



Board of Public Works & Safety and Stormwater Board

Regular Meeting Agenda

2:00 p.m. April 19, 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

Approval of Agenda

- (1) Life Saving Award: Officer Jade Murphy
- (2) Outdoor Seating: Electric Brew
- (3) Award Quote for Purchase of Single Axle Dump Truck and Approve Agreement with Truck Centers Inc.
- (4) Agreement with Greencroft - 1936 Whispering Pines Court
- (5) Agreement with Greencroft - 2004 Whispering Pines Court
- (6) Agreement with Greencroft - 2006 Whispering Pines Court
- (7) Agreement with P. Stutzman - 627 River Race Drive
- (8) Agreement with Martin Miller & Sons - Floor Restoration
- (9) Community Recycling Education Grant Agreement



- (10) Electric Vehicle Charging Station Agreement with MACOG
- (11) Acceptance of Dedication of Right-of-way - 102 Olive St.
- (12) Dedication of Right-of-way - 475 Steury Ave
- (13) Kercher Road Lane Restrictions - Messick to Railroad
- (14) North Main Lane Restrictions - JN 2016-0020
- (15) Olive Street Closure - JN 2019-0046
- (16) Resolution 2021-12: Approve the Sale of Real Estate at 2601 Woodland Drive

Privilege of the Floor

Approval of Civil City and Utility Claims

Adjournment



Jose' D. Miller

Chief of Police

111 E Jefferson St
Goshen, Indiana 46528

TO: Goshen Board of Public Works & Safety
Mayor Jeremy Stutsman
Member Mike Landis
Member Mary Nichols

Date: April 19th, 2021

From: Jose' Miller, Chief of Police

Reference: Life Saving Award for Officer Jade Murphy

We would like to present Officer Jade Murphy a Life Saving Award for her quick response that resulted in the saving of a life on March 27th, 2021. On this date, Officer Murphy responded to a call for a possible drug overdose. Upon arrival, the male subject was unresponsive and stopped breathing. Officer Murphy immediately began chest compressions and the subject began breathing slightly. Medics arrived and began treatment while administering Narcan. The subject began breathing and became slightly responsive. After becoming more stable, the male subject was transported to Goshen General Hospital for further medical treatment. Without the quick actions performed by Officer Murphy the situation could have ended in a different manner. I would like to personally thank Officer Murphy for her actions and am proud to have officers such as her on the Goshen Police Department.

Officer Murphy will be present for the award

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

Jose' Miller #116
Chief of Police

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

Telephone: (574) 533-8661

Hearing Impaired: (574) 533-1826

FAX: (574) 533-1826



City of Goshen
Board of Public Works

I am submitting an Application for Temporary Outdoor Seating. I realize that this request/application will require a variance from the Board of Works, but I am making this amended request with the hope that the variance might be made to still provide for outdoor seating.

This request for a variance removes the required decking, due to the incredible cost of construction and the removal/storage during the off-season. The space and set up requested will be the same as last year; three parking spaces, surrounded with rented fencing.

Thanks for your considerations.

Myron Bontrager
The Electric Brew

Application for Temporary Outdoor Seating in Public Right-of-Way
City of Goshen, Indiana

Name of Business: <i>The Electric Brew</i>	Business Phone Number: <i>574-533-5990</i>
Applicant Name: <i>Aycon Bontrager</i>	Applicant Phone Number: (required for after-hours contact) <i>574-202-0928</i>
Address: <i>118 E Washington St</i>	
Installation Date: (On or After April 1 st) <i>April 15th 2021</i>	Removal Date: (On or Before October 30 th) <i>Oct. 30, 2021</i>

PERMIT APPLICANT

[Signature]
Signature *3-23-2021*
Date

LIABILITY INSURANCE REQUIREMENTS

\$1M General Liability Insurance Yes No

APPLICATION FEE:

The fee for each Outdoor Seating Right-of-Way application shall be \$20.00. Please make check payable to "CITY OF GOSHEN"

Date Paid _____ Cash Check # _____

City of Goshen "Approval of Permit"

City Engineer Date Jeremy Stutsman, Mayor Date

Michael Landis, Board Member Date Mary Nichols, Board Member Date

Application Checklist

- Complete the application form
- Attach a scaled drawing showing the design of the installation with dimensions
- Include signed letters of support from adjacent property owners, if applicable
- Provide pictures or drawings that illustrate the materials to be used in the installation
- Provide a brief description of operations including if alcohol sales will occur and hours of operation
- Supply certificate of liability insurance
- If vehicular traffic will be impacted by construction, include an installation and removal plan showing traffic maintenance accommodations *N/A*
- Create and provide a maintenance checklist

Application Requirements

Establishments in the Downtown Business District serving food and/or beverages as the primary offering, or banquet facilities and rentable space permitted to allow catering services at the facility may request approval from the City of Goshen to place additional temporary seating outside of the facility in the portion of the public right-of-way directly adjacent to the property. For the purposes of this document, the Downtown Business District is defined as the area being along or between 2nd Street and 5th Street while also being along or between Pike Street and Madison Street. The portion of the public right-of-way directly adjacent to the neighboring properties may also be utilized upon written consent of the that property owner as long as all utilized portions of the right-of-way are contiguous. All approved installations and placement of private effects within the public right-of-way must be temporary and will only be allowed from April 1st to October 30th, at which time, the outdoor seating within the right-of-way privilege expires and the right-of-way must be returned to its original condition. Applications must be submitted on a yearly basis and all requests to the City of Goshen will require the following criteria be met prior to approval:

- All seating must allow access to public utilities, waste collection receptacles, hydrants, alleys, manhole covers, ADA parking spaces, and driveways, and must adhere to all standard codes, rules and guidelines for such establishments, including those set forth by the Indiana Alcohol and Tobacco Commission, if applicable.
- At a minimum, a 5-foot walkway must be maintained free of all obstructions on either:
 1. A portion of the sidewalk with a cross slope of 2.0% or less, or
 2. The most level 5-foot wide section of walkway as determined by the Engineering Department.
- If table service is to be offered, separation must be provided between seating and walkway through placement of a vertical barrier with a minimum height of 36 inches. The barrier must be free-floating, not damage the sidewalk surface, and not cause a trip hazard within the defined walkway.

- All necessary electrical connections must be encased in a cord safety cover.

Temporary walkways and seating areas constructed in adjacent parking spaces must be approved by the Board of Public Works and Safety, will be approved subject to parking demand, and will require the following criteria be met:

- All temporary walkways and seating areas must be on constructed surfaces that are a minimum of four inches high along the travel lane of the adjacent roadway, covered in slip-resistant material, and have a minimum load bearing weight of 100 lbs./sq. ft.
- All temporary walkway and seating construction must allow the existing drainage patterns to be maintained and must provide a clear area adjacent to the curb in the roadway to allow runoff to flow. The required opening shall be no less than 12 inches in width and have a height of two inches or the height of the adjacent curb, whichever is greater.
- Constructed walkways must meet all guidance set forth in the U.S. Access Board's Proposed Rights-of-Way Accessibility Guidelines and provide a minimum walkway width of five feet.
- All temporary walkways and seating areas must be separated from the adjacent roadway with a vertical barrier that is a minimum of 36-inches high. The vertical barrier must be rigid, fastened securely to the constructed surface, and have no passable gaps greater than 6-inches. The vertical barrier, or delineators/bollards with reflective tape placed in addition to the barrier, must be placed between 18 and 36 inches away from the lane line of the adjacent travel lane and must be easily visible to the traveling motorist on said facility.
- A 3-foot clear area must be provided as a buffer between any construction and the closest parking space or driveway and the installation cannot obstruct vehicle sight lines as determined by the Engineering Department.
- Where requested by the City, additional separation and or protection may be required on the upstream end (end at risk of vehicle impact) of the construction. These determinations will be based on vehicle speed and a driver expectancy* in the adjacent roadway.

*Driver expectancy refers to a driver's readiness to respond to hazards that are expected to be in a particular type of roadway corridor. If a hazard is atypical to the corridor than it is considered to be outside the expectancy of the driver.

Operation and Maintenance

Applicants are solely responsible for the maintenance and upkeep of their installations. This includes all duties and costs related to keeping the installation clean and in good condition. Areas should be cleaned each day of operation and any damage repaired promptly. Proper maintenance is a condition of the permission to install, and failure to conduct proper maintenance will result in the loss of permissions. The following list should be used as a minimum maintenance checklist:

- Wipe down table and chairs
- Clean up rubbish within and around the area
- Sweep in and around the area
- Remove debris against the outside edge of the barrier and along curb to help maintain free flow of runoff
- Water and maintain installed plantings

The City reserves the right to remove the installation if emergency or utility work needs to be conducted. The applicant will be responsible for all costs associated with the disassembly and removal of the installation.

Terms and Conditions

By applying for the Outdoor Seating in Public Right-of-Way of the Downtown Business District, Applicant agrees and shall comply with all terms and conditions included in this application and any related permit issued by the City of Goshen ("City"), which terms and conditions are detailed herein. Applicant acknowledges and agrees that the City may, in its sole discretion, deny or reject any application site that presents safety or traffic circulation concerns. Further, the City may, in its sole discretion, limit, reduce, or revoke any permit issued that presents safety or traffic circulation concerns.

- General Terms and Conditions.** Applicant acknowledges that this and any permit issued are revocable, at the sole discretion of the City, and temporary. As a result, any permit issued by the City shall be a revocable, temporary license permitting the applicant to operate an outdoor seating area for a limited period of time. Any permit issued creates no other property interest than a revocable license. This or any permit issued does not create a private right to occupy the public right-of-way or diminish the Mayor's, or his or her designee, authority to oversee and manage the use of the public right-of-way in the City's best interest. This revocable right-of-way privilege for outdoor seating is subject to modification or revocation at the City's sole discretion. For installations with impacts to parking spaces or vehicular alleyways, Applicant agrees and acknowledges that the City's Engineering Department will review the application and approve or deny the application for submission to the Board of Public Works and Safety and that the City's Board of Public Works and Safety will review the application and grant, grant with conditions, or deny the

application. Applicant agrees and acknowledges that for all other installations the City's Engineering Department will review the application and grant, grant with conditions, or deny the application. Applicant agrees and acknowledges that the Board of Public Works and Safety or the City's Engineering Department must approve the permit prior to the start of work. Applicant agrees and acknowledges that the City has the authority to condition or revoke approvals deemed to have been improvidently granted or inappropriate in light of new information or changed circumstances. In addition, the City may impose conditions on new or existing approvals in order to promote the public health, safety, and welfare and to mitigate adverse impacts that have arisen or may arise in connection with a new or expanded outdoor seating area approved under this program. Anyone who wishes to challenge the approval or denial may seek reconsideration by the City Engineer by submitting the appeal to the approval or denial via email to the City's Engineering Department. This shall be the exclusive means of appealing any approvals granted or revoked under the program. The City Engineer shall have the sole discretion to approve or reject a challenge, but such determination shall consider application requirements, program guidelines, and public health, safety, and welfare needs.

