long-term Comprehensive Financial Plan, including all of the City's funds, as the core deliverable. The development of this valuable model and planning tool with a lower anticipated total cost than prior services agreements is enabled by lower demand for day-to-day support services. City finance staff in both Civil City and Utilities are doing more in-house and requiring less assistance and consulting. This also enables us to move to hourly billing for services on an as-needed basis rather than fixed monthly fees. Previously fixed rates of \$2000/month for Utilities and \$5700/month for Civil City are replaced with average not-to-exceed monthly caps of \$2000 and \$5500 respectively, even with the addition of the Comprehensive Financial Plan.

Requested motion:

Approve the Engagement Letter Agreement and Scope Appendix with Baker Tilly US, LLP for the period of January 1, 2021 to December 31, 2022 and authorize the Clerk-Treasurer to execute.

December 2, 2020

City of Goshen
c/o Mr. Adam Scharf, Clerk-Treasurer
202 South Fifth Street, Suite 2
Goshen, IN 46528

RE: Engagement Letter Agreement Related to Services

This letter agreement (the "Engagement Letter") is to confirm our understanding of the basis upon which Baker Tilly US, LLP ("Baker Tilly") and its affiliates are being engaged by the City of Goshen, Indiana (the "Client") to assist the Client with advisory services.

Scope, Objectives and Approach

It is anticipated that projects undertaken in accordance with this Engagement Letter will be at the request of the Client. The scope of services, additional terms and associated fee for individual engagements will be contained in a Scope Appendix or Appendices to this Engagement Letter. Authorization to provide services will commence upon execution and return of this Engagement Letter and one or more Appendices.

Management's Responsibilities

It is understood that Baker Tilly will serve in an advisory capacity with the Client. The Client is responsible for management decisions and functions, and for designating an individual with suitable skill, knowledge or experience to oversee the services we provide. The Client is responsible for evaluating the adequacy and results of the services performed and accepting responsibility for such services. The Client is responsible for establishing and maintaining internal controls, including monitoring ongoing activities.

The procedures we perform in our engagement will be heavily influenced by the representations that we receive from Client personnel. Accordingly, false representations could cause material errors to go undetected. The Client, therefore, agrees that Baker Tilly will have no liability in connection with claims based upon our failure to detect material errors resulting from false representations made to us by any Client personnel and our failure to provide an acceptable level of service due to those false representations.

The ability to provide service according to timelines established and at fees indicated will rely in part on receiving timely responses from the Client. The Client will provide information and responses to deliverables within the timeframes established in a Scope Appendix unless subsequently agreed otherwise in writing.

The responsibility for auditing the records of the Client rests with the Client's separately retained auditor and the work performed by Baker Tilly shall not include an audit or review of the records or the expression of an opinion on financial data.

Ownership of IP

Unless otherwise stated in a specific Scope Appendix, subject to Baker Tilly's rights in Baker Tilly's Knowledge (as defined below), Client shall own all intellectual property rights in the deliverables developed under the applicable Scope Appendix or Appendices ("Deliverables"). Notwithstanding the foregoing, Baker Tilly will maintain all ownership right, title and interest to all Baker Tilly's Knowledge. For purposes of this Agreement "Baker Tilly's Knowledge" means Baker Tilly's proprietary programs, modules, products, inventions, designs, data, or other information, including all copyright, patent, trademark and other intellectual property rights related thereto, that are (1) owned or developed by Contractor prior to the Effective Date of this Agreement or the applicable Scope Appendix or Appendices ("Baker Tilly's Preexisting Knowledge") (2) developed or obtained by Baker Tilly after the Effective Date, that are reusable from client to client and project to project, where Client has not paid for such development; and (3) extensions, enhancements, or modifications of Baker Tilly's Preexisting Knowledge which do not include or incorporate Client's confidential information. To the extent that any Baker Tilly Knowledge is incorporated into the Deliverables, Baker Tilly grants to Client a non-exclusive, paid up, perpetual royalty-free worldwide license to use such Baker Tilly Knowledge in connection with the Deliverables, and for no other purpose without the prior written consent of Baker Tilly. Additionally, Baker Tilly may maintain copies of its work papers for a period of time and for use in a manner sufficient to satisfy any applicable legal or regulatory requirements for records retention.

The supporting documentation for this engagement, including, but not limited to work papers, is the property of Baker Tilly and constitutes confidential information. We may have a responsibility to retain the documentation for a period of time sufficient to satisfy any applicable legal or regulatory requirements for records retention. If we are required by law, regulation or professional standards to make certain documentation available to required third parties, the Client hereby authorizes us to do so.

Timing and Fees

Specific services will commence upon execution and return of a Scope Appendix to this Engagement Letter and our professional fees will be based on the rates outlined in such Scope Appendix.

Unless otherwise stated, in addition to the fees described in a Scope Appendix the Client will pay all of Baker Tilly's reasonable out-of-pocket expenses incurred in connection with the engagement. All out of pocket costs will be passed through at cost and will be in addition to the professional fee.

Dispute Resolution

Except for disputes related to confidentiality or intellectual property rights, all disputes and controversies between the parties hereto of every kind and nature arising out of or in connection with this Engagement Letter or the applicable Scope Appendix or Appendices as to the existence, construction, validity, interpretation or meaning, performance, nonperformance, enforcement, operation, breach, continuation, or termination of this Agreement or the applicable Scope Appendix or Appendices as shall be resolved as set forth in this section using the following procedure: In the unlikely event that differences concerning the services or fees provided by Baker Tilly should arise that are not resolved by mutual agreement, both parties agree to attempt in good faith to settle the dispute by engaging in mediation administered by the American Arbitration Association under its mediation rules for professional accounting and related services disputes before resorting to litigation or any other dispute resolution procedure. Each party shall bear their own expenses from mediation and the fees and expenses of the mediator shall be shared equally by the parties. If the dispute is not resolved by mediation, then the parties agree to expressly waive trial by jury in any judicial proceeding involving directly or indirectly, any matter (whether sounding in tort, contract, or otherwise) in any way arising out of, related to, or connected with this Agreement or the applicable Scope Appendix or Appendices as or the relationship of the parties established hereunder.

Because a breach of any the provisions of this Engagement Letter or the applicable Scope Appendix or Appendices as concerning confidentiality or intellectual property rights will irreparably harm the non-breaching party, Client and Baker Tilly agree that if a party breaches any of its obligations thereunder, the non-breaching party shall, without limiting its other rights or remedies, be entitled to seek equitable relief (including, but not limited to, injunctive relief) to enforce its rights thereunder, including without limitation protection of its proprietary rights. The parties agree that the parties need not invoke the mediation procedures set forth in this section in order to seek injunctive or declaratory relief.

Limitation on Damages

To the extent allowed under applicable law, the aggregate liability (including attorney's fees and all other costs) of either party and its present or former partners, principals, agents or employees to the other party related to the services performed under an applicable Scope Appendix or Appendices shall not exceed the fees paid to Baker Tilly under the applicable Scope Appendix or Appendices to which the claim relates, except to the extent finally determined to have resulted from the gross negligence, willful misconduct or fraudulent behavior of the at-fault party. Additionally, in no event shall either party be liable for any lost profits, lost business opportunity, lost data, consequential, special, incidental, exemplary or punitive damages, delays or interruptions arising out of or related to this Engagement Letter or the applicable Scope Appendix or Appendices as even if the other party has been advised of the possibility of such damages.

Each party recognizes and agrees that the warranty disclaimers and liability and remedy limitations in this Engagement Letter are material bargained for bases of this Engagement Letter and that they have been taken into account and reflected in determining the consideration to be given by each party under this Engagement Letter and in the decision by each party to enter into this Engagement Letter.

The terms of this section shall apply regardless of the nature of any claim asserted (including, but not limited to, contract, tort or any form of negligence, whether of you, Baker Tilly or others), but these terms shall not apply to the extent finally determined to be contrary to the applicable law or regulation. These terms shall also continue to apply after any termination of this Engagement Letter.

You accept and acknowledge that any legal proceedings arising from or in conjunction with the services provided under this Engagement Letter must be commenced within twelve (12) months after the performance of the services for which the action is brought, without consideration as to the time of discovery of any claim.

Other Matters

E-Verify Program

Baker Tilly participates in the E-Verify program. For the purpose of this paragraph, the E-Verify program means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (P.L. 104-208), Division C, Title IV, s.401(a), as amended, operated by the United States Department of Homeland Security or a successor work authorization program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly hired employees under the Immigration Reform and Control Act of 1986 (P.L. 99-603). Baker Tilly does not employ any "unauthorized aliens" as that term is defined in 8 U.S.C. 1324a(h)(3).

Investments

Baker Tilly certifies that pursuant to Indiana Code 5-22-16.5 *et seq.* Baker Tilly is not now engaged in investment activities in Iran. Baker Tilly understands that providing a false certification could result in the fines, penalties, and civil action listed in I.C. 5-22-16.5-14.

Non-Discrimination

Pursuant to Indiana Code §22-9-1-10, Baker Tilly and its subcontractors, if any, shall not discriminate against any employee or applicant for employment to be employed in the performance of this Engagement

Letter, with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, religion, color, sex, disability, national origin, ancestry, or veteran status. Breach of this covenant may be regarded as a material breach of this Engagement Letter.

Baker Tilly certifies that, except for de minimis and non-systematic violations, it has not violated the terms of I.C. 24-4.7, I.C. 24-5-12, or I.C. 24-5-14 in the previous three hundred sixty-five (365) days, even if I.C. 24-4.7 is preempted by federal law, and that Baker Tilly will not violate the terms of I.C. 24-4.7 for the duration of the Engagement Letter, even if I.C. 24-4.7 is preempted by federal law. Baker Tilly further certifies that any affiliate or principal of Baker Tilly and any agent acting on behalf of Baker Tilly or on behalf of any affiliate or principal of Baker Tilly, except for de minimis and non-systematic violations, has not violated the terms of I.C. 24-4.7 in the previous three hundred sixty-five (365) days, even if I.C. 24-4.7 is preempted by federal law, and will not violate the terms of I.C. 24-4.7 for the duration of the Engagement Letter, even if I.C. 24-4.7 is preempted by federal law.

In the event Baker Tilly is requested by the Client; or required by government regulation, subpoena, or other legal process to produce our engagement working papers or its personnel as witnesses with respect to its Services rendered for the Client, so long as Baker Tilly is not a party to the proceeding in which the information is sought, Client will reimburse Baker Tilly for its professional time and expenses, as well as the fees and legal expenses incurred in responding to such a request.

Neither this Engagement Letter, any claim, nor any rights or licenses granted hereunder may be assigned, delegated, or subcontracted by either party without the 'written consent of the other part. Either party may assign and transfer this Engagement Letter to any successor that acquires all or substantially all of the business or assets of such party by way of merger, consolidation, other business reorganization, or the sale of interest or assets, provided that the party notifies the other party in writing of such assignment and the successor agrees in writing to be bound by the terms and conditions of this Engagement Letter.

In the event that any provision of this Engagement Letter or statement of work contained in a Scope Appendix hereto is held by a court of competent jurisdiction to be unenforceable because it is invalid or in conflict with any law of any relevant jurisdiction, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Engagement Letter or statement of work did not contain the particular provisions held to be unenforceable. The unenforceable provisions shall be replaced by mutually acceptable provisions which, being valid, legal and enforceable, come closest to the intention of the parties underlying the invalid or unenforceable provision. If the Services should become subject to the independence rules of the U.S. Securities and Exchange Commission with respect to Client, such that any provision of this Engagement Letter would impair Baker Tilly's independence under its rules, such provision(s) shall be of no effect.