B. Operating Terms and Conditions. Applicants by applying for an Outdoor Seating Permit agree to comply with the following operating conditions:

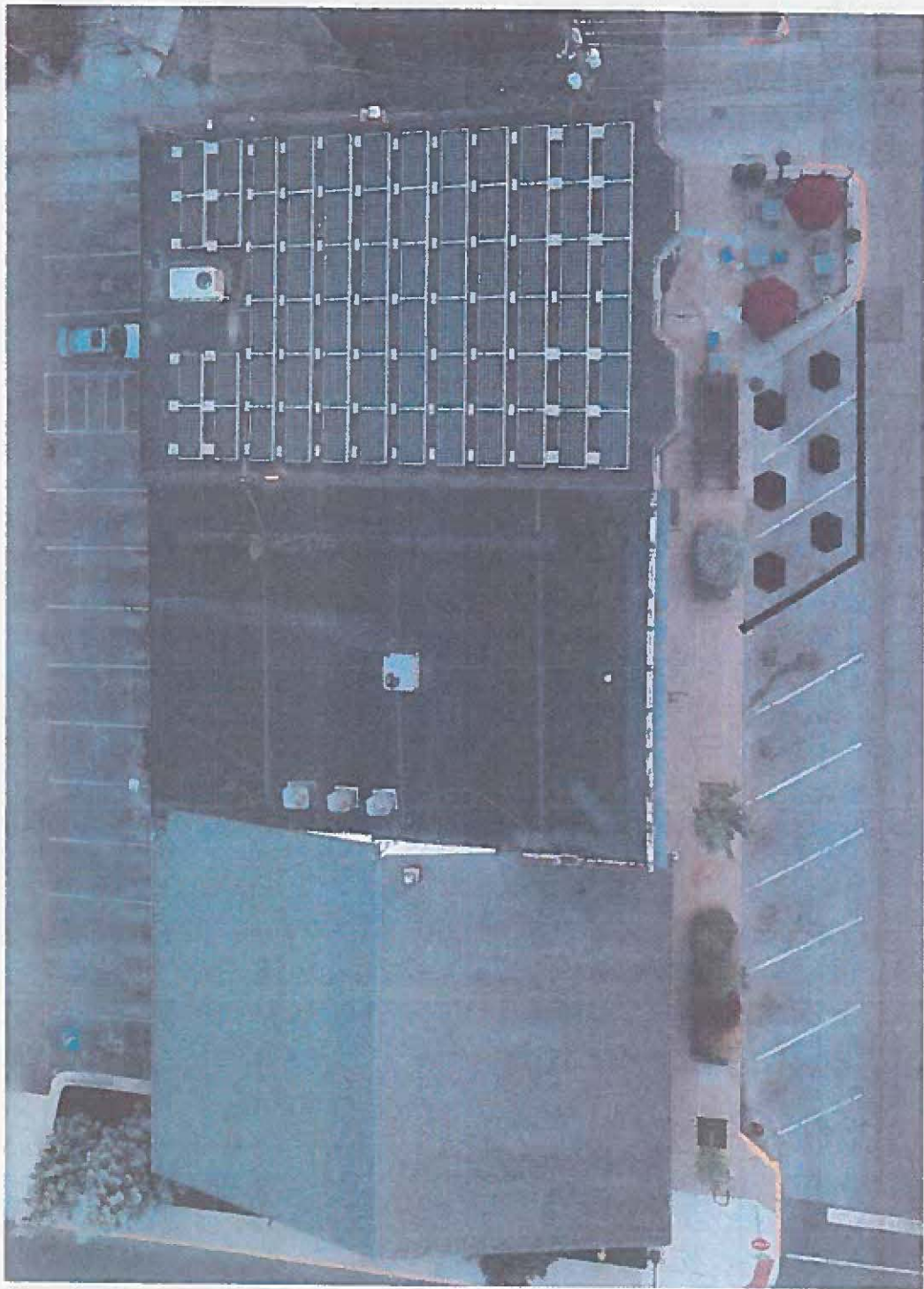
1. Applicant shall comply with and enforce customer compliance with state and local requirements for restaurant and bar operation
2. Applicant shall be responsible for properly cleaning and disinfecting all dining tables and chairs as needed or required by local health requirements
3. Applicant shall have adequate on-site hand sanitizing and hand-washing stations available to employees and customers
4. Applicant shall be responsible for coordinating any issues or permissions required from neighboring operators affected by its proposed site
5. Applicant shall comply with all required liquor laws and be responsible for coordinating compliance with applicable local and state authorities
6. Applicant shall not store or prepare food within the City's right-of-way

C. Standard Terms and Conditions: Outdoor Seating in Public Right-of-Way of the Downtown Business District. Each applicant receiving permission to establish outdoor seating area in the right-of-way ("Permittee") agrees and shall abide by the following standard terms and conditions:

1. **COVID-19 Health Requirements and Other Standard Conditions.** The Permittee shall comply and further shall cause its employees, agents, guests, invitees, and contractors to comply with all federal, state and local statutes, rules, and orders addressing public health and social distancing, including any orders issued by the Elkhart County Health Department ("Public Health") and/or the City of Goshen ("City") that might apply to outdoor seating areas in the right-of-way. This shall include requirements governing social distancing, face covering, and other requirements for restaurants from the State of Indiana. In the event of a conflict between Public Health and state guidance, Permittee shall comply with whichever is more protective of the public health as determined by the City. In addition, the Permittee shall comply and further shall cause its employees, agents, guests, invitees, and contractors to comply with these terms and conditions and any other rules or regulations established by the City that might apply to outdoor seating areas in the right-of-way, which the City may modify or supplement from time to time in order to protect and promote the public health, safety, and welfare.
2. **Expenses.** All expenses associated with Permittee's establishment and operation of outdoor seating in the right-of-way shall be borne by Permittee. The City shall not be responsible for any costs associated with the Permittee's establishment and operation of outdoor seating in the right-of-way.
3. **Establishment of Outdoor Seating Area.** In establishing outdoor seating in the right-of-way, Permittee shall not modify, alter, or demolish existing curbs, sidewalks, streets or other encroachments within or near the right-of-way or attach furniture or other fixtures using fasteners, adhesives, or other invasive means, unless specifically approved by the City as part of the City's approval of Permittee's plans. Permittee acknowledges and agrees to have the installation inspected by the Engineering Department prior to use.
4. **Maintenance of Outdoor Seating Area.** Following the Permittee's establishment and operation of outdoor seating in the right-of-way, Permittee shall maintain the area in good, clean and safe condition and repair and in accordance with applicable City rules and regulations. If the City determines that the outdoor seating area poses a hazardous condition, has caused damage to City property, or is otherwise not being properly maintained, the City may require Permittee to immediately take such action as is necessary to rectify the situation to the City's satisfaction. If Permittee fails to correct the identified hazardous condition, improper maintenance, damage, or other problem caused by the outdoor seating area, the City may do so; whereupon Permittee shall pay all costs incurred by the City, together with interest thereon from the date that the City pays or incurs such costs at a reasonable rate of interest determined by the City, within thirty (30) days after the City's written demand.
5. **City's Right to Enter upon Occupied Right-of-Way.** Permittee acknowledges that the City and its authorized agents have unlimited right to enter upon the right-of-way at any time for any purpose,

including without limitation to inspect the right-of-way and permitted encroachments; provided, however, the City shall have no duty to inspect.

6. **Rights of Utility Companies.** All rights herein granted to Permittee establish and operate outdoor seating area in the right-of-way are subject and subordinate to the rights of any and all utility companies that may now or hereafter have utility lines and/or other utility installations within the right-of-way. Permittee shall not alter, relocate, or otherwise interfere with such utility lines and installations and shall not do anything that will impair such utility companies' right to enter upon the right-of-way from time to time for all purposes associated with the operation, maintenance, repair, replacement or removal of such utility lines and installations. Permittee shall ensure that such utility companies have continued access to the subject area, 24 hours per day, 7 days per week, 52 weeks per year.
7. **Insurance.** During the period in which this revocable privilege is in effect, Permittee shall maintain a policy of General Liability insurance with respect to the right-of-way and the outdoor seating area in an amount not less than One Million Dollars per occurrence, combined single limit, naming the City as an additional insured. Permittee shall furnish to the City a certificate of insurance evidencing such insurance prior to commencing construction of Permittee's permitted encroachments, unless otherwise authorized by the City.
8. **Waiver of Claims for Damage.** The City shall have no responsibility or liability for loss or damage to any person or property including the permitted encroachments or theft of any permitted encroachments or any items of personal property that may at any time be on the right-of-way, including without limitation damage caused by the general public, trespassers, graffiti, thrown objects, wind, hail fire, or other casualty, no matter how such damage is caused. As a material inducement to the City to grant this outdoor seating privilege, Permittee hereby waives, as against the City and its elected officials, officers, employees, agents, guests, invitees, and contractors, all claims and liability, and on behalf of Permittee's insurers, rights of subrogation, with respect to property damaged or destroyed by fire or other casualty or any other cause, no matter how caused.
9. **Indemnification.** Permittee shall indemnify, defend, and save the City, its elected officials, officers, employees, agents, and contractors harmless from and against any and all losses, damages, settlements, costs, charges professional fees, and other expenses and liabilities of every kind and character (including without limitation attorney fees) arising out of or related to any and all claims, liens, demands, obligations, actions, proceedings, or causes or action of every kind and character in connection with Permittee's establishment and operation of outdoor seating area in the right-of-way, use of the right-of-way, or violation of the provisions set forth in this outdoor seating privilege, including without limitation any of the foregoing that may arise or be claimed with respect to any death, personal injury, or loss of or damage to property on or about the right-of-way. Permittee shall assume the defense (with counsel acceptable to the City) and settlement of any and all such suits or other legal proceedings brought against the City and shall pay all judgements entered in such suits or other legal proceedings. The assumption of liability and indemnity obligations of Permittee under this outdoor seating privilege shall survive the termination of this outdoor seating privilege with respect to matters arising prior thereto.
10. **Compliance with all Applicable Laws.** Permittee shall at all times maintain compliance with all applicable federal, state and local laws, regulations, ordinances, or other rules.
11. **Adverse Impacts on Adjacent Properties.** Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, or removal of the permitted encroachments.
12. **Accessibility.** Permission for outdoor seating in the right-of-way shall be conditioned on maintenance of accessible conditions along the sidewalk adjacent to the outdoor at least 60-inches in width at all points adjacent to the outdoor seating area, which area shall be permitted to be narrowed due to existing sidewalk fixtures (e.g., light posts, fire hydrants, and other fixtures) but in no case shall be narrower than 48-inches for a length of more than 2-feet.
13. **City's Right to Revoke.** The City shall have the right to revoke or alter, at its sole discretion, this outdoor seating privilege, upon providing written notice to Permittee. Within 14-days, unless otherwise agreed to by the City, Permittee shall remove the permitted encroachment and restore the right-of-way to a condition that is acceptable to the City.
14. **Obligation to Remove Permitted Encroachment.** If Permittee fails to timely remove the permitted encroachment and restore the right-of-way as required under this outdoor seating privilege, the City may do so at Permittee's expense. All obligations of Permittee hereunder that have accrued but have not been fully performed as of the effective date of the termination of this outdoor seating privilege shall survive such termination until fully performed.
15. **Transfer of Permittee's Property.** This outdoor seating privilege is personal to Permittee, shall not inure to the benefit of Permittee's successors-in-interest with respect to Permittee's property, and shall not be recorded in the public records. Permittee shall provide the City thirty (30) days' prior written notice of its intent to close on the sale or transfer of Permittee's property. Upon Permittee's sale or transfer of Permittee's property, this outdoor seating privilege shall automatically terminate. Prior to the closing on any such sale or transfer, unless the City has granted, and the purchaser or transferee has accepted, an outdoor seating privilege for the permitted encroachments and restore the right-of-way to a condition that is acceptable to the City.



Ignition Music Garage

120 E Washington Street

Goshen IN 46528

574-971-8282

March 24, 2021

City of Goshen:

The Electric Brew has asked if Ignition would mind their petition for the use of three parking spaces again this summer for outdoor seating. I feel like the extra space for seating is a nice addition to the Washington Block and would not mind at all if they were granted the spaces. The tables and umbrellas provide a welcoming eye-catching allure to the side street. If you have any questions please feel free to reach out to us.

Sincerely,

Julie Hershberger

Outdoor Patio Seating Operation and Maintenance Plan

1. Tables will be cleared and wiped regularly during the day
2. Patio will be cleared of debris during the day as needed
3. Umbrellas will be closed at the close of the day and reopened in the morning.
4. Flowers/plants will be kept trimmed and watered regularly



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

April 19, 2021

To: Board of Public Works and Safety

From: Carla Newcomer

Subject: Award Quote for Purchase of Single Axle Dump Truck and Approve Agreement with Truck Centers Inc.

The City solicited sealed bids for the purchase of a Single Axle Dump Truck in accordance with Indiana Code § 5-22-8-3.

Below is a summary of the quotes submitted:

Single Axle Dump Truck	<u>Truck Centers, Inc.</u>	Selking International Trucks	
	\$176,328.00	\$178,136.41	

The Street Department would like to purchase a 2022 Single Axle Dump Truck in the amount of \$176,328.00 from Truck Centers, Inc., South Bend, Indiana. The same purchase from Selking International Trucks would be \$178,136.41.