Termination

Both the Client and Baker Tilly have the right to terminate this Engagement Letter or any work being done under an individual Scope Appendix at any time after reasonable advance written notice. On termination, all fees and charges incurred prior to termination shall be paid promptly. Unless otherwise agreed to by the Client and Baker Tilly, the scope of services provided in a Scope Appendix will terminate 60 days after completion of the services in such Appendix.

Important Disclosures

Incorporated as Attachment A and part of this Engagement Letter are important disclosures. These include disclosures that apply generally and those that are applicable in the event Baker Tilly is engaged to provide municipal advisory services.

This Engagement Letter, including the attached Disclosures as updated from time to time, comprises the complete and exclusive statement of the agreement between the parties, superseding all proposals, oral or written, and all other communications between the parties. Both parties acknowledge that work performed pursuant to the Engagement Letter will be done through Scope Appendices executed and made a part of this document.

Any rights and duties of the parties that by their nature extend beyond the expiration or termination of this Engagement Letter shall survive the expiration or termination of this Engagement Letter or any statement of work contained in a Scope Appendix hereto.

If this Engagement Letter is acceptable, please sign below and return one copy to us for our files.

Sincerely,



Daniel A. Hedden, Partner

Signature Section:

The terms as set forth in this Engagement Letter are agreed to on behalf of the Client by:

Name: _____

Title: _____

Date: _____

Attachment A Important Disclosures

Non-Exclusive Services

Client acknowledges and agrees that Baker Tilly, including but not limited to Baker Tilly US, LLP, Baker Tilly Municipal Advisors, LLC, Baker Tilly Capital, LLC, and Baker Tilly Investment Services, LLC, is free to render municipal advisory and other services to the Client or others and that Baker Tilly does not make its services available exclusively to the Client.

Affiliated Entities

Baker Tilly US, LLP is an independent member of Baker Tilly International. Baker Tilly International Limited is an English company. Baker Tilly International provides no professional services to clients. Each member firm is a separate and independent legal entity and each describes itself as such. Baker Tilly US, LLP is not Baker Tilly International's agent and does not have the authority to bind Baker Tilly International or act on Baker Tilly International's behalf. None of Baker Tilly International, Baker Tilly US, LLP, nor any of the other member firms of Baker Tilly International has any liability for each other's acts or omissions. The name Baker Tilly and its associated logo is used under license from Baker Tilly International Limited.

Baker Tilly Investment Services, LLC ("BTIS"), a U.S. Securities and Exchange Commission ("SEC") registered investment adviser, may provide services to the Client in connection with the investment of proceeds from an issuance of securities. In such instances, services will be provided under a separate engagement, for an additional fee. Notwithstanding the foregoing, Baker Tilly may act as solicitor for and recommend the use of BTIS, but the Client shall be under no obligation to retain BTIS or to otherwise utilize BTIS relative to Client's investments. The fees paid with respect to investment services are typically based in part on the size of the issuance proceeds and Baker Tilly may have incentive to recommend larger financings than would be in the Client's best interest. Baker Tilly will manage and mitigate this potential conflict of interest by this disclosure of the affiliated entity's relationship, a Solicitation Disclosure Statement when Client retains BTIS's services and adherence to Baker Tilly's fiduciary duty and/or fair dealing obligations to the Client.

Baker Tilly Capital, LLC ("BTC") Baker Tilly Capital, LLC ("BTC") is a limited service broker-dealer specializing in merger and acquisition, capital sourcing, project finance and corporate finance advisory services. BTC does not participate in any municipal offerings advised on by its affiliate Baker Tilly Municipal Advisors. Any services provided to Client by BTC would be done so under a separate engagement for an additional fee.

Baker Tilly Municipal Advisors ("BTMA") is registered as a "municipal advisor" pursuant to Section 15B of the Securities Exchange Act and rules and regulations adopted by the SEC and the Municipal Securities Rulemaking Board ("MSRB"). As such, BTMA may provide certain specific municipal advisory services to the Client. BTMA is neither a placement agent to the Client nor a broker/dealer. The offer and sale of any Bonds is made by the Client, in the sole discretion of the Client, and under its control and supervision. The Client acknowledges that BTMA does not undertake to sell or attempt to sell bonds or other debt obligations and will not take part in the sale thereof.

Baker Tilly, may provide services to the Client in connection with human resources consulting, including, but not limited to, executive recruitment, talent management and community survey services. In such instances, services will be provided under a separate scope of work for an additional fee. Certain executives of the Client may have been hired after the services of Baker Tilly were utilized and may make decisions about whether to engage other services of Baker Tilly or its subsidiaries. Notwithstanding the foregoing, Baker Tilly may recommend the use of Baker Tilly or a subsidiary, but the Client shall be under no obligation to retain Baker Tilly or a subsidiary or to otherwise utilize either relative to the Client's activities.

Conflict Disclosure Applicable to Municipal Advisory Services Provided by BTMA.

Legal or Disciplinary Disclosure. BTMA is required to disclose to the SEC information regarding criminal actions, regulatory actions, investigations, terminations, judgments, liens, civil judicial actions, customer complaints, arbitrations and civil litigation involving BTMA. Pursuant to MSRB Rule G-42, BTMA is required to disclose any legal or disciplinary event that is material to the Client's evaluation of BTMA or the integrity of its management or advisory personnel.

There are no criminal actions, regulatory actions, investigations, terminations, judgments, liens, civil judicial actions, customer complaints, arbitrations or civil litigation involving BTMA. Copies of BTMA filings with the SEC can currently be found by accessing the SEC's EDGAR system Company Search Page which is currently available at <https://www.sec.gov/edgar/searchedgar/companysearch.html> and searching for either Baker Tilly Municipal Advisors, LLC or for our CIK number which is 0001616995. The MSRB has made available on its website (www.msrb.org) a municipal advisory client brochure that describes the protections that may be provided by MSRB rules and how to file a complaint with the appropriate regulatory authority.

Contingent Fee. The fees to be paid by the Client to BTMA are or may be based on the size of the transaction and partially contingent on the successful closing of the transaction. Although this form of compensation may be customary in the municipal securities market, it presents a conflict because BTMA may have an incentive to recommend unnecessary financings, larger financings or financings that are disadvantageous to the Client. For example, when facts or circumstances arise that could cause a financing or other transaction to be delayed or fail to close, BTMA may have an incentive to discourage a full consideration of such facts and circumstances, or to discourage consideration of alternatives that may result in the cancellation of the financing or other transaction.

Hourly Fee Arrangements. Under an hourly fee form of compensation, BTMA will be paid an amount equal to the number of hours worked multiplied by an agreed upon billing rate. This form of compensation presents a potential conflict of interest if BTMA and the Client do not agree on a maximum fee under the applicable Appendix to this Engagement Letter because BTMA will not have a financial incentive to recommend alternatives that would result in fewer hours worked. In addition, hourly fees are typically payable by the Client whether or not the financing transaction closes.

Fixed Fee Arrangements. The fees to be paid by the Client to BTMA may be in a fixed amount established at the outset of the service. The amount is usually based upon an analysis by Client and BTMA of, among other things, the expected duration and complexity of the transaction and the work documented in the Scope Appendix to be performed by Baker Tilly. This form of compensation presents a potential conflict of interest because, if the transaction requires more work than originally contemplated, Baker Tilly may suffer a loss. Thus, Baker Tilly may recommend less time-consuming alternatives, or fail to do a thorough analysis of alternatives.

BTMA manages and mitigates conflicts related to fees and/or other services provided primarily through clarity in the fee to be charged and scope of work to be undertaken and by adherence to MSRB Rules including, but not limited to, the fiduciary duty which it owes to the Client requiring BTMA to put the interests of the Client ahead of its own and BTMA's duty to deal fairly with all persons in its municipal advisory activities.

To the extent any additional material conflicts of interest have been identified specific to a scope of work the conflict will be identified in the respective Scope Appendix. Material conflicts of interest that arise after the date of a Scope Appendix will be provide to the Client in writing at that time.

**SCOPE APPENDIX to
Engagement Letter dated: December 02, 2020
Between City of Goshen, Indiana and
Baker Tilly US, LLP**

RE: Goshen City and Utilities – Proposed Financial Advisory and Accounting Services

DATE: ~~February 10, 2020~~ February 8, 2021

This Scope Appendix is attached by reference to the above named engagement letter (the “Engagement Letter”) between the City of Goshen, Indiana (the “Client”) and Baker Tilly US, LLP and relates to services to be provided by Baker Tilly Municipal Advisors, LLC.

Scope of Work

Baker Tilly US (“BTUS”) and Baker Tilly Municipal Advisors, LLC (“BTMA”) will perform the following services for the period beginning January 1, 2021 through the period ended December 31, 2022.

A. Accounting and Reporting Support (Consulting Services)

1. On-site support as needed;
2. Telephone and video call support as needed;
3. E-mail support as needed;
4. Written communication as needed; and
5. Remote support via Internet as needed

B. Gateway Annual Report (Consulting Services)

Baker Tilly agrees to perform or support as needed the following services with respect to assisting the Client with the filing of the Annual Financial Report in the State of Indiana Gateway program (on a cash basis).

1. Client will provide Baker Tilly with access to a detailed trial balance and any supporting schedules Baker Tilly requires.
2. Client will provide Baker Tilly with access to all supporting documentation for Grants to include local project name, federal program title, federal agency, pass through agency, CFDA Number, award name, award number, grant type, local fund number, grant receipts, grant disbursements, amount provided to sub-recipients, amount of loans outstanding, amount of non-cash assistance for the year and amount of insurance in effect for the year.
3. Client will provide Baker Tilly with access to capital asset addition and deletions for the reporting year.
4. Client will provide Baker Tilly with access to information on all outstanding leases including the lessor, description of the lease, annual lease payment, beginning date of lease and ending date of lease.
5. Client will provide Baker Tilly with access to information on financial assistance to non-governmental entities including the name, federal tax identification number, address, contact information, source of funding, amount of funding and type of entity.
6. Client will provide Baker Tilly with access to information necessary to complete the reporting requirements for Public Official Surety Bonds including position, type, name, amount of bond and term.

7. Client will complete the Risk Assessment questionnaire:
 - a. Assist Client to upload supporting documentation for the risk assessment questionnaire.
 - b. Assist with other parts as needed, but not in lieu of management control.
8. Data upload into Gateway:
 - a. Assist Client to download text files in accordance with Gateway reporting requirements, as applicable.
 - b. Assist Client to upload text files into Gateway, as applicable.
 - c. Assist Client to generate data totals for manual entry into Gateway, as applicable.
9. Assist Client to tie beginning balances to prior Gateway Annual Report.
10. Assist Client to tie receipts, disbursements and ending balances to current year financial information.
11. Assist Client to analyze that transfers in equal transfers out.
12. Assist Client to compute receivables and payables as of December 31.
13. Assist Client to complete debt service reporting.
14. Assist Client to complete pension reporting, as necessary.

C. Debt Management (Consulting Services)

Baker Tilly agrees to perform or support as needed the following services with respect to assisting the Client with the completion and filing of the Debt Management Report in Gateway.