Suggested motions:

Move to award the quote for purchase of the 2022 Single Axle Dump Truck for a total purchase price of \$176,328.00 from Truck Centers, Inc. as the lowest responsible and responsive bidder.

Move to approve and execute the Agreement with Truck Centers, Inc. for the purchase of a Single Axle Dump Truck in the amount of \$176,328.00

CONTRACT

Purchase of One (1) Single Axle Dump Truck

Solicitation No. B: 2021-04

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

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

SCOPE OF PURCHASE

The Supplier 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 "Purchase of One (1) Single Axle Dump Truck, Solicitation No. B: 2021-04" project in accordance with and as described in further detail in this contract and in the Specification Documents attached to this contract.

The scope of purchase shall include a 2022 Freightliner 108SD Single Axle Dump Truck.

In the event of a conflict between a provision in the Specification Documents and the Supplier's bid, 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 the Supplier's quote 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. Supplier's Itemized Bid;
2. Non Collusion Affidavit;
3. Any addenda or changes to the contract documents and specifications, including properly approved change orders.

Supplier 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.

DELIVERY

Supplier will act as expeditiously as possible to deliver the vehicle and equipment to be purchased for this project within two hundred seventy (270) days from notice to proceed. The City acknowledges that factory or manufacturing delays outside the control of Supplier may delay the delivery of the vehicle beyond the 270 days.

COMPENSATION, BASIS AND METHOD OF PAYMENT

The City agrees to compensate Supplier for the vehicle and equipment provided in this contract in accordance with Supplier's itemized bid for the amount of One Hundred Seventy-Six Thousand Three Hundred Twenty-Eight Dollars (\$176,328.00).

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 Supplier for the purchase

under this contract shall be made upon completion and acceptance of the delivery. The Supplier shall submit a detailed invoice based on established contract price to City of Goshen for payment. Supplier 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 all invoiced items are received and satisfactory performance of the Supplier has been attained. Payment is deemed to be made on the date of mailing the check.

LIQUIDATED DAMAGES

It is agreed by the parties that time is of essence and in the event completion and delivery of the vehicle and equipment is not made within the time set forth in this solicitation, damage will be sustained by the City. The parties further agree that it is and will be impractical and extremely difficult to ascertain and determine the actual damage which the City will sustain in the event of and by reason of such delay. Therefore, it is agreed that the Supplier shall pay to the City of Goshen, as fixed and liquidated damages, and not as a penalty, One Hundred Dollars (\$100.00) per calendar day for each and every calendar day's delay in making delivery in excess of the time specified. It is further agreed that in the event such damages are sustained by the City, the City may deduct the amount of the liquidated damages from any moneys due or that may become due to the Supplier under this contract.

INDEPENDENT CONTRACTOR STATUS

Supplier 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 Supplier or its agents, employees, or subcontractors of the Supplier.

NON-DISCRIMINATION

The Supplier 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 Supplier agrees the Supplier or any subcontractors, or any other person acting on behalf of the Supplier 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 Supplier 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 Supplier and its agents, officers, and employees or resulting from or related to the Supplier's performance or failure to perform as specified in this contract.

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 such as factory or manufacturing delays beyond the control of the Supplier, natural disaster, 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, but shall do everything possible to resume performance. The notification shall provide evidence of the force majeure event to the satisfaction of the other party. After the occurrence causing the Force Majeure is no longer causing a delay, the delivery of the purchase shall be extended by the number of days equal to the occurrence's delay. 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 Supplier fails to provide the vehicle and equipment or comply with the provisions of this Contract or fails to fulfill any warranty, and Supplier is not able to correct the breach within fifteen (15) calendar days after the City provides written notice to Supplier of such breach, the City may provide or have provided alternative provisions to correct and/or complete the projects. Supplier shall be responsible for any and all costs that are incurred and such costs may be deducted from amounts owed to Supplier expenses to correct the breach or complete the project. If such costs exceed the amounts owed to Supplier, Supplier is liable to reimburse the City for such costs.

If Supplier fails to provide the vehicle and equipment or comply with the provisions of this Contract, then Supplier may be considered in default.

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

- (1) There is a substantive breach by Supplier of any obligation or duty owed under the provisions of this Contract.
- (2) Supplier is adjudged bankrupt or makes an assignment for the benefit of creditors.
- (3) Supplier becomes insolvent or in an unsound financial condition so as to endanger performance under the Contract.
- (4) Supplier becomes the subject of any proceeding under law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors.
- (5) A receiver, trustee, or similar official is appointed for Supplier or any of Supplier's property.
- (6) Supplier is determined to be in violation of federal, state, or local laws or regulations and that such determination renders Supplier unable to provide the vehicle and equipment under the contract.
- (7) The contract or any right, monies or claims are assigned by Supplier 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. Supplier shall be paid for the vehicle and equipment provided 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 Supplier. In such event, the City may issue a written notice of default and provide a period of time in which Supplier 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 purchase the vehicle and equipment or otherwise secure similar vehicle and equipment in any manner deemed proper by the City, and Supplier 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 Supplier 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.

AMENDMENTS

It is mutually understood and agreed that no alteration or variation of the terms in this contract including the scope of purchase, provision of the purchase 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: Legal Department
204 East Jefferson St.
Goshen, IN 46528

Address for notices to Truck Centers, Inc.

Truck Centers, Inc.
4145 Ameritech Drive
South Bend, IN 46628

APPLICABLE LAWS

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

MISCELLANEOUS

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.

NO INVESTMENT IN IRAN

Pursuant to IC 5-22-16.5, Supplier hereby certifies they do NOT provide \$20 million dollars or more in goods or services to the energy sector of Iran. Supplier also certifies it is not a financial institution that extends \$20 million dollars or more in credit that will provide goods or services to the energy sector of Iran or extends \$20 million dollars or more in credit to a person identified on the list as a person engaging in investment activities in Iran.

CONTRACTING WITH RELATIVES

Pursuant to IC 36-1-21, Supplier who is an individual who is a relative of an elected official of the City of Goshen or a business entity that is wholly or partially owned by a relative of an elected official of the City of Goshen hereby certifies that they have notified in writing both the elected official of the City of Goshen and the City's legal department prior to entering into this contract.

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 SUPPLIER

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 Supplier.

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

City of Goshen
Board of Public Works and Safety

Truck Centers, Inc.

Jeremy P. Stutsman, Mayor

Rich Stopczynski, Sales Executive

Michael Landis, Member

Date: _____

Mary Nichols, Member

Date: _____



CITY OF GOSHEN LEGAL DEPARTMENT

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

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

April 19, 2021

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

From: Shannon Marks

Subject: Agreement with Greencroft Goshen, Inc.
for Completion of Work at 1936 Whispering Pines Court

Attached for the Board's approval is an Agreement with Greencroft Goshen, Inc. concerning the completion of the construction project at 1936 Whispering Pines Court. 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 Two Hundred Eighty Dollars (\$1,280) is provided to the City 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 Agreement with Greencroft Goshen, Inc. concerning the completion of the construction project at 1936 Whispering Pines Court.

AGREEMENT

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

Permittee obtained a building permit for the construction of a building on Permittee’s real estate at 1936 Whispering Pines Court, 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 2,250 square feet of disturbed area with seed and a temporary stabilization measure such as anchored mulch, hydromulch, or erosion control blankets. In addition, all adjacent and/or affected inlets shall be kept covered until the Site has been completely and permanently stabilized.
- (2) Plant all required landscaping at the Site according to the plan submitted to the Goshen Planning and Zoning Department. This shall include planting one (1) tree.
- (3) Install the approximately 200 square feet of concrete sidewalk at the Site.

SURETY

Permittee agrees to provide Goshen a surety in the amount of One Thousand Two Hundred Eighty Dollars (\$1,280) (“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: Greencroft Goshen, Inc.
 1721 Greencroft Blvd., PO Box 819
 Goshen, IN 46527-0819

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.

Goshen:

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

Jeremy P. Stutsman, Mayor

Date: _____

Permittee:

Greencroft Goshen, Inc.

By: _____

Printed: _____

Title: _____

By: _____

Printed: _____

Title: _____

Date: _____



CITY OF GOSHEN LEGAL DEPARTMENT

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

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

April 19, 2021

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

From: Shannon Marks

Subject: Agreement with Greencroft Goshen, Inc.
for Completion of Work at 2004 Whispering Pines Court

Attached for the Board's approval is an Agreement with Greencroft Goshen, Inc. concerning the completion of the construction project at 2004 Whispering Pines Court. 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 Four Hundred Fifty-five Dollars (\$1,455) is provided to the City 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 Agreement with Greencroft Goshen, Inc. concerning the completion of the construction project at 2004 Whispering Pines Court.

AGREEMENT

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

Permittee obtained a building permit for the construction of a building on Permittee’s real estate at 2004 Whispering Pines Court, 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 3,650 square feet of disturbed area with seed and a temporary stabilization measure such as anchored mulch, hydromulch, or erosion control blankets. In addition, all adjacent and/or affected inlets shall be kept covered until the Site has been completely and permanently stabilized.
- (2) Plant all required landscaping at the Site according to the plan submitted to the Goshen Planning and Zoning Department. This shall include planting one (1) tree.
- (3) Install the approximately 180 square feet of concrete sidewalk at the Site.

SURETY

Permittee agrees to provide Goshen a surety in the amount of One Thousand Four Hundred Fifty-five Dollars (\$1,455) (“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: Greencroft Goshen, Inc.
1721 Greencroft Blvd., PO Box 819
Goshen, IN 46527-0819

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.

Goshen:

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

Jeremy P. Stutsman, Mayor

Date: _____

Permittee:

Greencroft Goshen, Inc.

By: _____

Printed: _____

Title: _____

By: _____

Printed: _____

Title: _____

Date: _____



CITY OF GOSHEN LEGAL DEPARTMENT

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

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

April 19, 2021

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

From: Shannon Marks

Subject: Agreement with Greencroft Goshen, Inc.
for Completion of Work at 2006 Whispering Pines Court

Attached for the Board's approval is an Agreement with Greencroft Goshen, Inc. concerning the completion of the construction project at 2006 Whispering Pines Court. 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 Three Hundred Dollars (\$1,300) is provided to the City 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 Agreement with Greencroft Goshen, Inc. concerning the completion of the construction project at 2006 Whispering Pines Court.

AGREEMENT

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

Permittee obtained a building permit for the construction of a building on Permittee’s real estate at 2006 Whispering Pines Court, 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 3,650 square feet of disturbed area with seed and a temporary stabilization measure such as anchored mulch, hydromulch, or erosion control blankets. In addition, all adjacent and/or affected inlets shall be kept covered until the Site has been completely and permanently stabilized.
- (2) Plant all required landscaping at the Site according to the plan submitted to the Goshen Planning and Zoning Department. This shall include planting one (1) tree.
- (3) Install the approximately 130 square feet of concrete sidewalk at the Site.

SURETY

Permittee agrees to provide Goshen a surety in the amount of One Thousand Three Hundred Dollars (\$1,300) (“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: Greencroft Goshen, Inc.
1721 Greencroft Blvd., PO Box 819
Goshen, IN 46527-0819

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.

Goshen:

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

Jeremy P. Stutsman, Mayor

Date: _____

Permittee:

Greencroft Goshen, Inc.

By: _____

Printed: _____

Title: _____

By: _____

Printed: _____

Title: _____

Date: _____



CITY OF GOSHEN LEGAL DEPARTMENT

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

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

April 19, 2021

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

From: Shannon Marks

Subject: Agreement with Phyllis Stutzman
for Completion of Work at 627 River Race Drive

Attached for the Board's approval is an Agreement with Phyllis Stutzman concerning the completion of the construction project at 627 River Race 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 Six Hundred Sixty Dollars (\$660) is provided to the City 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 Agreement with Phyllis Stutzman concerning the completion of the construction project at 627 River Race Drive.

AGREEMENT

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

Permittee obtained a building permit for the construction of a building on Permittee’s real estate at 627 River Race 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 1,540 square feet of disturbed area with seed and a temporary stabilization measure such as anchored mulch, hydromulch, or erosion control blankets. In addition, all adjacent and/or affected inlets shall be kept covered until the Site has been completely and permanently stabilized.
- (2) Plant all required landscaping at the Site according to the plan submitted to the Goshen Planning and Zoning Department. This shall include planting one (1) tree.

SURETY

Permittee agrees to provide Goshen a surety in the amount of Six Hundred Sixty Dollars (\$660) (“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: Phyllis Stutzman
627 River Race 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.

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.

Goshen:

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

Jeremy P. Stutsman, Mayor

Date: _____

Permittee:

Phyllis Stutzman

Date: _____



CITY OF GOSHEN LEGAL DEPARTMENT

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

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

April 16, 2021

To: Board of Public Works and Safety

From: Brandy Henderson

Subject: Agreement Contract with Martin Miller & Sons for floor restoration of Goshen Police and Courts Building and City Hall.

Attached is an agreement contract with Martin Miller & Sons for floor restoration of Goshen Police and Courts Building and City Hall.

The work is to be completed within forty-five (45) calendar days of the effective date of this agreement and Party will be compensated Three Thousand Nine Hundred Dollars (\$3,900.00) for all services provided.

Thank you!

Suggested Motion:

Move to approve, execute and authorize the Mayor to execute the agreement contract with Martin Miller & Sons for floor restoration of Goshen Police and Courts Building and City Hall and shall be compensated Three Thousand Nine Hundred Dollars (\$3,900.00) for all services provided upon completion of the project.

AGREEMENT

Floor Restoration in City Hall, Goshen Police and Courts Building

THIS AGREEMENT is entered into on _____, 2021, which is the last signature date set forth below, by and between **Martin Miller & Sons** (“Contractor”), whose mailing address is 2081 East Bair Road, Columbia City, Indiana 46725, and **City of Goshen, Indiana**, a municipal corporation and political subdivision of the State of Indiana acting through the Goshen Board of Public Works and Safety (“City”).

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

Section 1. Contractor Duties

Contractor shall provide City the following work which shall include the provision of all labor, supplies, materials, tools, equipment, supervision, insurance and all other items necessary to insert general description (hereinafter referred to as “Duties”). Contractor’s Duties under this agreement include:

- (A) Contractor agrees to provide floor cleaning, stripping, neutralizing and finishing inside the Goshen Police and Court Building at 111 East Jefferson Street, Goshen, Indiana. The scope of work shall include:
 - (i) Clean, strip, neutralize and finish (2 coats) all VCT tile floors in hallway, breakroom and offices upstairs.
 - (ii) Clean, strip, neutralize and finish (2 coats) all terrazzo floors and stairs upstairs.
 - (iii) Clean, strip, neutralize and finish (3 coats) all VCT tile floors in hallway, breakroom and offices downstairs.
- (B) Contractor agrees to provide floor cleaning, stripping, neutralizing and finishing inside City Hall at 202 South 5th Street, Goshen, Indiana. The scope of work shall include:
 - (i) Clean, strip, neutralize and finish (2 coats) all VCT Tile floors and terrazzo floors.
- (C) Contractor shall perform all work at such times when buildings are not open during business hours. Contractor shall coordinate with Denise Blenner of City’s Mayor’s office (574-533-9322) and/or Jeff Halsey, City’s Maintenance Manager (574-260-3111) to gain access to buildings after business hours.

Section 2. Effective Date; Term

- (A) The agreement shall become effective on the day of execution and approval by both parties.
- (B) Contractor shall complete all Duties within forty-five (45) calendar days of the effective date of this agreement.

Section 3. Compensation; Payment

- (A) City agrees to compensate Contractor the sum of Three Thousand Nine Hundred Dollars (\$3,900.00) for performing all Duties.
- (B) Payment shall be upon City’s receipt of a detailed invoice from Contractor. The invoice shall be sent to the following address, or at such other address as City may designate in writing.

City of Goshen
c/o Mayor’s Office
202 S. 5th Street
Goshen, IN 46528
- (C) Payment will be made within forty-five (45) days following City’s receipt of the invoice. If any dispute arises, the undisputed amount will be paid. Payment is deemed to be made on the date of mailing the check.
- (D) Contractor is required to have a current W-9 form on file with the Goshen Clerk-Treasurer’s Office before City will issue payment.

Section 4. Independent Contractor

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

Section 5. Non-Discrimination

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

Section 6. Employment Eligibility Verification

- (A) Contractor shall enroll in and verify the work eligibility status of all Contractor's newly hired employees through the E-Verify program as defined in Indiana Code § 22-5-1.7-3. Contractor is not required to participate in the E-Verify program should the program cease to exist. Contractor is not required to participate in the E-Verify program if Contractor is self-employed and does not employ any employees.
- (B) Contractor shall not knowingly employ or contract with an unauthorized alien, and contractor shall not retain an employee or continue to contract with a person that the Contractor subsequently learns is an unauthorized alien.
- (C) Contractor shall require their subcontractors, who perform work under this contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.
- (D) City may terminate the contract if Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by City of a breach.

Section 7. Contracting with Relatives

Pursuant to Indiana Code § 36-1-21, if the Contractor is a relative of a City of Goshen elected official or a business entity that is wholly or partially owned by a relative of a City of Goshen elected official, the Contractor certifies that Contractor has notified both the City of Goshen elected official and the City of Goshen Legal Department of the relationship prior to entering into this agreement.

Section 8. No Investment Activities in Iran

In accordance with Indiana Code § 5-22-16.5, Contractor certifies that Contractor does not engage in investment activities in Iran as defined by Indiana Code § 5-22-16.5-8.

Section 9. Indemnification

Contractor shall indemnify and hold harmless the City of Goshen and City's agents, officers, and employees from and against any and all liability, obligations, claims, actions, causes of action, judgments, liens, damages, penalties or injuries arising out of any intentional, reckless or negligent act or omission by Contractor or any of Contractor's agents, officers and employees during the performance of work under this agreement. Such indemnity shall include reasonable attorney's fees and all reasonable litigation costs and other expenses incurred by City only if Contractor is determined liable to the City for any intentional, reckless or negligent act or omission in a judicial proceeding, and shall not be limited by the amount of insurance coverage required under this agreement.

Section 10. Insurance

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

Section 11. Force Majeure

- (A) Except for payment of sums due, neither party shall be liable to the other or deemed in default under this contract if and to the extent that such party's performance under this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party and could not have been avoided by exercising reasonable diligence. Examples of force majeure are natural disasters or decrees of governmental bodies not the fault of the affected party.
- (B) If either party is delayed by force majeure, the party affected shall provide written notice to the other party immediately. The notice shall provide evidence of the force majeure event to the satisfaction of the other party. The party shall do everything possible to resume performance. If the period of non-performance exceeds thirty (30) calendar days, the party whose ability to perform has not been affected may, by giving written notice, terminate the contract and the other party shall have no recourse.

Section 12. Default

- (A) If Contractor fails to perform the work or comply with the provisions of this agreement, then Contractor may be considered in default.
- (B) It shall be mutually agreed that if Contractor fails to perform the work or comply with the provisions of this contract, City may issue a written notice of default and provide a period of time that shall not be less than fifteen (15) days in which Contractor shall have the opportunity to cure. If the default is not cured within the time period allowed, the contract may be terminated by the City. In the event of default and failure to satisfactorily remedy the default after receipt of written notice, the City may otherwise secure similar work in any manner deemed proper by the City, and Contractor shall be liable to the City for any excess costs incurred
- (C) Contractor may also be considered in default by the City if any of the following occur:
 - (1) There is a substantive breach by Contractor of any obligation or duty owed under the provisions of this contract.

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

Section 13. Termination

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

Section 14. Notice

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

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

Contractor: Martin Miller & Sons
2081 East Bair Road
Columbia City, Indiana 46725

Section 15. Subcontracting or Assignment

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

Section 16. Amendments

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

Section 17. Waiver of Rights

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

Section 18. Applicable Laws

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

Section 19. Miscellaneous

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

Section 20. Severability

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

Section 21. Binding Effect

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

Section 22. Entire Agreement

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

Section 23. Authority to Bind Contractor

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

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

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

Martin Miller & Sons

Jeremy P. Stutsman, Mayor

Michael A. Landis, Member

Mary Nichols, Member

Date Signed: _____

Printed: _____

Title: _____

Date Signed: _____



**Department of Environmental Resilience
CITY OF GOSHEN**

410 W Plymouth Avenue • Goshen, IN 46526

Phone (574) 537-0986

www.goshenindiana.org

environmental @goshencity.com

To: City of Goshen Board of Works & Public Safety & Stormwater

FROM: Theresa Sailor, Environmental Resilience Department

Date: 04/16/2021

Subject: Community Recycling Grant – Proposed Contract between the Indiana Department of Environmental Management and the City of Goshen for a grant award of \$9,867. The City's match is \$4,933 cash and \$4,934 in in-kind staff hours.

The City's (residential waste) landfill numbers are increasing, 15% in 2019 and another 7% in 2020. Last year the City spent \$1.4 million on the pick-up and disposal of residents' waste. The City is generating waste at approximately 2,300 lbs per household, up from 1,781 lbs per household in 2014. This is an unsustainable rate.

This grant will assist the City in developing a solid waste educational program that focuses on reducing waste going to the landfill. This will include

- a partnership with the Goshen Public Library to provide public workshops with notable authors who have written about reducing waste,
- develop and promote local partnerships with businesses and organizations who reduce or divert waste,
- providing a virtual platform to support conversations about reducing waste and low waste products, and
- provide opportunities for the public to sample products and low waste options for everyday needs

The City proposes to help residents become aware of their waste footprint and then successfully reduce it.

Local partners who have expressed support include the Goshen Public Library, LaCasa, Goshen Chamber of Commerce, Goshen College, and Merry Lea Environmental Learning Center.

The anticipated first workshop would be in August 2021.

Suggested Motion: Move to approve the Grant Contract with IDEM and authorize the Mayor to sign on behalf of the Board of Works and Safety.

GRANT AGREEMENT

Contract

This Grant Agreement (this “Grant Agreement”), entered into by and between the Indiana Department of Environmental Management (the “State”) and the City of Goshen (the “Grantee”), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

1. Purpose of this Grant Agreement; Funding Source. The purpose of this Grant Agreement is to enable the State to award a Grant of \$9,867 (the “Grant”) to the Grantee for eligible costs of the services or project (the “Project”) described in **Exhibit A** of this Grant Agreement, which is incorporated fully herein. The funds shall be used exclusively in accordance with the provisions contained in this Grant Agreement and in conformance with Indiana Code § 13-20-22-2 establishing the authority to make this Grant, as well as any rules adopted thereunder. The funds received by the Grantee pursuant to this Grant Agreement shall be used only to implement the Project or provide the services in conformance with this Grant Agreement and for no other purpose.

FUNDING SOURCE:

If Federal Funds: Program Name per Catalog of Federal Domestic Assistance (CFDA):

CFDA # _____

If State Funds: Program Title – Solid Waste Management Fund

2. Representations and Warranties of the Grantee.

A. The Grantee expressly represents and warrants to the State that it is statutorily eligible to receive these Grant funds and that the information set forth in its Grant Application is true, complete and accurate. The Grantee expressly agrees to promptly repay all funds paid to it under this Grant Agreement should it be determined either that it was ineligible to receive the funds, or it made any material misrepresentation on its grant application.

B. The Grantee certifies by entering into this Grant Agreement that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Grant Agreement by any federal or state department or agency. The term “principal” for purposes of this Grant Agreement is defined as an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Grantee.

3. Implementation of and Reporting on the Project.

A. The Grantee shall implement and complete the Project in accordance with **Exhibit A** and with the plans and specifications contained in its Grant Application, which is on file with the State and is incorporated by reference. Modification of the Project shall require prior written approval of the State.

B. The Grantee shall submit to the State a written report ten (10) business days before the expiration of this Grant Agreement. This report shall be submitted once, on a final basis, and shall contain such detail of progress or performance on the Project as is requested by the State.

4. Term. This Grant Agreement commences on the date of the last signature and shall remain in effect for twelve (12) months. Unless otherwise provided herein, it may be extended upon the written agreement of the parties and as permitted by state or federal laws governing this Grant.

5. Grant Funding.

A. The State shall fund this Grant in the amount of \$9,867. The approved Project Budget is set forth as **Exhibit A** of this Grant Agreement, attached hereto and incorporated herein. The Grantee shall not spend more than the amount for each line item in the Project Budget without the prior written consent of the State, nor shall the Project costs funded by this Grant Agreement and those funded by any local and/or private share be changed or modified without the prior written consent of the State.