1. Client will provide Baker Tilly with a detailed trial balance and any supporting schedules required by Baker Tilly.
2. Assist Client to input basic debt information into Gateway to include debt name, type of debt, base CUSIP number, if applicable, and property tax cap exemption status.
3. Assist Client to input the authorizing Indiana Code cite for the debt.
4. Assist Client to input information on debt limitations to include issuer, current debt limit and current debt capacity, as applicable.
5. Assist Client to input applicable bond sale information which may include:
 - a. Date of preliminary determination.
 - b. Date of publication and newspapers.
 - c. Date of appropriation resolution.
 - d. Date of debt sale.

- e. Date of debt closing.
6. Assist Client to disclose results of petition/remonstrance, if applicable.
7. Assist Client to disclose debt rating, if applicable.
8. Assist Client to disclose the security on the debt and source of repayment.
9. Assist Client to disclose the purpose and total project cost of the debt.
10. Assist Client to disclose the sources and uses of funding for the debt.
11. Assist Client to disclose the dates of bids, start of construction and estimated date of substantial completion, as applicable.
12. Provide an amortization schedule of the debt.

D. OPEB Reporting (Consulting Services)

Baker Tilly will assist the Client with the completion of the Gateway Other Post-Employment Benefits (“OPEB”) Report.

1. Client will provide Baker Tilly with a recent actuarial report prepared for the purposes of computing other post-employment benefits, if available.
2. Assist Client to assemble information on retiree health benefits offered; other post-employment benefits; medical, prescription, and other coverage premiums; and demographic information.
3. Assist Client to input health insurance and other post-employment benefit plan expenses into Gateway.
4. Provide other post-employment benefit data to Actuary for actuarial evaluation, if applicable.
5. Provide Client with actuarial evaluation report as prepared by Actuary, if applicable.
6. Assist Client to input actuarial computed liabilities into Gateway.
7. Assist Client to input actuarial computed assets into Gateway.
8. Input post-employment benefit data into Indiana Gateway.

E. Comprehensive Financial Plan (Consulting Services)

Baker Tilly agrees to furnish and perform the following services with respect to the proposed Comprehensive Financial Plan for the Client. The report will encompass at a minimum the General Fund, Park Fund, Motor Vehicle Highway Funds, Public Safety LIT Fund, EDIT Fund, TIF funds and summarized utility funds.

Assist the Client in the development of a three year financial model as follows:

1. Assist with the development of a cash flow model for major funds of the Client.

**SCOPE APPENDIX to
Engagement Letter dated: December 02, 2020
Between City of Goshen, Indiana and
Baker Tilly US, LLP**

2. Analyze historical financial information of all major operating funds of the Client for the years ended December 31, 2018, December 31, 2019, December 31, 2020 and when completed, December 31, 2021 based upon reports and records of the Client, in order to identify trends in revenues, expenditures and fund balances.
3. Capital Financing Plan: Review the Client's capital plans to identify potential opportunities to improve the Client's expected cash flows. Anticipated sources of capital plans include plans for the city, economic development and utilities.
4. Debt Management: Review the Client's existing debt structure to identify potential opportunities to restructure or reduce debt service obligations to improve future cash flows.
5. Develop estimated financial information for all major operating funds of the Client for the calendar years 2022 through and including 2024. Provide estimates of property tax collections, circuit breaker tax credits, income tax collections and planned expenditures for Client operations, maintenance, capital expenditures and debt service requirements.
6. Recommend a level of minimum fund balances to be maintained.
7. Identify fund balances within non-major funds that may be available to fund General Fund or other operating expenditures and provide a description of the authorized uses of fund balances.
8. Identify potential shortfalls in revenues and provide suggestions, as available, to bridge funding gaps. Services may include analysis of city user fees similar to hangar fees, cemetery plots and other miscellaneous user fees.
9. Provide a preliminary report based on 2020 actual financials and provide a final report in 2022 based on 2021 actual financial information.

F. Annual Budget Assistance and Analysis (Consulting Services)

The following services are available to the Client in whole or in part at the direction of the Fiscal Officer or other appointed client representative.

1. Meet with the Client to discuss the budget process and collect data for budget preparation.
2. Develop or analyze the budget calendar for consideration by the legislative body.
3. Assist with Client prepared budget estimates.
4. Compute state distributed revenues based on formula sheets, certifications, and other information provided by the Department of Local Government Finance ("DLGF") and the Auditor of State.
5. Compute miscellaneous revenues based on historical information provided by the Client.
6. Compute the estimated maximum levy.
7. Compute the estimated tax rate and levy by fund.
8. Assist with the preparation of prescribed forms related to the annual budget.
9. Assist the Client with entering budget data into the Indiana Gateway program.

10. Monitor the completion of the required steps of the budget process with the Client.
11. Analyze the 1782 Budget Notice on behalf of the Client to ensure accuracy and completeness.
12. Provide periodic budget management assistance through telephone, remote and on-site support.

G. Levy Appeals (Consulting Services) (as necessary)

1. Assist the Client with determining its eligibility to apply for a property tax levy appeal with the DLGF.
2. Assist with the preparation of the State appeal application and supporting documentation for levy appeals.
3. Submit the levy appeal petition and application to the DLGF.
4. Monitor the completion of the required steps of the levy appeal process with the Client.

H. Additional Appropriations (Consulting Services) (as necessary)

1. Develop a timeline for the steps required to request approval of an additional appropriation from the DLGF.
2. Analyze estimated receipts and cash on hand to determine ability to fund requested additional appropriation.
3. Assist with State prescribed additional appropriation documents.
4. Assist the Client to monitor completion of the required steps of the additional appropriation process.

I. Reestablish a Cumulative Capital Development (“CCD”) Fund (Consulting Services) (as necessary)

The following services are available to the Client in whole or in part at the direction of the Client.

1. Develop a timeline for the steps required to reestablish a Cumulative Capital Development Fund.
2. Assist the Client with preparation of State-required documents including the notice to taxpayers and establishing ordinance.
3. Assist the Client to monitor completion of required steps of the process.

J. Council Reporting and Meetings (Consulting Services)

1. Provide quarterly management summary reports to the fiscal officer and Mayor.
2. Meet virtually with Client management (and council representative if Client requests) two times per year to discuss long-term goals and objectives.
3. Conduct an annual workshop with Client for long-term financial planning goals and performance indicators as well as an opportunity for question and answer regarding Client financial plans.

K. Calendar of Services
Continued on next page

GOSHEN ANNUAL SERVICE TIMELINE

SUPPORT AND/OR DELIVERABLES	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Receipt/disbursement coding analysis	X	X										
Adjusting journal entries	X	X										
Close prior fiscal year	X	X	X									
Other Postemployment Benefits data		X										
Annual financial report		X										
Debt management report		X										
Financial status reports (quarterly) *		X			X			X			X	
Virtual check-ins with Client Steering Committee (capital plan/year-end process) *			X									X
Capital affordability plan/CFP *					X							
Annual workshop and financial plan update *						X						
Budget form 1's complete							X					
Budget preparation and cash flow models								X	X			
Finalize budgets									X	X		
Install ensuing year budgets										X		X
Additional appropriations and appropriation transfer analysis											X	
Cumulative fund review												X
Unit-wide debt analysis												X
As needed accounting and reporting support	X	X	X	X	X	X	X	X	X	X	X	X

* New scope of service

**SCOPE APPENDIX to
Engagement Letter dated: December 02, 2020
Between City of Goshen, Indiana and
Baker Tilly US, LLP**

Compensation and Invoicing

For the services outlined in the Scope Appendix Baker Tilly's fees shall be based on actual hours and will not in a fiscal year exceed Sixty Six Thousand Dollars (\$66,000) for Civil City or Twenty Four Thousand Dollars (\$24,000) for Utilities unless requested by the Client. Work will be detailed between City and Utilities. Baker Tilly will reserve four hundred fifty (450) hours throughout the year to meet the needs of the City and Utilities.

Standard Hourly Rates by Job Classification
1/1/2021

Partners / Principals / Directors	\$240.00	to	\$405.00
Managers	\$200.00	to	\$325.00
Senior Consultants	\$150.00	to	\$250.00
Consultants	\$135.00	to	\$200.00
Municipal Bond Disclosure Specialists	\$120.00	to	\$190.00
Support Personnel	\$110.00	to	\$150.00
Interns	\$90.00	to	\$110.00

- *Billing rates are subject to change periodically due to changing requirements and economic conditions. Actual fees will be based upon experience of the staff assigned and the complexity of the engagement.*

The above fees shall include all expenses incurred by the Firm with the exception of expenses incurred for mileage which will be billed on a separate line item. No such expenses will be incurred without the prior authorization of the Client. The fees do not include the charges of other entities such as rating agencies, bond and official statement printers, couriers, newspapers, bond insurance companies, bond counsel and local counsel, and electronic bidding services, including Parity[®]. Coordination of the printing and distribution of Official Statements or any other Offering Document are to be reimbursed by the Client based upon the time and expense for such services.

Conflicts of Interest

Attachment A to the Engagement Letter contains important disclosure information that is applicable to this Scope Appendix.

We are unaware of any additional conflicts of interest related to this Scope Appendix that exist at this time.

Termination

This Scope Appendix will terminate according to the terms of the Engagement Letter.

Notwithstanding termination provisions contained in the Engagement Letter, it is agreed that relative to this Scope Appendix that both the Client and Baker Tilly have the right to terminate the work being done under the Scope Appendix. The scope of services provided in this Scope Appendix will otherwise terminate 60 days after completion of the services described herein. On termination, all fees and charges incurred prior to termination shall be paid promptly.

**SCOPE APPENDIX to
Engagement Letter dated: December 02, 2020
Between City of Goshen, Indiana and
Baker Tilly US, LLP**

If this Scope Appendix is acceptable, please sign below and return one copy to us for our files. We look forward to working with you on this important project.

Sincerely,



Daniel A. Hedden, Partner

Signature Section:

The services and terms as set forth in this Scope Appendix are agreed to on behalf of the Client by:

Name: _____

Title: _____

Date: _____



**Legal Department
CITY OF GOSHEN**

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

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

To: The Board of Public Works & Safety

From: Bodie J. Stegelmann

Date: February 3, 2021

Subject: Agreement with Eaton Corporation

The City wishes to replace the aging, deteriorating switchgear breakers located at the Wastewater Treatment Plant due to concerns over the current equipment's likely, imminent failure and, therefore, desires to contract to install such equipment with Eaton Corporation, the sole source of compatible equipment.

Work on the project is to be completed by May 14, 2021, with a total cost not to exceed \$124,777.00.

Suggested Motion: To approve Resolution 2021-05 and agreement with Eaton Corporation for the installation of switchgear and breaker equipment at the Wastewater Treatment Plant.