B. The disbursement of Grant funds to the Grantee shall not be made until all documentary materials required by this Grant Agreement have been received and approved by the State and this Grant Agreement has been fully approved by the State.

6. Payment of Claims.

A. All payments shall be made thirty-five (35) days in arrears in conformance with State fiscal policies and procedures. As required by IC § 4-13-2-14.8, all payments will be by the direct deposit by electronic funds transfer to the financial institution designated by the Grantee in writing unless a specific waiver has been obtained from the Indiana Auditor of State.

B. Requests for payment will be processed only upon presentation of a Claim Voucher in the form designated by the State. Such Claim Vouchers must be submitted with the budget expenditure report detailing disbursements of state, local and/or private funds by project budget line items.

C. The State may require evidence furnished by the Grantee that substantial progress has been made toward completion of the Project prior to making the first payment under this Grant. All payments are subject to the State's determination that the Grantee's performance to date conforms with the Project as approved, notwithstanding any other provision of this Grant Agreement.

D. Claims shall be submitted to the State within sixty (60) calendar days following any purchase(s) or work performed on or for the Project. The State has the discretion, and reserves the right, to NOT pay any claims submitted later than sixty (60) calendar days following any purchase(s) or work provided. All final claims and reports must be submitted to the State within thirty (30) calendar days after the expiration or termination of this agreement. Payment for claims submitted after that time may, at the discretion of the State, be denied. Claims may be submitted on a monthly basis only.

E. Claims must be submitted with accompanying supportive documentation as designated by the State. Claims submitted without supportive documentation will be returned to the Grantee and not processed for payment. Failure to comply with the provisions of this Grant Agreement may result in the denial of a claim for payment.

7. Project Monitoring by the State. The State may conduct on-site or off-site monitoring reviews of the Project during the term of this Grant Agreement and for up to ninety (90) days after it expires or is otherwise terminated. The Grantee shall extend its full cooperation and give full access to the Project site and to relevant documentation to the State or its authorized designees for the purpose of determining, among other things:

- A. whether Project activities are consistent with those set forth in **Exhibit A**, the Grant Application, and the terms and conditions of the Grant Agreement;

- B. the actual expenditure of state, local and/or private funds expended to date on the Project is in conformity with the amounts for each Budget line item as set forth in **Exhibit A** and that unpaid costs have been properly accrued;
- C. that Grantee is making timely progress with the Project, and that its project management, financial management and control systems, procurement systems and methods, and overall performance are in conformance with the requirements set forth in this Grant Agreement and are fully and accurately reflected in Project reports submitted to the State.

8. Compliance with Audit and Reporting Requirements; Maintenance of Records.

A. The Grantee shall submit to an audit of funds paid through this Grant Agreement and shall make all books, accounting records and other documents available at all reasonable times during the term of this Grant Agreement and for a period of three (3) years after final payment for inspection by the State or its authorized designee. Copies shall be furnished to the State at no cost

B. If the Grantee is a “subrecipient” of federal grant funds under 2 C.F.R. 200.330, Grantee shall arrange for a financial and compliance audit that complies with 2 C.F.R. 200.500 *et seq.* if required by applicable provisions of 2 C.F.R. 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements).

C. If the Grantee is a non-governmental unit, the Grantee shall file the Form E-1 annual financial report required by IC § 5-11-1-4. The E-1 entity annual financial report will be used to determine audit requirements applicable to non-governmental units under IC § 5-11-1-9. Audits required under this section must comply with the State Board of Accounts *Uniform Compliance Guidelines for Examination of Entities Receiving Financial Assistance from Governmental Sources*, https://www.in.gov/sboa/files/erfa_2016.pdf. Guidelines for filing the annual report are included in **Exhibit B** (Guidelines for Non-governmental Entities).

9. Compliance with Laws.

A. The Grantee shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Grant Agreement shall be reviewed by the State and the Grantee to determine whether the provisions of this Grant Agreement require formal modification.

B. The Grantee and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC § 4-2-6, *et seq.*, IC § 4-2-7, *et seq.* and the regulations promulgated thereunder. **If the Grantee has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC 4-2-6-1, has a financial interest in the Grant, the Grantee shall ensure compliance with the disclosure requirements in IC § 4-2-6-10.5 prior to the execution of this Grant Agreement.** If the Grantee is not familiar with these ethical requirements, the Grantee should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General’s website at <http://www.in.gov/ig/>. If the Grantee or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Grant immediately upon notice to the Grantee. In addition, the Grantee may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

C. The Grantee certifies by entering into this Grant Agreement that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State. The Grantee agrees that any payments currently due to the State may be withheld from payments due to the Grantee. Additionally, payments may be withheld, delayed, or denied and/or this Grant suspended until the Grantee is current in its payments and has submitted proof of such payment to the State.

D. The Grantee warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the Grantee agrees that the State may suspend funding for the Project. If a valid dispute exists as to the Grantee's liability or guilt in any action initiated by the State or its agencies, and the State decides to suspend funding to the Grantee, the Grantee may submit, in writing, a request for review to the Indiana Department of Administration (IDOA). A determination by IDOA shall be binding on the parties. Any disbursements that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest.

E. The Grantee warrants that the Grantee and any contractors performing work in connection with the Project shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Grant Agreement and grounds for immediate termination and denial of grant opportunities with the State.

F. The Grantee affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.

G. As required by IC § 5-22-3-7:

(1) The Grantee and any principals of the Grantee certify that:

(A) the Grantee, except for de minimis and nonsystematic violations, has not violated the terms of:

(i) IC § 24-4.7 [Telephone Solicitation Of Consumers];

(ii) IC § 24-5-12 [Telephone Solicitations]; or

(iii) IC § 24-5-14 [Regulation of Automatic Dialing Machines];

in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and

(B) the Grantee will not violate the terms of IC § 24-4.7 for the duration of this Grant Agreement, even if IC § 24-4.7 is preempted by federal law.

(2) The Grantee and any principals of the Grantee certify that an affiliate or principal of the Grantee and any agent acting on behalf of the Grantee or on behalf of an affiliate or principal of the Grantee, except for de minimis and nonsystematic violations,

(A) has not violated the terms of IC § 24-4.7 in the previous three hundred sixty-five (365) days, even if IC § 24-4.7 is preempted by federal law; and

(B) will not violate the terms of IC § 24-4.7 for the duration of this Grant Agreement even if IC § 24-4.7 is preempted by federal law.

10. Debarment and Suspension.

A. The Grantee certifies by entering into this Grant Agreement that it is not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Grant by any federal agency or by any department, agency or political subdivision of the State. The term "principal" for purposes of this Grant Agreement means an officer, director, owner, partner, key

employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Grantee.

B. The Grantee certifies that it has verified the suspension and debarment status for all subcontractors receiving funds under this Grant Agreement and shall be solely responsible for any recoupments or penalties that might arise from non-compliance. The Grantee shall immediately notify the State if any subcontractor becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the subcontractor for work to be performed under this Grant Agreement.

11. Drug-Free Workplace Certification. As required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana, the Grantee hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. Grantee will give written notice to the State within ten (10) days after receiving actual notice that the Grantee, or an employee of the Grantee in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of grant payments, termination of the Grant and/or debarment of grant opportunities with the State of Indiana for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total amount set forth in this Grant Agreement is in excess of \$25,000.00, the Grantee certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Grantee's workplace and specifying the actions that will be taken against employees for violations of such prohibition; and
- B. Establishing a drug-free awareness program to inform its employees of: (1) the dangers of drug abuse in the workplace; (2) the Grantee's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace; and
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment the employee will: (1) abide by the terms of the statement; and (2) notify the Grantee of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction; and
- D. Notifying in writing the State within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction; and
- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

12. Employment Eligibility Verification. As required by IC § 22-5-1.7, the Grantee hereby swears or affirms under the penalties of perjury that:

- A. The Grantee has enrolled and is participating in the E-Verify program;
- B. The Grantee has provided documentation to the State that it has enrolled and is participating in the E-Verify program;
- C. The Grantee does not knowingly employ an unauthorized alien.
- D. The Grantee shall require its contractors who perform work under this Grant Agreement to certify to Grantee that the contractor does not knowingly employ or contract with an unauthorized alien and that the contractor has enrolled and is participating in the E-Verify program. The Grantee shall maintain this certification throughout the duration of the term of a contract with a contractor.

The State may terminate for default if the Grantee fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

13. Funding Cancellation. As required by Financial Management Circular 2007-1 and IC § 5-22-17-5, when the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Grant Agreement, it shall be canceled. A determination by the Director of the State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

14. Governing Law. This Grant Agreement shall be governed, construed, and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in the State of Indiana.

15. Information Technology Accessibility Standards. Any information technology related products or services purchased, used or maintained through this Grant must be compatible with the principles and goals contained in the Electronic and Information Technology Accessibility Standards adopted by the Architectural and Transportation Barriers Compliance Board under Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. §794d), as amended. The federal Electronic and Information Technology Accessibility Standards can be found at: <http://www.access-board.gov/508.htm>.

16. Insurance. The Grantee shall maintain insurance with coverages and in such amount as may be required by the State or as provided in its Grant Application.

17. Nondiscrimination. Pursuant to the Indiana Civil Rights Law, specifically IC § 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Grantee covenants that it shall not discriminate against any employee or applicant for employment relating to this Grant with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee or applicant's: race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). Furthermore, Grantee certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services.

The Grantee understands that the State is a recipient of federal funds, and therefore, where applicable, Grantee and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246 as amended by Executive Order 13672.

18. Notice to Parties. Whenever any notice, statement or other communication is required under this Grant, it will be sent by E-mail or first class U.S. mail service to the following addresses, unless otherwise specifically advised.

- A. Notices to the State shall be sent to:
Alison Taylor
Indiana Department of Environmental Management
100 North Senate Avenue IGCN 1316
Indianapolis, IN 46204
E-mail: recycle@idem.IN.gov

- B. Notices to the Grantee shall be sent to:
Mayor Jeremy Stutsman
The City of Goshen
202 S 5th Street
Goshen, IN 46528
E-mail: jeremystutsman@goshencity.com

As required by IC § 4-13-2-14.8, payments to the Grantee shall be made via electronic funds transfer in accordance with instructions filed by the Grantee with the Indiana Auditor of State.

19. Order of Precedence; Incorporation by Reference. Any inconsistency or ambiguity in this Grant Agreement shall be resolved by giving precedence in the following order: (1) requirements imposed by applicable federal or state law, including those identified in paragraph 24, below, (2) this Grant Agreement, (3) Exhibits prepared by the State, (4) Invitation to Apply for Grant; (5) the Grant Application; and (6) Exhibits prepared by Grantee. All of the foregoing are incorporated fully herein by reference.

20. Public Record. The Contractor acknowledges that the State will not treat this Grant as containing confidential information, and will post this Grant on the transparency portal as required by Executive Order 05-07 and IC § 5-14-3.5-2. Use by the public of the information contained in this Grant shall not be considered an act of the State.

21. Termination for Breach.

A. Failure to complete the Project and expend State, local and/or private funds in accordance with this Grant Agreement may be considered a material breach, and shall entitle the State to suspend grant payments, and to suspend the Grantee's participation in State grant programs until such time as all material breaches are cured to the State's satisfaction.

B. The expenditure of State or federal funds other than in conformance with the Project or the Budget may be deemed a breach. The Grantee explicitly covenants that it shall promptly repay to the State all funds not spent in conformance with this Grant Agreement.

22. Termination for Convenience. Unless prohibited by a statute or regulation relating to the award of the Grant, this Grant Agreement may be terminated, in whole or in part, by the State whenever, for any reason, the State determines that such termination is in the best interest of the State. Termination shall be

effected by delivery to the Grantee of a Termination Notice, specifying the extent to which such termination becomes effective. The Grantee shall be compensated for completion of the Project properly done prior to the effective date of termination. The State will not be liable for work on the Project performed after the effective date of termination. In no case shall total payment made to the Grantee exceed the original grant.