RESOLUTION 2021-05

Agreement with Eaton Corporation for Replacement of Switchgear Breakers at WWTP

WHEREAS, the twenty-five (25) year old switchgear at the Wastewater Treatment Plant began experiencing performance problems in 2020;

WHEREAS, service was performed on the switchgear by the equipment manufacturer, Eaton Corporation, but advised Goshen Utilities that replacement parts would be required, but that parts were not available due to the age of the equipment;

WHEREAS, during a winter weather event that occurred on or about January 2, 2021, electric service from one of the plant's two electrical feeds dropped, the switchgear was not able to automatically switch the power to the other feed, an emergency service call to the Utility's on-call electrical contractor was made, and a temporary power transfer was made to energize the plant before a raw sewage release occurred;

WHEREAS, an additional call to the switchgear manufacturer was made for a service call, repairs were made, but the manufacturer again noted that their service work would need to be followed-up with replacement parts;

WHEREAS, Eaton Corporation provided a quote in the amount of \$124,777.00 to replace six (6) circuit breakers;

WHEREAS, the condition of the switchgear equipment is approaching an emergency condition, as a failure of the equipment could cause discharge of raw sewage from the plant, but Eaton Corporation is the sole source of the breakers required for the necessary switchgear repairs and other suppliers are not available from whom to request competing bids or proposals.

NOW, THEREFORE, BE IT RESOLVED that:

1. The Goshen Board of Public Works and Safety finds that the condition of the switchgear equipment at the Wastewater Treatment Plant is approaching an emergency condition, as a failure of the old, deteriorating equipment could cause discharge of raw sewage from the plant, and that Eaton Corporation is the sole source of the breakers required for the necessary switchgear repairs and other suppliers are not available from whom to request competing bids or proposals.

2. The Goshen Board of Public Works and Safety approves the agreement with Eaton Corporation in the amount of \$124,777.00 to replace six (6) circuit breakers in the switchgear at the Wastewater Treatment.

PASSED and ADOPTED by the Goshen Board of Public Works and Safety on February 8, 2021.

[Signatures on following page.]

Jeremy P. Stutsman, Mayor

Michael A. Landis, Board Member

Mary Nichols, Board Member

AGREEMENT

Provide and Install Breakers in Wastewater Treatment Plant Switchgear

THIS AGREEMENT is entered into on this ____ day of _____, 2021, between Eaton Corporation, hereinafter referred to as "Contractor", and the City of Goshen by its Board of Public Works and Safety, hereinafter referred to as "City".

WHEREAS, the City experienced problems with the performance of the switchgear located at its Wastewater Treatment Plant, and desires to replace certain components of the switchgear.

WHEREAS, the City desires to contract with Contractor, and Contractor agrees to provide and install certain breakers in the wastewater treatment plant switchgear.

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

SCOPE OF SERVICES

Contractor shall provide all labor, equipment, materials, tools, supplies, test equipment, insurance, supervision, work and all other items necessary to perform and complete in a workmanlike manner the installation of certain breakers described below.

Contractor shall provide and install the following breakers:

- One (1) Westinghouse DS632 3200A Main Circuit Breaker with Digitrip 810LSG Trip Unit. Breaker is electrically operated with 120VAC Shunt Trip, Spring Release, and Motor Circuit
- One (1) Westinghouse DS420 2000A Tie Circuit Breaker with Digitrip 810LSG Trip Unit. Breaker is electrically operated with 120VAC Shunt Trip, Spring Release, and Motor Circuit.
- One (1) Westinghouse DS416H 1600A Feeder Circuit Breaker with Digitrip 810LSG Trip Unit.
- One (1) Westinghouse DS416H 1200A Feeder Circuit Breaker with Digitrip 810LSG Trip Unit.
- One (1) Westinghouse DSL206 600A Feeder Circuit Breaker with Digitrip 810LSG Trip Unit.
- One (1) Eaton RGH316036EC 1600A Molded Case Circuit Breaker.

Contractor's scope of work shall include:

- Contractor will provide and install the circuit breakers during an eight-hour outage to be planned by the City and the utility.
- Contractor will bring the 5 power circuit breakers onsite back to the Eaton Power Breaker Center for evaluation to be reconditioned.
- Contractor will provide a comprehensive engineering report including findings, test date, and recommendations will be furnished after completion of the evaluation.

Further terms of performance of the parties are contained in Contractor's Response to Request for Proposal attached hereto and made a part hereof.

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

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

TERM OF THE AGREEMENT

This Agreement shall become effective on the date of execution and approval by both parties. Contractor shall perform all work as expeditiously as is consistent with professional skill and care in the orderly progress of the project.

The City understands that the breakers identified above are not immediately available; however, the parties anticipate that the breakers should be available in April 2021, and that at the beginning of May 2021, or as soon thereafter as is reasonable, the parties will schedule Contractor's work on the project which is expected to be completed by May 14, 2021.

COMPENSATION

The City agrees to compensate Contractor for the services in this agreement in accordance with Contractor's quoted fee of One Hundred Twenty-Four Thousand Seven Hundred Seventy Seven~~Twenty-Two Thousand Three Hundred Forty Five~~ Dollars (\$124,777~~122,345~~.00). This fee is based on performing site work on a weekday-day turn.

Payment(s) to Contractor for work rendered under this agreement shall be made by the City upon receipt of a detailed invoice from Contractor for work completed provided satisfactory performance of Contractor has been attained. Contractor is required to have a current W9 Form on file with the City before the City will issue any payment. Payment will be made within thirty (30) days of date of Contractor's invoice. Payment is deemed to be made on the date of mailing the check.

INDEPENDENT CONTRACTOR

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

NON-DISCRIMINATION

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

INDEMNIFICATION

Subject to the Limitation of Liability Section herein, Contractor agrees to indemnify and hold harmless the City, its agents, officers, and employees (hereinafter referred to as the "Indemnified Parties") from and against all liability, obligations, claims actions, causes of action, judgments, liens, damages, penalties or injuries (each a "Claim") brought against the Indemnified Parties for bodily injury or property damage to the extent resulting directly and solely from any intentional, reckless or negligent act or omission by Contractor or any of their officers, agents, officials, and employees, during the performance of work under this Agreement with the City of Goshen. Such indemnity shall include attorney's fees and all costs and other expenses incurred by the City, and shall not be limited to insurance required under the provisions of this Agreement.

INSURANCE

Prior to commencing work, Contractor shall furnish the City a certificate of insurance in accordance with the following minimum requirements, shall maintain the insurance in full force and effect, and shall keep on deposit at all times during the term of the contract with the City the certificates of proof issued by the insurance carrier that such insurance is in full force and effect. Contractor shall specifically include the City of Goshen as an additional insured to the extent of Contractor's negligence herein for Employer's Liability, General Liability and Automobile Liability coverage.

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

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

Contractor shall endeavor to provide notice to the City at least thirty (30) days prior to the cancellation or a change in the policy that would not meet the minimum limits of liability set forth above.

FORCE MAJEURE

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

If either party is delayed by force majeure, the party affected shall provide written notification to the other party immediately. The party shall do everything possible to resume performance. The notification shall provide evidence of the force majeure event to the satisfaction of the other party. If the period of non-performance exceeds thirty (30) calendar days, the party whose ability to perform has not been affected may, by giving written notice, terminate the contract and the other party shall have no recourse.

BREACH

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

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

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

- (1) There is a substantive breach by Contractor of any obligation or duty owed under the provisions of this Agreement.
- (2) Contractor is adjudged bankrupt or makes an assignment for the benefit of creditors.

- (3) Contractor becomes insolvent or in an unsound financial condition so as to endanger performance under the Agreement.
- (4) Contractor becomes the subject of any proceeding under law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors.
- (5) A receiver, trustee, or similar official is appointed for Contractor or any of Contractor's property.
- (6) Contractor is determined to be in violation of federal, state, or local laws or regulations and that such determination renders Contractor unable to perform the work under the Agreement.
- (7) The Agreement or any right, monies or claims are assigned by Contractor without the consent of the City.

TERMINATION

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

- (1) The contract may be terminated in whole or in part, at any time, by mutual written consent of both parties. Contractor shall be paid for all work performed and expenses reasonably incurred prior to notice of termination.
- (2) The City may terminate this contract, in whole or in part, in the event of default by Contractor. In such event, the City may issue a written notice of default and provide a period of time in which Contractor shall have the opportunity to cure. If the default is not cured within the time period allowed, the contract may be terminated by the City. In the event of default and failure to satisfactorily remedy the default after receipt of written notice, the City may secure similar work in any manner deemed proper by the City, and Contractor shall be liable to the City for any excess costs incurred.
- (3) The rights and remedies of the parties under this section shall not be exclusive and are in addition to any other rights and remedies provided or under this contract.

ACCEPTANCE, TITLE AND RISK OF LOSS

Acceptance shall occur upon delivery of the products as agreed to by the parties. The City waives any right to revoke acceptance. The City's remedies for any nonconformity detected after acceptance are limited to those expressly provided in this Agreement under Warranty.

Unless otherwise agreed to in writing by Contractor and The City, products will be F.O.B. City's wastewater treatment plant, and title and risk of loss shall pass to The City upon delivery to the F.O.B. point, or payment in full, whichever occurs first.

ASSIGNMENT

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

MODIFICATIONS

It is mutually understood and agreed that no alteration or variation of the terms in this Agreement including the scope of work, completion of work and compensation, and that no alteration or variation of the conditions of this Agreement shall be binding unless specifically agreed to in writing by the parties. Any modification or amendment to the terms and conditions of the Agreement shall not be binding unless made in writing and signed by both parties. Any verbal representations or modifications concerning the Agreement shall be of no force and effect.

NOTICES

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

Address for notices to City:

City of Goshen
Attn: Legal Department
204 East Jefferson St.
Goshen, IN 46526

Address for notices to Contractor:

Eaton Corporation
Attn: Paul Creech
210 Windy Point Dr.
Glendale Heights, IL 60139
PaulCreech@Eaton.com

APPLICABLE LAWS

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

MISCELLANEOUS

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

EMPLOYMENT ELIGIBILITY VERIFICATION

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

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

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

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

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

CONTRACTING WITH RELATIVES

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

SEVERABILITY

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

WARRANTY

Contractor warrants that the products manufactured by it will conform to Contractor's applicable specifications and be free from failure due to defects in workmanship and material for one (1) year from the date of installation of the product or eighteen (18) months from the date of shipment of the product, whichever occurs first.

In the event any product fails to comply with the foregoing warranty Contractor will, at its option, either (a) repair or replace the defective product, or defective part or component thereof, F.O.B. City's wastewater treatment plant, or (b) credit The City for the purchase price of the product. All warranty claims shall be made in writing.

Contractor requires all non-conforming products be returned at Contractor's expense for evaluation unless specifically stated otherwise in writing by Contractor.

This warranty does not cover failure or damage due to storage, installation, operation or maintenance not in conformance with Contractor's recommendations and industry standard practice or due to accident, misuse, abuse or negligence. The warranty does not cover reimbursement for labor, gaining access, removal, installation, temporary power or any other expenses, which may be incurred in connection with repair or replacement.

This warranty does not apply to equipment not manufactured by Contractor. Contractor limits itself to extending the same warranty it receives from supplier.

Contractor warrants that the services performed by it hereunder will be performed in accordance with generally accepted professional standards.

The services, which do not so conform, shall be corrected by Contractor upon notification in writing by The City within one (1) year after completion of the services.

Unless otherwise agreed to in writing by Contractor, Contractor assumes no responsibility with respect to the suitability of The City's, or its customer's, equipment or with respect to any latent defects in equipment not supplied by Contractor. This warranty does not cover damage to The City's, or its customer's, equipment, components or parts resulting in whole or in part from improper maintenance or operation or from their deteriorated condition. The City will, at its cost, provide Contractor with unobstructed access to the defective services, as well as adequate free working space in the immediate vicinity of the defective services and such facilities and systems, including, without limitation, docks, cranes and utility disconnects and connects, as may be necessary in order that Contractor may perform its warranty obligations. The conducting of any

tests shall be mutually agreed upon and Contractor shall be notified of, and may be present at, all tests that may be made.

THE FOREGOING WARRANTIES ARE EXCLUSIVE EXCEPT FOR WARRANTY OF TITLE. CONTRACTOR DISCLAIMS ALL OTHER WARRANTIES INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

CORRECTION OF NON-CONFORMITIES IN THE MANNER AND FOR THE PERIOD OF TIME PROVIDED ABOVE SHALL CONSTITUTE CONTRACTOR'S SOLE LIABILITY AND THE CITY'S EXCLUSIVE REMEDY FOR FAILURE OF CONTRACTOR TO MEET ITS WARRANTY OBLIGATIONS, WHETHER CLAIMS OF THE CITY ARE BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE.

LIMITATION OF LIABILITY

THE REMEDIES OF THE CITY SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE AND ARE ITS SOLE REMEDIES FOR ANY FAILURE OF CONTRACTOR TO COMPLY WITH ITS OBLIGATIONS HEREUNDER.

NOTWITHSTANDING ANY PROVISION IN THIS AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL CONTRACTOR BE LIABLE IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE FOR DAMAGE TO PROPERTY OR EQUIPMENT OTHER THAN PRODUCTS SOLD HEREUNDER, LOSS OF PROFITS OR REVENUE, COST OF CAPITAL, ~~OR~~ CLAIMS OF CUSTOMERS OF THE CITY OR, EXCEPT IN CASES OF CONTRACTOR'S NEGLIGENT ACTS OR OMISSIONS OR WILLFUL MISCONDUCT, ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHATSOEVER, REGARDLESS OF WHETHER SUCH POTENTIAL DAMAGES ARE FORESEEABLE OR IF CONTRACTOR HAS BEEN WARNED OF THE POSSIBILITY OF SUCH DAMAGES.

EXCEPT FOR CONTRACTOR'S NEGLIGENT ACTS OR OMISSIONS OR WILLFUL MISCONDUCT, THE TOTAL CUMULATIVE LIABILITY OF CONTRACTOR ARISING FROM OR RELATED TO THIS AGREEMENT, WHETHER THE CLAIMS ARE BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE, SHALL NOT EXCEED TWO (2) TIMES THE VALUE OF THE ORDER AS SET FORTH IN THIS AGREEMENT.

HELD ORDERS

For any order held, delayed or rescheduled at the request of the City, Contractor may, at its sole option, (1) require payment to be based on any reasonable basis, including but not limited to the contract price, and any additional expenses, or cost resulting from such a delay; (2) store products at the sole cost and risk of loss of The City; and/or (3) charge to The City those prices under the applicable price policy. Payment for such price, expenses and costs, in any such event, shall be due by The City within thirty (30) days from the date of Contractor's invoice. Any order so held, delayed or rescheduled beyond six (6) months will be treated as a termination by The City.

BINDING EFFECT

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

ENTIRE AGREEMENT

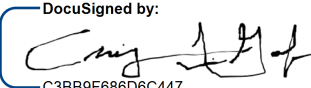
This Agreement constitutes the entire agreement between the parties and supersedes all other agreements or understandings between the City and Contractor.

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

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

Eaton Corporation

Jeremy P. Stutsman, Mayor

DocuSigned by:

By: _____
Its: Vice President and General Manger, Eaton EESS

Mary Nichols, Member

Date: February 4, 2021

Michael Landis, Member

Date: _____



**Legal Department
CITY OF GOSHEN**

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

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

To: The Board of Public Works & Safety

From: Bodie J. Stegelmann

Date: February 3, 2021

Subject: Agreement with Lexipol, LLC

The Goshen Fire Department wishes perform a comprehensive review of its Policy Manual and Daily Training Bulletins and implement revisions to such. Therefore, the City seeks to contract with Lexipol to perform such tasks.

Work on the project is to be completed by December 31, 2021, with a total cost not to exceed \$41,388.55.

Suggested Motion: To approve the Agreement with Lexipol, LLC Eaton Corporation for the comprehensive review of Fire Department's Policy Manual and Daily Training Bulletins and implement revisions to such.



AGREEMENT FOR USE OF SUBSCRIPTION MATERIAL

Agency's Name: Goshen Fire Department
Agency's Address: 209 N 3rd St
Goshen, Indiana 46526

Attention: Assistant Chief Anthony Powell

Lexipol's Address: 2611 Internet Boulevard, Suite 100
Frisco, Texas 75034

Prepared By: Bruce Bjorge

Effective Date: _____
(to be completed by Lexipol upon receipt of signed Agreement)

The Agreement for Use of Subscription Material is between Lexipol, LLC, a Delaware limited liability company ("**Lexipol**"), and the Agency identified above. The Agreement consists of (a) this cover sheet; (b) **Exhibit A** (Subscriptions Being Purchased and Subscription Fees) attached to this cover sheet, (c) **Exhibit B** (General Terms and Conditions) attached to this cover sheet, and (d) **Exhibit C** (Scope of Services) attached to this cover sheet. Capitalized terms that are used in Exhibit A and not defined therein shall have the respective meanings given to them in Exhibit B.

Goshen Fire Department
Signature: _____
Print Name: _____
Title: _____
Date Signed: _____

Lexipol
Signature: _____
Print Name: Van Holland
Title: Chief Financial Officer
Date Signed: _____

EXHIBIT A

SUBSCRIPTIONS BEING PURCHASED AND SUBSCRIPTION FEES

Agency is purchasing the following:

2021 Annual Fire Policy
Subscription with Grandfinder

QTY	DESCRIPTION	UNIT PRICE	DISC	DISC AMT	EXTENDED
1	Annual Fire Policy Manual & Daily Training Bulletins w/Supplemental Publication Service w/Fire Operations Procedures w/ GrantFinder (Start: 1/1/2021 End: 12/31/2021)	USD 10,943.00	15%	USD 1,641.45	USD 9,301.55
	Subscription Line Items Total			USD 1,641.45	USD 9,301.55
				USD 1,641.45	USD 9,301.55
2021 Annual Fire Policy Subscription with Grandfinder Discount:					USD 1,641.45
2021 Annual Fire Policy Subscription with Grandfinder TOTAL:					USD 9,301.55

Policy Cross-Reference - GFD
Policy vs. Lexipol Policy

QTY	DESCRIPTION	UNIT PRICE	DISC	DISC AMT	EXTENDED
1	Fire Standard Policy Cross-Reference	USD 2,620.00		USD 0.00	USD 2,620.00
	One-Time Line Items Total			USD 0.00	USD 2,620.00
				USD 0.00	USD 2,620.00
Policy Cross-Reference - GFD Policy vs. Lexipol Policy TOTAL:					USD 2,620.00

Policy Implementation - Lexipol
to merge GFD policy with KMS
Policy in KMS

QTY	DESCRIPTION	UNIT PRICE	DISC	DISC AMT	EXTENDED
1	Fire Tier I Implementation	USD 5,207.00		USD 0.00	USD 5,207.00
1	Fire Tier II Implementation	USD 5,844.00		USD 0.00	USD 5,844.00
1	Fire Tier III Implementation	USD 6,866.00		USD 0.00	USD 6,866.00
1	Fire Tier IV Implementation	USD 5,784.00		USD 0.00	USD 5,784.00
1	Fire Tier V Implementation	USD 5,766.00		USD 0.00	USD 5,766.00
	One-Time Line Items Total			USD 0.00	USD 29,467.00
				USD 0.00	USD 29,467.00
Policy Implementation - Lexipol to merge GFD policy with KMS Policy in KMS TOTAL:					USD 29,467.00

*Fire pricing is based on 60 Fire Authorized Staff. Cross Reference Professional Services pricing is based on 250 pages.

*The above subscription services, and when applicable, implementation services, shall be invoiced by Lexipol upon the execution of this Agreement.

Discount Notes

The Goshen FD will receive a 15% annual subscription discount because Goshen PD is a current Lexipol policy agency.

EXHIBIT B

GENERAL TERMS AND CONDITIONS

1. **Definitions.** For purposes of this Agreement, each of the following terms will have the meaning indicated in this Section:

1.1 **Agency's Account.** "***Agency's Account***" means the account by which Agency accesses the Subscription Materials.

1.2 **Agreement.** "***Agreement***" means (a) the cover sheet to which these General Terms and Conditions are attached, (b) Exhibit A (Subscriptions and Services Being Purchased and Related Fees) attached to that cover sheet, (c) these General Terms and Conditions, and (d) Exhibit C (Scope of Services).

1.3 **Initial Term/Contract Year.** "***Initial Term***" means the twelve-month period commencing on the Effective Date and "***Contract Year***" means each twelve-month period commencing on each anniversary of the Effective Date, except as may otherwise be modified by Section 2.1 Term below.

1.4 **Derivative Work.** "***Derivative Work***" means a work that is based on the Subscription Material or any portion thereof, such as a revision, modification, abridgement, condensation, expansion, or any other form in which the Subscription Material or any portion thereof may be recast, transformed, or adapted. For purposes of this Agreement, a Derivative Work also includes any compilation that incorporates any portion of the Subscription Material. Further, "***Derivative Work***" includes any work considered a "derivative work" under United States copyright law.

1.5 **Effective Date.** "***Effective Date***" means the date specified on the cover sheet to which these General Terms and Conditions are attached.

1.6 **Subscription Materials.** "***Subscription Materials***" means the policy manuals, supplemental policy publications, daily training bulletins and other materials provided by Lexipol to Agency from time to time during the term of this Agreement under the subscriptions purchased by Agency as specified in Exhibit A.

2. **Term and Termination.**

2.1 **Term.** This Agreement is effective upon the execution and delivery of this Agreement by both Lexipol and Agency, and shall continue in effect until the expiration of the Initial Term; provided, however, that the term of this Agreement will automatically be extended for successive one-year periods thereafter (each a Contract Year), unless either party gives written notice to the other party to the contrary not less than thirty (30) days prior to the expiration of the Initial Term or the then current Contract Year, as the case may be. Notwithstanding the foregoing, however, this Agreement will be subject to termination as provided in Section 2.2 below.

2.2 **Termination.** This Agreement may be terminated by either party, effective immediately, (a) in the event that the other party fails to discharge any obligation or remedy any default under this Agreement for a period of more than thirty (30) calendar days after it has been given written notice of such failure or default; or (b) in the event that the other party makes an assignment for the benefit of creditors or commences or has commenced against it any proceeding in bankruptcy, insolvency or reorganization pursuant to the bankruptcy laws of any applicable jurisdiction.

2.3 **Effect of Expiration or Termination.** Upon the expiration or termination of this Agreement, all of the rights granted to Agency by this Agreement to the subscriptions identified on Exhibit

A shall automatically terminate. The termination or expiration of this Agreement shall not, however, relieve either party from any obligation or liability that has accrued under this Agreement prior to the date of such termination or expiration. The right to terminate this Agreement pursuant to Section 2.2 above shall be in addition to, and not in lieu of, any other remedy, legal or equitable, to which the terminating party shall be entitled at law or in equity. The provisions of Sections 1 (Definitions), 4 (Copyright; Derivative Works; Lexipol's Ownership), 5 (Right to Use; Limitations on Use of Subscription Material and Derivative Works), 7 (Privacy Policy), 8 (Policy Adoption), 9 (Disclaimer of Liability), 10 (Limitation of Liability), 13 (Miscellaneous), and this Section 2.3 shall survive the expiration or termination of this Agreement for any reason whatsoever.