23. Travel. No expenses for travel will be reimbursed unless specifically authorized by this Grant.

24. Federal and State Third-Party Contract Provisions. If part of this Grant involves the payment of federal funds, the Grantee and, if applicable, its contractors shall comply with the federal provisions (not applicable to this Grant) and incorporated fully herein.

25. Provision Applicable to Grants with tax-funded State Educational Institutions: “Separateness” of the Parties. The State acknowledges and agrees that because of the unique nature of State Educational Institutions, the duties and responsibilities of the State Educational Institution in these Standard Conditions for Grants are specific to the department or unit of the State Educational Institution. The existence or status of any one contract or grant between the State and the State Educational Institution shall have no impact on the execution or performance of any other contract or grant and shall not form the basis for termination of any other contract or grant by either party.

26. State Boilerplate Affirmation Clause. I swear or affirm under the penalties of perjury that I have not altered, modified, changed or deleted the State’s standard contract clauses (as contained in the *2020 OAG/ IDOA Professional Services Contract Manual* or the *2020 SCM Template*) in any way except as follows:

6. Payment of Claims – Modified by agreement of the Parties

THE REST OF THIS PAGE IS LEFT BLANK INTENTIONALLY.

Non-Collusion, Acceptance

The undersigned attests, subject to the penalties for perjury, that the undersigned is the Grantee, or that the undersigned is the properly authorized representative, agent, member or officer of the Grantee. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the Grantee, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Grant Agreement other than that which appears upon the face hereof. **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Grant, the Grantee attests to compliance with the disclosure requirements in IC § 4-2-6-10.5.**

AGREEMENT TO USE ELECTRONIC SIGNATURES

(Applicable to only to Grant Agreements processed through SCM)

In Witness Whereof, the Grantee and the State have, through their duly authorized representatives, entered into this Grant Agreement. The parties, having read and understood the foregoing terms of this Grant Agreement, do by their respective signatures dated below agree to the terms thereof.

[Grantee]

[Indiana Agency]

By: _____

By: _____

Name and Title, Printed

Name and Title, Printed

Date: _____

Date: _____

Approved by:

Indiana Department of Administration

Approved by:

State Budget Agency

By: _____ (for)
Lesley A. Crane, Commissioner

By: _____ (for)
Zachary Q. Jackson, Director

Date: _____

Date: _____

APPROVED as to Form and Legality:

Office of the Attorney General

(for)
Todd Rokita, Attorney General

Date: _____

**EXHIBIT A
SCOPE OF WORK AND BUDGET**

The City of Goshen will receive a Community Recycling Grant of up to \$9,867 towards a comprehensive solid waste educational program for Goshen residents. The Grantee shall host public education demonstrations and workshops aimed at educating on waste reduction, targeting Goshen adults and families. The Grantee shall purchase a retractable stand-up banner that promotes the program and display it to the public at the events. The Grantee shall engage with one or more professional authors at least five times to speak at the workshops. The Grantee shall raise awareness of their program through t-shirts, stickers, bumper magnets, brochures, and door hangers. The Grantee shall also purchase zero-waste items such as bar soap and laundry tablets to giveaway at their events to encourage behavioral change amongst residents. A minimum of 50% of the total cost of the project shall be covered by the Grantee as noted in the approved budget under Grantee Cash and/or In-Kind Match.

The Grantee will not purchase the equipment listed below until this Grant Agreement is fully executed. Furthermore, the Grantee agrees not to seek reimbursement under this Grant Agreement for tangible property, supplies, services and/or equipment purchased outside the term of this Grant Agreement. Signing this Grant Agreement indicates that the Fiscal Officer for the Grantee has been notified and understands that purchases made prior to the commencement date set out in Section 4. Term are not, under any conditions, eligible for reimbursement. The purchase date is defined as the date on the original invoice.

Approved Project Budget

Project Purchase	Grant Amount	Cash Match No Less Than	In-Kind Match	Total
Author fees (no less than 5 author talks)	\$5,967	\$1,033		\$7,000
Banner	\$175	\$175		\$350
T-shirts (no less than 30)	\$358	\$358		\$716
Promotional stickers and bumper magnets (no less than 1,000 total)	\$316	\$316		\$632
Educational brochures and door hangers (no less than 3,000 total)	\$571	\$571		\$1,142
Promotional zero-waste products for workshops and demonstrations (no less than 800 items)	\$2,480	\$2,480		\$4,960
City and library staff time for organizing outreach and hosting events (no less than 200 hours)			\$4,934	\$4,934
TOTAL	*\$9,867	*\$4,933	\$4,934	*\$19,734

*If the cost of any item above is more than the amount indicated, the Grantee shall pay the additional cost.

After the Grant Agreement is fully signed and executed, the State will reimburse the Grantee the State's obligation of each properly documented invoice, as determined by the Indiana Department of Environmental Management, for items in the Approved Project Budget. All payment obligations are subject to the encumbrance of monies and shall be made in accordance with Indiana law and State fiscal policies and procedures.

Grant Payment Claim Process

Payment of the grant funds to the Grantee will be made in arrears (on a reimbursement basis) when conditions set forth below herein are met.

The Grantee must submit to the State a grant expenditure report detailing and documenting disbursements of state, local and/or private funds. The report must include a summary of the grant dollars expended and cash match expended for each item noted in the Approved Project Budget. All expenditures must be allocated to the budget categories of the Approved Project Budget and must be documented as specified below. An expenditure report form is available upon request.

The Grantee must submit to the State invoices or receipts (originals or copies) **and** one of the proofs of payment listed below in (a) and (b) for all expenditures of grant funds:

- (a) Copies of the front and back of canceled checks spending grant funds, or a bank statement demonstrating payment of check; or
- (b) Copies of an original invoice or statement from the vendor, which shows the description, itemized price and total price of the item(s) purchased and a zero balance for the item(s) purchased.

In addition, the Grantee must submit to the State a complete description of all cash and in-kind match expenditures required under this Agreement. This description shall include any invoices or receipts and all proofs of payment.

Special Conditions

Should the Grantee not provide the cash match during the term of this Grant Agreement, the State shall be entitled to recover all the grant funds advanced or otherwise remunerated under this Agreement. The Grantee agrees to pay all reasonable fees, including attorney costs, incurred by the State in recovering grant funds from the Grantee.

All claims for reimbursement must be received by the State within thirty (30) days of the termination date of this Grant Agreement as set out in Section 4. Term. Grant amounts left unclaimed or not expended at the expiration of the Grant Agreement will remain with the State.

The Grantee shall submit to the State a written report ten (10) business days before the expiration of this Grant Agreement. Reimbursement of funds on the final claim will not be released until all Grant Agreement conditions are satisfied and found acceptable by the State.

The Grantee understands and agrees that any tangible property purchased of value over \$1,000 under the terms of this Grant Agreement shall be owned and utilized by the Grantee for the purpose consistent with the intent of this Grant Agreement. In addition, the State shall maintain an interest in any tangible property purchased under the terms of this Grant Agreement to the extent of the State's contribution.

The Grantee shall be responsible for maintaining the tangible property in good condition and safeguarding the property from loss, damage or theft. The Grantee shall investigate any loss, damage or theft. The purchase of any insurance for the tangible property shall be the Grantee's sole responsibility.

For tangible property of value over \$1,000, property records must be maintained by the Grantee that include a description of the property, a serial number or other identification number, the source of property, who holds title, the purchase date, and cost of the property, percentage of State participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property. Grantee shall provide this information to State upon request.

Failure to comply with the above use shall result in forfeiture of grant money used to purchase the tangible property.

THE REST OF THIS PAGE IS LEFT BLANK INTENTIONALLY.

DRAFT

EXHIBIT B
ANNUAL FINANCIAL REPORT FOR NON-GOVERNMENTAL ENTITIES

Guidelines for filing the annual financial report:

- 1) Filing an annual financial report called an Entity Annual Report (E-1) is required by IC 5-11-1-4.
4. This is done through Gateway which is an on-line electronic submission process.
 - a. There is no filing fee to do this.
 - b. This is in addition to the similarly titled Business Entity Report required by the Indiana Secretary of State.
 - c. The E-1 electronic submission site is found at <https://gateway.ifionline.org/login.aspx>
 - d. The Gateway User Guide is found at <https://gateway.ifionline.org/userguides/E1guide>
 - e. The State Board of Accounts may request documentation to support the information presented on the E-1.
 - f. Login credentials for filing the E-1 and-additional information can be obtained using the notforprofit@sboa.in.gov email address.
- 2) A tutorial on completing Form E-1 online is available at https://www.youtube.com/watch?time_continue=87&v=nPpgtPcdUes
- 3) Based on the level of government financial assistance received, an audit may be required by IC 5-11-1-9.

THE REST OF THIS PAGE IS LEFT BLANK INTENTIONALLY.

**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: Board of Public Works and Safety
From: Bodie J. Stegelmann
Date: April 15, 2021
Re: Memorandum of Understanding with MACOG to Purchase Electric Vehicle Charging Station

Michiana Area Council of Governments ("MACOG") is the recipient of grant funds which are being used to purchase certain Electric Vehicle Charging Stations (Electric Vehicle Supply Equipment). Grant funds will reduce the price the City will need to pay for such charging stations. MACOG plans to make a group purchase of charging station for municipalities located in Elkhart, Saint Joseph, Kosciusko, and Marshall Counties. MACOG will invoice the City for the purchase of the charging station once MACOG makes its purchase, with MACOG reducing billing to the City by \$500 of its own funds. The Indiana Department of Environmental Management will send the \$9,000 to the City directly after the installation and completion of the grant requirements.

Suggested Motion: Move to approve the Memorandum of Understanding with MACOG, as well as the Addendum, and authorize the Mayor to sign on behalf of the Board of Public Works and Safety.

MEMORANDUM OF UNDERSTANDING

THIS AGREEMENT IS MADE AND ENTERED INTO BY AND BETWEEN THE CITY OF GOSHEN AND THE MICHIANA AREA COUNCIL OF GOVERNMENTS, HEREINAFTER REFERRED TO AS “MACOG”, FOR THE TRANSFER OF PERSONAL PROPERTY.

WITNESSETH:

WHEREAS, the Michiana Area Council of Governments, hereinafter referred to as MACOG, is a regional intergovernmental agency established to foster cooperative, coordinated and comprehensive planning activities in Elkhart, Kosciusko, Marshall and St. Joseph Counties;

WHEREAS, MACOG prepared a joint grant application for the purchase and installation of Electric Vehicle (EV) Charging Stations, hereinafter referred to as EV Supply Equipment (EVSE), in Culver, Elkhart, Goshen, Mishawaka, Plymouth, Warsaw, and South Bend;

WHEREAS, the City of Goshen, hereinafter referred to as the “City”, was awarded up to Nine-Thousand Dollars (\$9,000.00), not to exceed 90% of the total project cost, from the Indiana Department of Environmental Management (IDEM) for the purchase and installation of one (1) EVSE;

WHEREAS, MACOG is contributing \$500.00 per EVSE to offset the cost of operating the EVSE at no cost to the user for a limited time, in order to promote the adoption of cleaner vehicles in the region;

WHEREAS, MACOG has offered to administer the grant and assist with follow-up reporting;

WHEREAS, MACOG has offered to make a group purchase of EVSE to unify the region’s EVSE installations and to assure the requirements of the grant are met;

WHEREAS, Ind. Code § 5-22-22-10 allows for the transfer of property between governmental bodies “upon terms and conditions agreed upon by the governmental bodies as evidenced by adoption of a substantially identical resolution by each entity . . . for any amount of property or cash as agreed upon by the governmental bodies.”

NOW, THEREFORE, the City of Goshen enters into an interlocal agreement with MACOG for the solicitation, evaluation, and purchase of one (1) EVSE, not to exceed \$10,800.00.