3. Subscription Fees, Etc.

3.1 Subscription Fee/Invoicing. Lexipol will invoice Agency at the commencement of the Subscription Service (Initial Term) and thirty (30) days prior to the date for each Contract Year (refer to 2.1 above). Agency will pay to Lexipol the subscription fee specified on Exhibit A within thirty (30) days following Agency's receipt of the invoice for such subscription and renewal fees. All invoices will be sent to Agency at the address for Agency specified on the cover sheet to which these General Terms and Conditions are attached. All payments will be made to Lexipol at the address for Lexipol specified on the cover sheet to which these General Terms and Conditions are attached. Lexipol reserves the right to increase pricing for subsequent Contract Years.

3.2 Taxes; Past Due Amounts. All amounts required to be paid under this Agreement, unless otherwise stated on Exhibit A, are exclusive of all taxes and similar fees now in force or enacted in the future imposed on the subscriptions purchased by Agency under this Agreement and/or delivery by Lexipol to Agency of Subscription Material, all of which Agency will be responsible for and will pay in full, except for taxes based on Lexipol's net income. In the event any amount owed by Agency is not paid when due, and such failure is not cured within ten (10) days after written notice thereof from Lexipol, then in addition to any other amount due, Agency shall pay a late payment charge on the overdue amount at a rate equal to the lower of (a) one percent (1%) per month, or (b) the highest rate permitted by applicable law.

4. Copyright; Derivative Works; Lexipol's Ownership. Agency acknowledges and agrees that the Subscription Material is a proprietary product of Lexipol, protected under U.S. copyright law, and that Lexipol reserves all rights not expressly granted in this Agreement. Subject to the terms and conditions contained in this Agreement, Lexipol hereby grants Agency the right to prepare Derivative Works, except as limited by the terms of this agreement; provided, however, that Agency acknowledges and agrees that Lexipol will be the sole owner of all right, title and interest in and to all Derivative Works prepared by or for Agency, including all copyrights and other intellectual property and proprietary rights therein or pertaining thereto, and Agency hereby assigns and transfers to Lexipol all right, title and interest in and to all Derivative Works prepared by or for Agency, including all copyrights and other intellectual property and proprietary rights therein or pertaining thereto. Agency will not remove from any copies of the Subscription Material provided by Lexipol to Agency any copyright notice or other proprietary notice of Lexipol appearing thereon, and shall include such copyright and other notices at the appropriate place on each copy of the Subscription Material and each copy of any Derivative Work made by or for Agency, in any form.

5. Right to Use; Limitations on Use of Subscription Material and Derivative Works. Subject to the terms and conditions contained in this Agreement, Lexipol hereby grants to Agency a perpetual, personal, fully paid-up, right to use, except as limited by the terms of this agreement the Subscription Material and any Derivative Works prepared by or for Agency, solely for the Agency's internal purposes. Agency will not use, copy, republish, lend, distribute, post on servers, transmit, redistribute, display, in whole or in part, by any means or medium, electronic or mechanical, or by any information storage and retrieval system, any Subscription Material or any Derivative Work prepared by or

for Agency other than as expressly authorized by the immediately preceding sentence. Without limiting the generality of the foregoing, Agency will not import, upload, or otherwise make available any Subscription Material or any Derivative Work prepared by or for Agency into or onto any third party knowledge, document, or other content management system or service without Lexipol's prior written consent. The foregoing does not, however, prohibit or restrict Agency from providing Subscription Material or Derivative Works prepared by or for Agency pursuant to an order from a court or other governmental agency or other legal process, or Freedom of Information Act (FOIA) request, or Public Records Act (PRA) request, nor does it prohibit or restrict Agency from displaying the adopted/approved final policy document on a publicly accessible website for official Agency purposes, so long as Agency includes the appropriate copyright and other proprietary notices on such final policy document as required by Section 4 above.

6. Account Security. Agency is solely responsible for maintaining the confidentiality of Agency's user name(s) and password(s) and the security of Agency's Account. Agency will not permit access to Agency's Account, or use of Agency's user name(s) and/or password(s) by any person or entity other than authorized Agency personnel. Agency will immediately notify Lexipol in writing if Agency becomes aware that any person or entity other than authorized Agency personnel has used Agency's Account or Agency's user name(s) and/or password(s).

7. Privacy Policy. Lexipol will hold all information Agency provides in confidence unless required to provide information in accordance with an order from a court or other governmental agency or other legal process such as a Freedom of Information Act (FOIA) request, or Public Records Act (PRA) request. Lexipol will use commercially reasonable efforts to ensure the security of information provided by Agency. Lexipol's system also uses Secure Socket Layer (SSL) Protocol for browsers supported by Lexipol application(s). SSL encrypts information as it travels between the Agency and Lexipol. However, Agency acknowledges and agrees that Internet data transmission is not always 100% secure and Lexipol does not warrant or guaranty that information Agency transmits utilizing the Lexipol system or online platform is 100% secure.

Agency acknowledges that Lexipol may provide view-only access and summary information (including but not limited to, status of number of policies developed or in development, percentage of staff reviews of developed policies, and percentage of DTBs taken) to the Agency's affiliated Risk Management Authority, Insurance Pool or Group, or Sponsoring Association, if they are actively funding their member Agencies' Subscription Fees.

8. Policy Adoption. Agency hereby acknowledges and agrees that any and all policies and Daily Training Bulletins (DTBs) included in the Subscription Material provided by Lexipol have been individually reviewed, customized and adopted by Agency for use by Agency. Agency further acknowledges and agrees that neither Lexipol nor any of its agents, employees or representatives shall be considered "policy makers" in any legal or other sense and that the chief executive of Agency will, for all purposes, be considered the "policy maker" with regard to each and every such policy and DTB.

9. Disclaimer of Liability. Agency acknowledges and agrees that Lexipol its officers, agents, managers, and employees will have no liability to Agency or any other person or entity arising from or related to the Subscription Materials, or any act or omission by Agency or its personnel pursuant to, or in reliance on, any of the Subscription Materials, except in instances of negligence or willful misconduct on the part of Lexipol.

10. Limitation of Liability. Except in instances of negligence or willful misconduct on the part of Lexipol, Lexipol's cumulative liability to Agency and any other person or entity for any loss or damages resulting from any claims, demands, or actions arising out of or relating to this Agreement or the use of any Subscription Materials shall not exceed the subscription fees actually paid to Lexipol for the use of the Subscription Materials under this Agreement during the twelve-month period immediately prior to the

assertion of such claim, demand or action. In no event shall Lexipol be liable for any indirect, incidental, consequential, special, or exemplary damages or lost profits, even if Lexipol has been advised of the possibility of such damages. The limitations set forth in this Section shall apply whether Agency's claim is based on breach of contract, tort, strict liability, product liability or any other theory or cause of action.

11. Non-Transferability. The subscriptions and rights to use the Subscription Material granted by this Agreement are personal to Agency and Agency shall not assign or otherwise transfer the same to any other person or entity.

12. Confidentiality. From time to time during the term of this Agreement, either party may be required to disclose information to the other party that is marked "confidential" or the like, or that is of such a type that the confidentiality thereof is reasonably apparent ("Confidential Information"). The receiving party will: (a) limit disclosure of any Confidential Information of the other party to the receiving party's directors, officers, employees, agents and other representatives (collectively "Representatives") who have a need to know such Confidential Information in connection with the business relationship between the parties to which this Agreement relates, and only for that purpose; (b) advise its Representatives of the confidential nature of the Confidential Information and of the obligations set forth in this Agreement and require such Representatives to keep the Confidential Information confidential and to use it only as permitted by this Agreement; (c) keep all Confidential Information confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information; and (d) not disclose any Confidential Information received by it to any third party (except as otherwise provided for herein). Notwithstanding the foregoing, however, a party may disclose Confidential Information of the other party pursuant to any governmental, judicial, or administrative order, subpoena, discovery request, regulatory request, or Freedom of Information Act (FOIA) request, or Public Records Act (PRA) request, or similar method, provided that the party proposing to make any such disclosure will promptly notify, to the extent practicable, the other party in writing of such demand for disclosure so that the other party may, at its sole expense, seek to make such disclosure subject to a protective order or other appropriate remedy to preserve the confidentiality of the Confidential Information. Each party shall be responsible for any breach of this Section by any of such party's Representatives.

Miscellaneous.

13.1 Governing Law. This Agreement shall be construed in accordance with, and governed by, the laws of the State of Indiana, without giving effect to any choice of law doctrine that would cause the law of any other jurisdiction to apply.

13.2 Entire Agreement. This Agreement embodies the entire agreement and understanding of the parties hereto and hereby expressly supersedes any and all prior written and oral agreements and understandings with respect to the subject matter hereof, including without limitation any and all agreements and understandings pertaining to the use of the Subscription Materials by Agency. No representation, promise, inducement, or statement of intention has been made by any party hereto that is not embodied in this Agreement. Terms and conditions set forth in any purchase order, or any other form or document of Agency, which are inconsistent with, or in addition to, the terms and conditions set forth in this Agreement, are hereby objected to and rejected in their entirety, regardless of when received, without further action or notification by Lexipol, and shall not be considered binding on Lexipol unless specifically agreed to in writing by it.

13.3 Headings. The captions and other headings contained in this Agreement are for convenience only and shall not be considered a part of or affect the construction and interpretation of any provision of this Agreement.

13.4 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document.

13.5 Amendment. No amendment, modification, or supplement to this Agreement shall be binding unless it is in writing and signed by the party sought to be bound thereby.

13.6 Attorneys' Fees. If any action is brought by either party to this Agreement against the other party regarding the subject matter hereof, the prevailing party shall be entitled to recover, in addition to any other relief granted, reasonable attorneys' fees and expenses of litigation.

13.7 General Interpretation. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent. This Agreement shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument or any portion thereof to be drafted, or in favor of the party receiving a particular benefit under the Agreement. No rule of strict construction will be applied against any person or entity.

13.8 Notices. Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given by personal delivery, by certified mail, postage prepaid, or by recognized overnight delivery service to the appropriate party at the address of such party stated on the cover sheet to which these General Terms and Conditions are attached, or such other address as such party may indicate by a notice delivered to the other party in accordance with the terms of this Section. Alternatively, electronic mail or facsimile notice is acceptable when acknowledged by the receiving party.

13.9 Invalidity of Provisions. Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof. Further, if a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable, then the parties agree that the court should endeavor to give effect to the parties' intention as reflected in such provision to the maximum extent possible.

13.10 Waiver. Lexipol's failure to exercise, or delay in exercising, any right or remedy under any provision of this Agreement shall not constitute a waiver of such right or remedy.

13.11 Addendum. The provisions of the Addendum (attached) shall also apply.

End of General Terms and Conditions

Scope of Services

Policy Manual

Constitutionally sound, up-to-date policies are the foundation for consistent, safe public safety operations and are key to reducing risk and enhancing personnel and community safety. Lexipol's comprehensive policy manual covers all aspects of your agency's operations.

- More than 155 policies researched and written by public safety attorneys and subject matter experts
- Policies based on State and federal laws and regulations as well as nationwide best practices
- Content customized to reflect your agency's terminology and structure

Daily Training Bulletins (DTBs)

Even the best policy manual lacks effectiveness if it's not backed by training. Lexipol's Daily Training Bulletins are designed to help your personnel learn and apply your agency's policy content through 2-minute training exercises.

- Scenario-based training ties policy to real-world applications
- Understanding and retention of policy content is improved via a singular focus on one distinct aspect of the policy
- Each Daily Training Bulletin concludes with a question that confirms the user understood the training objective
- Daily Training Bulletins can be completed via computers or from smartphones, tablets or other mobile devices
- Reports show completion of Daily Training Bulletins by agency member and topic

Policy Updates

Lexipol's legal and content development teams continuously review state and federal laws and regulations, court decisions and evolving best practices. When needed, we create new and updated policies and provide them to your agency, making it simple and efficient to keep your policy content up to date.

- Updates delivered to you through Lexipol's web-based content delivery platform
- Changes presented in side-by-side comparison against existing policy so you can easily identify modifications/improvements
- Your agency can accept, reject or customize each update

Web-Based Delivery Platform and Mobile App (Knowledge Management System)

Lexipol's online content delivery platform, called KMS, provides secure storage and easy access to all your policy and training content, and our KMS mobile app facilitates staff use of policies and training completion.

- Ability to edit and customize content to reflect your agency's mission and philosophy
- Efficient distribution of policies, updates and training to staff
- Archival and easy retrieval of all versions of your agency's policy manual
- Mobile app provides in-the-field access to policy and training materials

Reports

Lexipol's Knowledge Management System provides intuitive reporting capabilities and easy-to-read reports that enhance command staff meetings and strategic planning.

- Track and report when your personnel have acknowledged policies and policy updates
- Produce reports showing completion of Daily Training Bulletins
- Sort reports by agency member, topic and other subgroups (e.g., shift, assignment)
- Reduce the time your supervisors spend verifying policy acknowledgement and training completion

Supplemental Publication Service

Lexipol's Supplemental Publication Service (SPS) streamlines the storage of your agency's content, giving you one place to access procedures, guidelines, general orders, training guides or secondary policy manuals.

- Electronically links department-specific procedural or supplemental content to your policy manual
- Provides electronic issuance and tracking for your agency's procedural or supplemental content
- Allows you to create Daily Training Bulletins against your procedural content
- Designed for standard operating guidelines, procedures, general orders or field guides

Fire Procedures

Clear and accessible procedures are imperative to ensure safe, effective and consistent emergency response and personnel interactions. Lexipol's fire procedures, based on national best practices, give you critical operational and administrative procedures as well as a template to build on.

- More than 35 best practice procedures designed to support safe and effective operations
- Tactical procedures address the operations most often cited as contributing to firefighter injury or death as well as the most common call types
- Administrative procedures address the areas of highest legal liability as well as best practices for organizational success
- Scenario-based training reinforces live training
- Mobile-friendly decision trees and checklists prevent essential steps from being missed

Standard Policy Cross-Reference

Making the transition to Lexipol starts with understanding how your agency's current policy content compares with Lexipol's master policy content. Our Standard Policy Cross-Reference service provides a logical method to distinguishing between the two.

- Analysis of your existing policies and procedures to identify content similar to Lexipol's state specific master content, as well as content unique to your jurisdiction and not covered within the Lexipol manual
- Your existing policies returned with annotations and tips to integrate into the Lexipol master content
- One-on-one review with your agency to discuss the cross-reference report

Implementation Policy Tier I: High-Risk Policies

Benefit from our proven, systematic approach to implementing policies. Tier I represents about 20% of the manual, including foundational policies necessary to provide structure and authority to your policy manual, as well as policies addressing high-risk, low-frequency and high-risk, high-frequency incidents. You'll receive one-on-one collaborative assistance to help you review, customize and adopt the policies efficiently and effectively.

Implementation Policy Tier II: High-Liability Policies

Benefit from our proven, systematic approach to implementing policies. Tier II represents about 20% of the manual, including policies that relate to common day-to-day calls for service that have a higher level of potential liability. You'll receive one-on-one collaborative assistance to help you review, customize and adopt the policies efficiently and effectively.

Implementation Policy Tier III: Daily Operations Policies

Benefit from our proven, systematic approach to implementing policies. Tier III represents about 20% of the manual, including policies needed for orderly daily operations of your organization. You'll receive one-on-one collaborative assistance to help you review, customize and adopt the policies efficiently and effectively.

Implementation Policy Tier IV: Defensibility Policies

Benefit from our proven, systematic approach to implementing policies. Tier IV represents about 20% of the manual, including policies essential to agency and agency member defensibility, including civil liability-related topics. You'll receive one-on-one collaborative assistance to help you review, customize and adopt the policies efficiently and effectively.

Implementation Policy Tier V: Operational Consistency Policies

Benefit from our proven, systematic approach to implementing policies. Tier V represents about 20% of the manual, including policies needed to ensure operational consistency across your organization. You'll receive one-on-one collaborative assistance to help you review, customize and adopt the policies efficiently and effectively.

GrantFinder <http://app.grantfinder.com>

GrantFinder is a real-time database of federal, state, and private grant opportunities tailored to municipalities, nonprofits, educational institutions, and public safety organizations. The simplicity and efficiency of our service will result in identifying grant applications intelligently tailored to your needs; greatly improving the chance your organization will ultimately be funded.

Currently tracking over 10,000 grants, GrantFinder monitors more than 4,300 grant websites to update and keep communities aware of the universe of funding. GrantFinder is being used by more than 8,000 individual users spread across 800 cities and organizations like yours.

The accompanying proposal outlines the functions of Lexipol's GrantFinder service and what would be provided.

GrantFinder includes:

- Access to Federal, State, Corporate & Foundation grants programs in once place with summaries, links to applications, guidelines and much more
- 10+ search filters including geographic coverage, program area, keyword, deadline, matching funds, etc.
- Save and download grant listings + track deadlines
- Custom grant email alerts tailored to user preference
- Application and performance tracking
- Document and application upload + storage
- Ongoing dedicated account management support + user-based training

ADDENDUM

THIS ADDENDUM is made and entered into the ____ day of _____, 2021, by and between _____ (hereinafter referred to as “Contractor”) and the City of Goshen, Indiana (hereinafter referred to as “City”).

WITNESSETH:

WHEREAS Contractor and City are parties to a certain agreement for _____ (“Agreement”); and

WHEREAS this Addendum shall be attached to and be a part of the Agreement and shall control in the event of any conflict with the terms and provisions of the Agreement.

NOW, THEREFORE, in consideration of the premises and the terms and conditions contained herein, the parties hereby mutually and further agree as follows:

1. State Law Provisions.

a. Non-Discrimination - Pursuant to Indiana Code § 22-9-1-10, Contractor and its subcontractors, if any, shall not discriminate against any employee or applicant for employment to be employed in the performance of the Agreement with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, religion, color, sex, disability, national origin, ancestry, or veteran status. Breach of this covenant may be regarded as a material breach of the Agreement.

b. Anti-Nepotism - Contractor is aware of the provisions under Indiana Code § 36-1-21 with respect to anti-nepotism in contractual relationships with governmental entities, and shall comply with such statute.

c. Investment Activity - Pursuant to Indiana Code § 5-22-16.5, Contractor certifies that Contractor is not engaged in investment activities in Iran.

d. E-Verify Program - Pursuant to Indiana Code § 22-5-1.7-11, Contractor agrees to and shall enroll in and verify the work eligibility status of all newly hired employees of Contractor after the date of the Agreement through the E-Verify Program as defined in Indiana Code § 22-5-1.7-3; provided, however, Contractor is not required to verify the work eligibility status of all newly hired employees after the date of the Agreement through the E-Verify Program if the E-Verify Program no longer exists. Contractor further represents and certifies subject to the pains and penalties of perjury that it does not knowingly employ an unauthorized alien.

e. General Requirements - Contractor further agrees to comply with the applicable requirements of Indiana state law with respect to contracting with local governmental entities.

2. No Waiver of Governmental Immunity. Nothing in the Agreement waives or is intended to waive any protections that may be applicable to City or any of its elected or appointed officials, employees, agents, or representatives under any applicable statutes, rules, or regulations providing governmental immunity, or any other rights, protections, immunities, defenses, or limitations on liability that City or such related parties are provided by law.

DATED EFFECTIVE with the effective date of the Agreement.

CITY:

CITY OF GOSHEN, INDIANA

By: _____

Name: _____

Title: _____

Date: _____

CONTRACTOR:

By: _____

Name: _____

Title: _____

Date: _____



**Legal Department
CITY OF GOSHEN**

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

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

To: The Board of Public Works & Safety

From: Bodie J. Stegelmann

Date: February 3, 2021

Subject: Agreement with Peerless Midwest, Inc. d/b/a Suez Advance Solutions

During the replacement of media in Filter #4 at the City's Plant, the City's Utility Department performed an inspection and determined repairs to Filter #4 are necessary. Therefore, the City wishes to contract with Peerless Midwest, Inc. d/b/a Suez Advance Solutions to perform the repairs for an amount not to exceed Twenty-Nine Thousand Six Hundred Dollars (\$29,600.00). All work is to be completed by February 17, 2021.

Suggested Motion: To approve an Agreement with Peerless Midwest, Inc. d/b/a Suez Advance Solutions to perform repairs to Filter #4 at the City's Plant for the amount not to exceed Twenty-Nine Thousand Six Hundred Dollars (\$29,600.00), with work to be completed by February 17, 2021.

AGREEMENT

Rehabilitate Filter #4 At City of Goshen Water Plant

THIS AGREEMENT is entered into on this ____ day of February, 2021, between Peerless Midwest, Inc. d/b/a Suez Advance Solutions, hereinafter referred to as “Contractor”, and the City of Goshen by its Board of Public Works and Safety, hereinafter referred to as “City”.

WHEREAS, during the replacement of media in Filter #4 at the City’s Water Plant, the City’s Utility Department performed an inspection and determined repairs to Filter #4 are necessary.

WHEREAS, the City desires to contract with Contractor, and Contractor agrees to provide the repairs to Filter #4 at the City’s Water Plant.

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

CITY’S RESPONSIBILITIES

The City will:

- provide a full-time attendant for help and safety.
- remove all the old eight inch (8”) steel piping within twelve inches (12”) of the walls.
- supply and install the eight inch (8”) PVC Pipe with couplers to attach to the steel pipe.

SCOPE OF SERVICES

Contractor shall provide all labor, equipment, materials, tools, supplies, insurance, supervision, work and all other items necessary to perform and complete in a workmanlike manner the repairs to Filter #4 at the City’s Water Plant including the welding, steel cutting and fabrication.

Contractor’s work shall include:

- Repair of pitting deeper than 1/8 of an inch in the steel side wall and center dividing wall of the filter using wire welder or stick weld.
- Remove all rust and corrosion on existing steel divider wall that splits the filter into two (2) cells to prepare and apply a two-part epoxy coating.
- Replace the inlet piping and support hangers with eight inch (8”) Stainless Steel support hangers used for Schedule 80 PVC (*see* picture attached as Exhibit A).
- Supply and install the eight inch (8”) diameter, three-eighths inch (3/8”) thick, steel piping with eight inch (8”), eight (8) hole flanges needed for the Elbows and the thru vessel Connections for connecting to the PVC Pipe (*see* drawing attached as Exhibit B).
- Supply and install all eight inch (8”) steel pipe, and provide personnel and equipment to perform the Welding, steel cutting, and fabrication needed to complete the project. (*see* Exhibit B).