IT IS THEREFORE AGREED by and between the City and MACOG:

1. MACOG will purchase EVSE utilizing standard public purchasing requirements and their internal policies.
2. Upon making the purchase, MACOG will invoice the City for the EVSE’s purchase price minus MACOG’s \$500.00 credit per EVSE and the City is then authorized to release funding for the acquisition.
3. Once MACOG purchases the EVSE, the City will be required to take direct shipment of the EVSE and the ownership of the EVSE will be transferred to the City. The installation and all additional costs for the EVSE will be the responsibility of the City.
4. As stipulated in the Cost Share letter submitted as part of the grant application, the City agrees:
 - MACOG may access the data portal, submit required reports to IDEM, publicly share usage information and other data, and list the EVSE on EV user apps.
 - The City will provide the use of the EVSE at no charge for at least the first 2 hours per session for the first 2 years of the grant period.
5. As stipulated in the grant requirements, the City will ensure:
 - EVSE shall be located in a well-lit area for EV users; the EVSE shall be publicly visible, accessible, and available twenty-four hours a day, seven days a week.
 - Two paved parking spaces shall be dedicated to allow 2 vehicles to charge at a time.
 - The City shall install signage that illustrates “EV Parking Only” and parking space stenciling or thermoplastic.
 - The City shall install wayfinding signs near the entrance to the parking lot or on street to increase visibility.
 - At least 95% uptime over the 5 year grant period, by contracting with a vendor that provides an uptime guarantee or assuming that responsibility directly.
 - Site development, project installation, and maintenance will comply with all applicable laws, ordinances, regulations, including Americans with Disabilities Act.
 - All installation work on the EVSE must be completed by October 2022.

IN WITNESS WHEREOF, the City of Goshen, Indiana, a municipal corporation and political subdivision of the State of Indiana, acting through its Board of Public Works and Safety and MACOG, through the undersigned officials, have hereunto affixed their signature.

Michiana Area Council of Governments

By: _____
James Turnwald, Executive Director

Date: _____

City of Goshen

By: _____
Jeremy P. Stutsman, Mayor

Date: _____

ADDENDUM

THIS ADDENDUM is made and entered into the ____ day of _____, 2021, by and between Michiana Area Council of Governments (hereinafter referred to as “MACOG”) and the City of Goshen, Indiana, a municipal corporation and political subdivision of the State of Indiana, acting through its Board of Public Works and Safety (hereinafter referred to as “City”).

WITNESSETH:

WHEREAS MACOG and City are parties to a certain agreement titled Memorandum of Understanding for the Transfer of certain Electric Vehicle Supply Equipment (“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, MACOG 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 - MACOG 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, MACOG certifies that MACOG is not engaged in investment activities in Iran.

d. E-Verify Program - Pursuant to Indiana Code § 22-5-1.7-11, MACOG agrees to and shall enroll in and verify the work eligibility status of all newly hired employees of MACOG after the date of the Agreement through the E-Verify Program as defined in Indiana Code § 22-5-1.7-3; provided, however, MACOG 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. MACOG further represents and certifies subject to the pains and penalties of perjury that it does not knowingly employ an unauthorized alien.

e. General Requirements - MACOG 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: _____

MACOG:

By: _____

Name: _____

Title: _____

Date: _____



CITY OF GOSHEN LEGAL DEPARTMENT

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

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

April 19, 2021

To: Board of Public Works and Safety

From: Shannon Marks

Subject: Acceptance of Deed of Dedication of Public Right-of-Way at 102 Olive Street

It is recommended that, on behalf of the City of Goshen, Indiana, the Board of Public Works and Safety accept from the City of Goshen, Indiana for the use and benefit of its Department of Redevelopment, the attached Deed of Dedication of public right-of-way located at 102 Olive Street. This additional right-of-way will be used to increase the turn radius at the intersection of Olive Street and Lincoln Avenue.

Suggested Motion:

Move to accept the Deed of Dedication of public right-of-way located at 102 Olive Street from the City of Goshen, Indiana for the use and benefit of its Department of Redevelopment, and authorize the Mayor to execute the Acceptance.

DEED OF DEDICATION

THIS INDENTURE WITNESSETH, that **City of Goshen, Indiana for the use and benefit of its Department of Redevelopment**, a municipal corporation and political subdivision of the State of Indiana, dedicates public right-of-way to the **City of Goshen, Indiana**, a municipal corporation and political subdivision of the State of Indiana, whose mailing address is 202 South Fifth Street, Goshen, Indiana 46528, for no consideration, the real estate as depicted upon the attached Right-of-Way Parcel Plat being a part of the real estate more commonly known as 102 Olive Street, Goshen, Indiana, and more particularly described as follows, to-wit:

A PART OF LOT NUMBER ONE (1) AND A PART OF LOT NUMBER TWO (2) AS SAID LOTS ARE KNOWN AND DESIGNATED ON THE PLAT OF LETTIE MERCER'S FIRST ADDITION, SAID PLAT BEING RECORDED IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY IN DEED RECORD VOLUME 21, PAGE 291, BEING A PART OF THE WEST HALF OF SECTION 10, TOWNSHIP 36 NORTH, RANGE 6 EAST, ELKHART TOWNSHIP, CITY OF GOSHEN, ELKHART COUNTY, INDIANA AND BEING A PART OF A PARCEL OF LAND CONVEYED TO CITY OF GOSHEN, INDIANA FOR THE USE AND BENEFIT IF ITS DEPARTMENT OF REDEVELOPMENT AS DESCRIBED AND RECORDED IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY IN INSTRUMENT NUMBER 2019-02964 AS DEPICTED ON THE ATTACHED RIGHT OF WAY PARCEL PLAT AS THE CITY OF GOSHEN DEPARTMENT OF REDEVELOPMENT PARCEL, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHERLY RIGHT OF WAY LINE OF EAST LINCOLN AVENUE WITH THE EAST RIGHT OF WAY LINE OF OLIVE STREET, ALSO BEING THE SOUTHWEST CORNER OF AFORESAID LOT NUMBER ONE (1) AND POINT NUMBER "300" AS DESIGNATED ON THE ATTACHED RIGHT OF WAY PARCEL PLAT; THENCE NORTH 00 DEGREES 13 MINUTES 52 SECONDS WEST ALONG THE EAST RIGHT OF WAY LINE OF SAID OLIVE STREET, ALSO BEING THE WEST LINE OF SAID LOT NUMBER ONE (1) AND SAID LOT NUMBER TWO (2), A DISTANCE OF 85.23 FEET TO POINT NUMBER "301" AS DESIGNATED ON THE ATTACHED RIGHT OF WAY PARCEL PLAT; THENCE SOUTH 33 DEGREES 17 MINUTES 33 SECONDS EAST, A DISTANCE OF 47.96 FEET TO POINT NUMBER "302" AS DESIGNATED ON THE ATTACHED RIGHT OF WAY PARCEL PLAT; THENCE SOUTH 68 DEGREES 10 MINUTES 40 SECONDS EAST, A DISTANCE OF 47.96 FEET TO A POINT ON THE

NORTHERLY RIGHT OF WAY LINE OF SAID LINCOLN AVENUE, ALSO BEING THE SOUTH LINE OF SAID LOT NUMBER ONE (1) AND BEING POINT NUMBER "303" AS DESIGNATED ON THE ATTACHED RIGHT OF WAY PARCEL PLAT; THENCE SOUTH 68 DEGREES 49 MINUTES 29 SECONDS WEST ALONG THE NORTHERLY RIGHT OF WAY LINE OF SAID LINCOLN AVENUE, A DISTANCE OF 75.61 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION CONTAINING 2,352 SQUARE FEET OR 0.054 OF AN ACRE, MORE OR LESS, BEING SUBJECT TO ALL EASEMENTS, RESTRICTIONS AND PUBLIC RIGHTS OF WAY OF RECORD.

Part of Parcel No. 20-11-10-160-018.000-015

IN WITNESS WHEREOF, the undersigned has executed this Deed of Dedication on April 13, 2021.

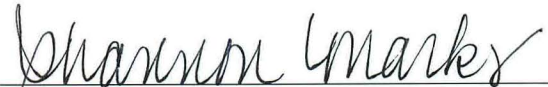
City of Goshen, Indiana for the use and benefit of its Department of Redevelopment, a municipal corporation and political subdivision of the State of Indiana


Mark Brinson
Community Development Director

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public, on April 13, 2021, personally appeared Mark Brinson, Community Development Director on behalf of the **City of Goshen, Indiana for the use and benefit of its Department of Redevelopment**, a municipal corporation and political subdivision of the State of Indiana, 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.



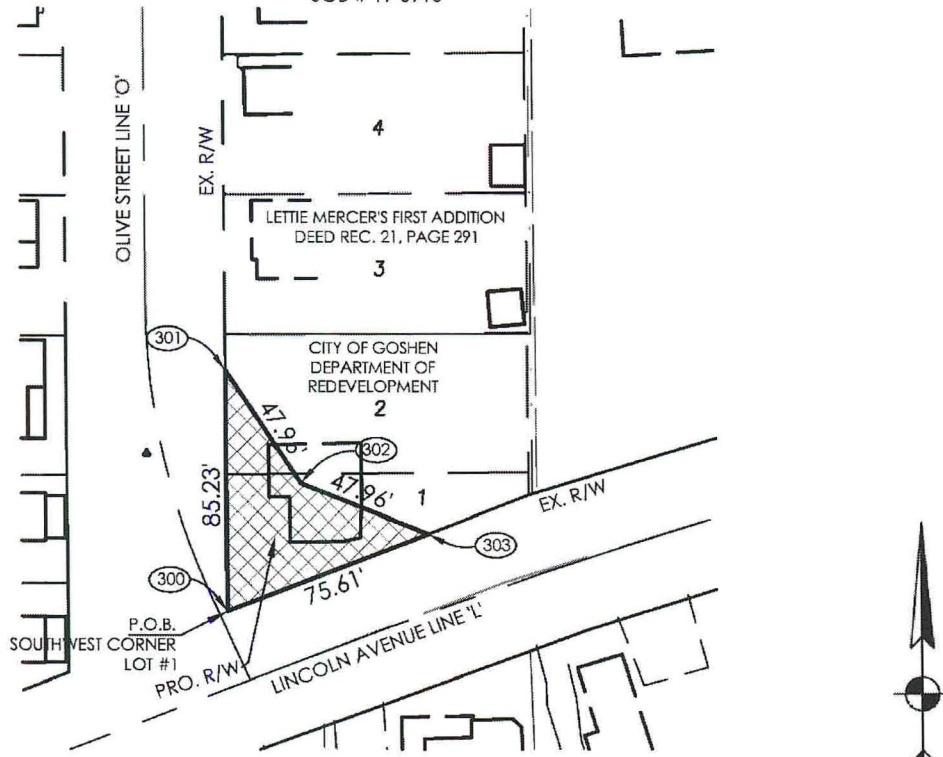

Shannon Marks, Notary Public
Resident of Elkhart County, Indiana
Commission Number NP0685467
My Commission Expires May 17, 2024

Prepared by Larry A. Barkes, Attorney No. 3568-20, 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 (Larry A. Barkes).

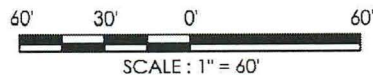
RIGHT-OF-WAY PARCEL PLAT

PREPARED BY ABONMARCHÉ CONSULTANTS, INC. FOR ELKHART COUNTY, INDIANA
JOB # 19-0916



NOTE:
SEE LOCATION CONTROL ROUTE SURVEY FOR ADDITIONAL POINTS.*

STATIONS AND OFFSETS CONTROL OVER BOTH NORTH & EAST COORDINATES AND BEARINGS & DISTANCES.



COORDINATE CHART (U.S. SURVEY FEET)

POINT	CENTERLINE	STATION	OFFSET	NORTHING	EASTING
300	O	110+25.50	2.94' R	8344.1906	9068.5117
301	O	111+12.87	26.68' R	8429.4199	9068.1679
302	O	110+60.65	44.01' R	8389.3309	9094.4938
303	L	144+35.42	26.32' L	8371.5027	9139.0172

AREAS OF TAKING

= PROPOSED RIGHT OF WAY, ±0.054 ACRE

LAND SURVEYOR'S STATEMENT
TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS PLAT, TOGETHER WITH THE "LOCATION CONTROL ROUTE SURVEY" RECORDED AS DOCUMENT NO. 2015-25690 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA, (INCORPORATED HEREIN AND MADE A PART HEREOF BY REFERENCE) COMPRISE A ROUTE SURVEY, EXECUTED IN ACCORDANCE WITH INDIANA ADMINISTRATIVE CODE 865 IAC 1-12 (RULE 12).