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

Contractor shall warrant all workmanship and materials for one (1) year.

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

Contractor is required to have and maintain all special hot work certifications and all OSHA confined space training.

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

TERM OF THE AGREEMENT

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

Contractor's work on the project shall begin work upon receipt of notice to proceed, and shall be completed by February 17, 2021.

COMPENSATION

The City agrees to compensate Contractor for the services in this agreement in accordance with Contractor's hourly rates of One Hundred Five Dollars (\$105.00) per hour portal to portal up to eight (8) hour days, Saturdays at time and a half and Sundays and holidays at double time and shall be based on hours actually worked on the project for an amount not exceed Twenty-Nine Thousand Six Hundred Dollars (\$29,600.00).

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

INDEPENDENT CONTRACTOR

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

NON-DISCRIMINATION

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

INDEMNIFICATION

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

INSURANCE

Prior to commencing work, Contractor shall furnish the City a certificate of insurance in accordance with the following minimum requirements, shall maintain the insurance in full force and effect, and shall keep on deposit at all times during the term of the contract with the City the certificates of proof issued by the insurance carrier that such insurance is in full force and effect. Contractor shall specifically include the City of Goshen as an additional insured for Employer’s Liability, General Liability and Automobile Liability coverage.

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

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

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

FORCE MAJEURE

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

If either party is delayed by force majeure, the party affected shall provide written notification to the other party immediately. The party shall do everything possible to resume performance. The notification shall provide evidence of the force majeure event to the satisfaction of the other party. If the period of non-performance exceeds thirty (30) calendar days, the party whose ability to perform has not been affected may, by giving written notice, terminate the contract and the other party shall have no recourse.

BREACH

It shall be mutually agreed that if Contractor fails to perform the work or comply with the provisions of this Agreement or fails to fulfill any warranty, and Contractor is not able to correct the breach within fifteen (15) calendar days after the City provides written notice to Contractor of such breach, the City may provide or have provided alternative provisions to correct and/or

complete the projects. Contractor shall be responsible for any and all costs that are incurred and such costs may be deducted from amounts owed to Contractor expenses to correct the breach or complete the project. If such costs exceed the amounts owed to Contractor, Contractor is liable to reimburse the City for such costs.

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

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

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

TERMINATION

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

- (1) The contract may be terminated in whole or in part, at any time, by mutual written consent of both parties. Contractor shall be paid for all work performed and expenses reasonably incurred prior to notice of termination.
- (2) The City may terminate this contract, in whole or in part, in the event of default by Contractor. In such event, the City may issue a written notice of default and provide a period of time in which Contractor shall have the opportunity to cure. If the default is not cured within the time period allowed, the contract may be terminated by the City. In the event of default and failure to satisfactorily remedy the default after receipt of written notice, the City may 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.
- (3) The rights and remedies of the parties under this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

ASSIGNMENT

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

MODIFICATIONS

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

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

NOTICES

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

Address for notices to the City:

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

Address for notices to Contractor:

Peerless Midwest, Inc.
d/b/a Suez Advance Solutions
Attention: Adam L. Gerstbauer
55860 Russell Industrial Parkway
Mishawaka IN 46545

APPLICABLE LAWS

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

MISCELLANEOUS

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

EMPLOYMENT ELIGIBILITY VERIFICATION

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

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

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

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

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

CONTRACTING WITH RELATIVES

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

SEVERABILITY

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

BINDING EFFECT

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

ENTIRE AGREEMENT

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

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

City of Goshen
Board of Public Works and Safety

Peerless Midwest, Inc.
d/b/a Suez Advance Solutions

Jeremy P. Stutsman, Mayor

Michael Williams, Sales Manager

Mary Nichols, Member

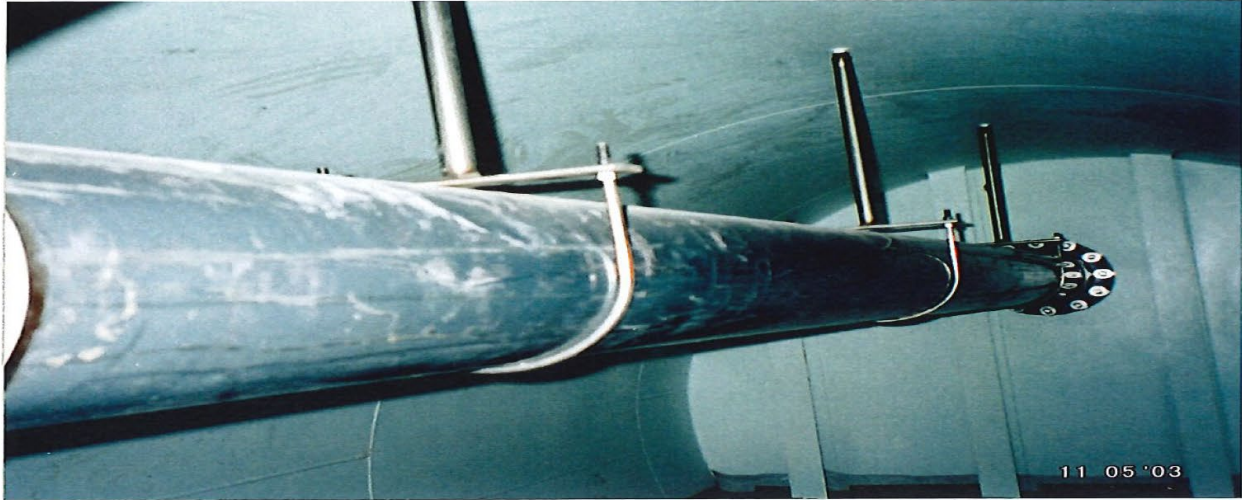
Date: _____

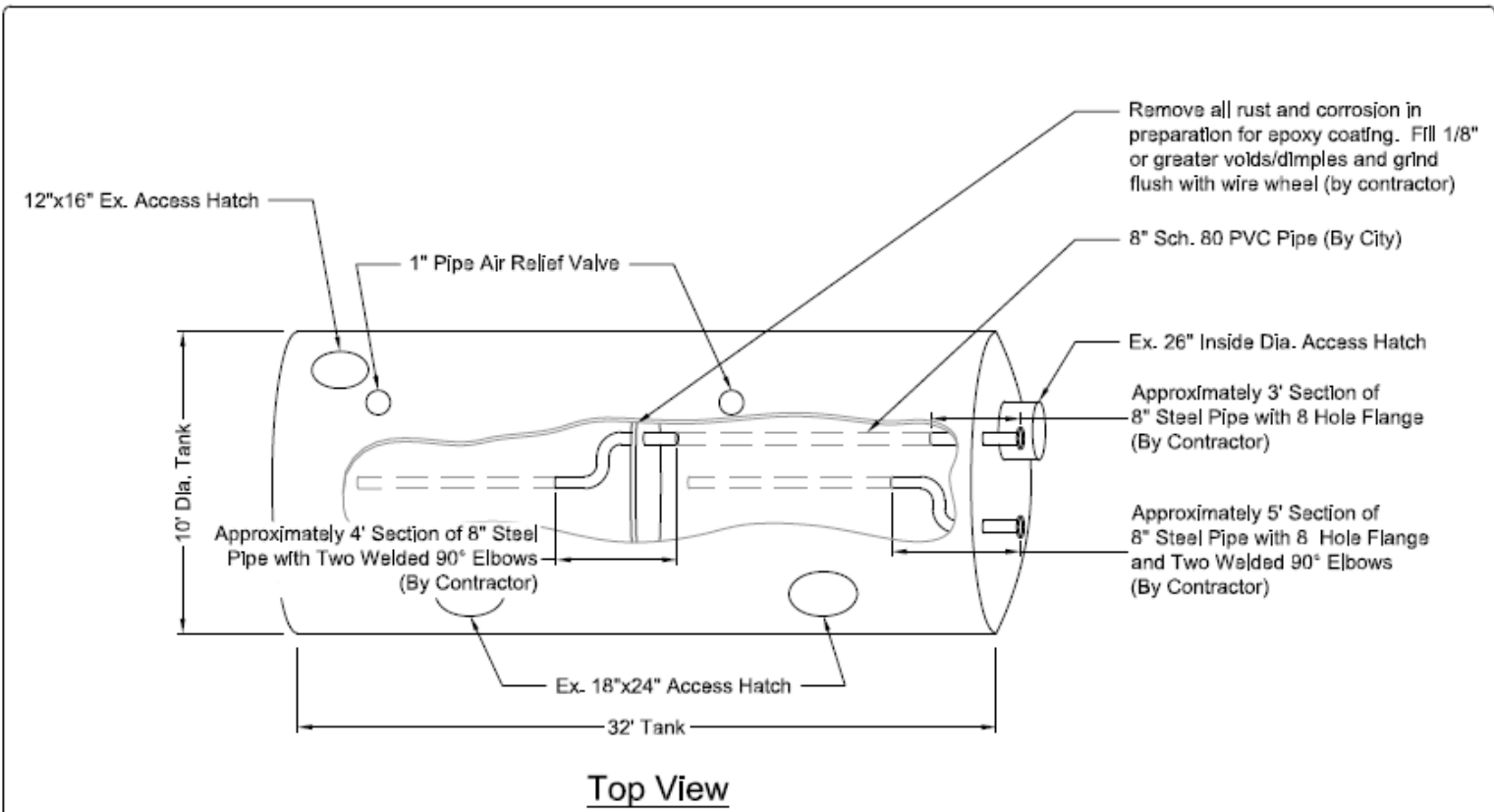
Michael Landis, Member

Date _____

EXHIBIT A

Picture Filter #4





NOTE: INFORMATION SHOWN IS APPROXIMATE. ALL BIDDERS ARE RESPONSIBLE TO INSPECT THE EXISTING FILTER TANK AND GATHER REQUIRED INFORMATION FOR BIDDING PURPOSES.

The City Of Goshen Department of Public Works & Safety Office of Engineering 204 East Jefferson Street, Goshen, Indiana 46528 Phone: 574-534-2201 Fax: 574-533-0626	CITY OF GOSHEN FILTER TANK RECONDITIONING 2020		Project Number:	K. Hickman
	Designed By:	J. Hoffman	Approved By:	K. Hickman
	Drawn By:	J. Hoffman	Date:	01.22.2021
	FILTER TANK DETAIL WITH CUT AWAY			Scale:
				I-0087-02

Drawing Filter #4

EXHIBIT B



**Engineering Department
CITY OF GOSHEN**

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

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

MEMORANDUM

TO: Board of Public Works and Safety

FROM: Goshen Engineering

RE: **TEMPORARY LANE CLOSURE
PROJECT NO. (STREETS BY NAME/SKYVIEW RD)**

DATE: February 4, 2021

The Engineering Department has received a request for a right-of-way permit on Skyview Rd. from NIPSCO to upgrade existing gas facilities for Lippert Components. As there is not enough working room outside of the roadway to allow for boring. A road cut across Skyview will be required. NIPSCO is proposing to close one lane at a time for the duration of the week (2/8-2/12) and has discussed traffic impacts with Lippert.

Requested Motion: Approve the lane closure along Skyview Rd. for the week of February 8th-12th.