PROJECT #: 19-0916
PARCEL: RIGHT OF WAY TAKING - PROPOSED
KEY #: 20-11-10-160-018.000-015
GRANTOR: CITY OF GOSHEN DEPARTMENT OF REDEVELOPMENT
GRANTEE: CITY OF GOSHEN, INDIANA

OWNER: CITY OF GOSHEN DEPARTMENT OF REDEVELOPMENT
PARCELS: N/A
PARCEL ROAD: OLIVE STREET
COUNTY: ELKHART
SECTION: 10
TOWNSHIP: 36 NORTH
RANGE: 6 EAST

ABONMARCHÉ

1009 South Ninth Street
Goshen, IN 46526
T 574.523.9913
F 574.523.9911
abonmarc@abonmarc.com

Portage/Kalamazoo
Benton Harbor
South Haven
Fort Wayne
Goshen
Hobart
Lafayette
South Bend
Valparaiso

Fugheux / Archibuck Land Surveying

WARRANTY DEED INSTRUMENT NO. 2019-02964

TAX KEY NO.: 20-11-10-160-018.000-015

DRAWN BY: DAJ
CHECKED BY: GCS
QA/QC BY: GCS

DATE: 12-28-2020
DATE: 12-28-2020
DATE: 12-28-2020

TAKING: ±0.054 OF AN ACRE

ACCEPTANCE

The **City of Goshen, Indiana**, a municipal corporation and political subdivision of the State of Indiana, by the Goshen Board of Public Works and Safety, acknowledges the receipt of this Deed of Dedication from **City of Goshen, Indiana for the use and benefit of its Department of Redevelopment**, a municipal corporation and political subdivision of the State of Indiana, and accepts the dedication of public right-of-way on April _____, 2021.

Jeremy P. Stutsman, Mayor

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public, on April _____, 2021, personally appeared Jeremy P. Stutsman, Mayor of the City of Goshen, Indiana, a municipal corporation and political subdivision of the State of 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 Acceptance.

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



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

April 19, 2021

To: Board of Public Works and Safety
From: Shannon Marks
Subject: Dedication of Public Right-of-Way at 475 Steury Avenue

It is recommended that, on behalf of the City of Goshen, Indiana, the Board of Public Works and Safety dedicate to the City of Goshen, Indiana public right-of-way from the southeast corner of the Street Department real estate at 475 Steury Avenue. The public right-of-way to be dedicated is described and depicted in the attached Deed of Dedication, and will be used to improve the radius of the S-curve on Steury Avenue.

Suggested Motion:

Move to dedicate to the City of Goshen, Indiana public right-of-way located at 475 Steury Avenue, and authorize Mayor Stutsman to execute all documents related to the dedication.

DEED OF DEDICATION

THIS INDENTURE WITNESSETH, that **City of Goshen, Indiana**, a municipal corporation and political subdivision of the State of Indiana, dedicates a public right-of-way to the **City of Goshen, Indiana**, a municipal corporation and political subdivision of the State of Indiana, whose mailing address is 202 South Fifth Street, Goshen, Indiana 46528, for no consideration, the real estate as depicted upon the attached Right-of-Way Parcel Plat being a part of the real estate more commonly known as 475 Steury Avenue, Goshen, Indiana, and more particularly described as follows, to-wit:

A PART OF THE EAST HALF (E 1/2) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION TEN (10), TOWNSHIP THIRTY-SIX (36) NORTH, RANGE SIX (6) EAST, ELKHART TOWNSHIP, CITY OF GOSHEN, ELKHART COUNTY, INDIANA AND BEING A PART OF THE PARCEL OF LAND CONVEYED TO THE CITY OF GOSHEN, INDIANA DESCRIBED AS PARCEL 2 AS RECORDED IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY IN INSTRUMENT NUMBER 2010-18364, ALSO BEING A PART OF LOT NUMBER ONE HUNDRED FORTY-EIGHT (148) AND A PART OF LOT ONE HUNDRED FORTY-NINE (149) OF THE UNRECORDED PLAT OF HASTING'S LINCOLN AVENUE ADDITION TO THE CITY OF GOSHEN AS DEPICTED ON THE ATTACHED RIGHT OF WAY PARCEL PLAT AS THE CITY OF GOSHEN, INDIANA PARCEL, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A STONE MARKING THE NORTHWEST CORNER OF THE EAST HALF (E 1/2) OF THE NORTHWEST QUARTER (NW 1/4) OF SAID SECTION TEN (10); THENCE NORTH 89 DEGREES 43 MINUTES 05 SECONDS EAST ALONG THE NORTH LINE OF THE EAST HALF (E 1/2) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION TEN (10), A DISTANCE OF 828.77 FEET TO THE WEST LINE OF STEURY AVENUE (FORMERLY HASTINGS STREET); THENCE SOUTH 00 DEGREES 25 MINUTES 59 SECONDS EAST, A DISTANCE OF 1028.09 FEET TO A 1/2 INCH IRON PIPE MARKING THE SOUTHEAST CORNER OF LOT NUMBERED ONE HUNDRED FORTY-EIGHT (148) OF THE UNRECORDED PLAT OF HASTINGS LINCOLN AVENUE ADDITION TO THE CITY OF GOSHEN, AND THE INTERSECTION OF THE WEST LINE OF STEURY AVENUE (FORMERLY HASTINGS STREET) WITH THE NORTH LINE OF STEURY AVENUE (FORMERLY CENTER STREET) AND POINT NUMBER "500" AS DESIGNATED ON THE ATTACHED RIGHT OF WAY PARCEL PLAT AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 89 DEGREES 04 MINUTES 00 SECONDS

WEST ALONG THE NORTH LINE OF SAID STEURY AVENUE (FORMERLY CENTER STREET), A DISTANCE OF 128.42 FEET TO POINT NUMBER "501" AS DESIGNATED ON THE ATTACHED RIGHT OF WAY PARCEL PLAT; THENCE NORTH 83 DEGREES 07 MINUTES 06 SECONDS EAST, A DISTANCE OF 21.46 FEET TO THE POINT OF CURVATURE OF A 115.00 FOOT RADIUS CURVE TO THE LEFT, CONCAVE TO THE NORTHWEST TO POINT NUMBER "502" AS DESIGNATED ON THE ATTACHED RIGHT OF WAY PARCEL PLAT; THENCE NORTHEASTERLY ALONG THE ARC OF SAID 115.00 FOOT RADIUS CURVE, A DISTANCE OF 167.70 FEET, CHORD BEARING NORTH 41 DEGREES 20 MINUTES 34 SECONDS EAST, A DISTANCE OF 153.23 FEET TO THE POINT OF TANGENCY OF SAID CURVE AND POINT NUMBER "503" AS DESIGNATED ON THE ATTACHED RIGHT OF WAY PARCEL PLAT; THENCE NORTH 00 DEGREES 25 MINUTES 59 SECONDS WEST, A DISTANCE OF 10.78 FEET TO POINT NUMBER "504" AS DESIGNATED ON THE ATTACHED RIGHT OF WAY PARCEL PLAT; THENCE NORTH 89 DEGREES 34 MINUTES 01 SECOND EAST, A DISTANCE OF 5.00 FEET TO THE WEST LINE SAID OF STEURY AVENUE (FORMERLY HASTINGS STREET) AND POINT NUMBER "505" AS DESIGNATED ON THE ATTACHED RIGHT OF WAY PARCEL PLAT; THENCE SOUTH 00 DEGREES 25 MINUTES 59 SECONDS EAST, A DISTANCE OF 1028.09 FEET ALONG THE WEST LINE SAID OF STEURY AVENUE (FORMERLY HASTINGS STREET), A DISTANCE OF 126.35 FEET TO THE POINT OF BEGINNING, CONTAINING 0.083 OF AN ACRE, MORE OR LESS, BEING SUBJECT TO ALL EASEMENTS, RESTRICTIONS AND PUBLIC RIGHTS OF WAY OF RECORD.

Part of Parcel No. 20-11-10-126-009.000-015

IN WITNESS WHEREOF, the undersigned has executed this Deed of Dedication on April _____, 2021.

City of Goshen, Indiana, a municipal corporation
and political subdivision of the State of Indiana

Jeremy P. Stutsman, Mayor

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public, on April _____, 2021, personally appeared Jeremy P. Stutsman, Mayor of the **City of Goshen, Indiana**, a municipal corporation and political subdivision of the State of Indiana, 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.

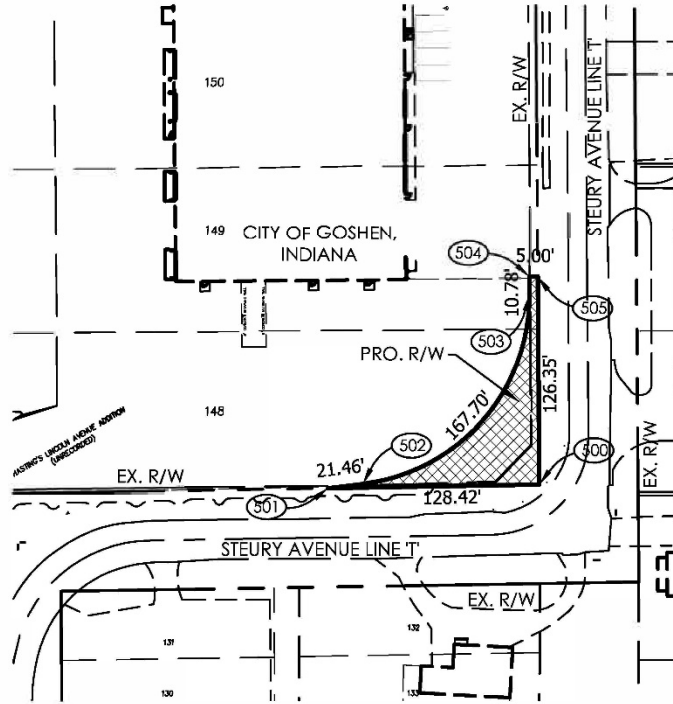
Shannon Marks, Notary Public
Resident of Elkhart County, Indiana
Commission Number NP0685467
My Commission Expires May 17, 2024

Prepared by Larry A. Barkes, Attorney No. 3568-20, 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 (Larry A. Barkes).

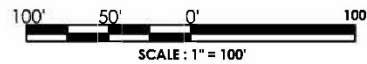
RIGHT-OF-WAY PARCEL PLAT

PREPARED BY ABONMARCHE CONSULTANTS, INC. FOR ELKHART COUNTY, INDIANA
JOB # 19-0916



NOTE:
SEE LOCATION CONTROL
ROUTE SURVEY FOR
ADDITIONAL POINTS.*

STATIONS AND OFFSETS
CONTROL OVER BOTH NORTH
& EAST COORDINATES AND
BEARINGS & DISTANCES.



COORDINATE CHART (U.S. SURVEY FEET)					
POINT	CENTERLINE	STATION	OFFSET	NORTHING	EASTING
500	T	27+54.06	17.76' L	10000.0000	10000.0000
501	T	26+08.52	30.00' L	9997.9083	9871.5998
502	T	26+29.87	32.22' L	10000.4800	9892.9089
503	T	28+86.74	35.00' L	10115.5208	9994.1267
504	T	28+97.53	35.00' L	10126.3052	9994.0452
505	T	28+97.53	30.00' L	10126.3430	9999.0451

AREAS OF TAKING



= PROPOSED RIGHT OF WAY, ±0.083 ACRE

LAND SURVEYOR'S STATEMENT
TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS PLAT,
TOGETHER WITH THE "LOCATION CONTROL ROUTE SURVEY"
RECORDED AS DOCUMENT NO. 2010-18364 IN THE OFFICE
OF THE RECORDER OF ELKHART COUNTY, INDIANA,
(INCORPORATED HEREIN AND MADE A PART HEREOF BY
REFERENCE) COMPRISE A ROUTE SURVEY, EXECUTED IN
ACCORDANCE WITH INDIANA ADMINISTRATIVE CODE 865
IAC 1-12 (RULE 12).

PROJECT #: 19-0916
PARCEL: RIGHT OF WAY TAKING - PROPOSED
KEY #: 20-11-10-126-009.000-015
GRANTOR: CITY OF GOSHEN, INDIANA
GRANTEE: CITY OF GOSHEN, INDIANA

OWNER: CITY OF GOSHEN, INDIANA

PARCELS: N/A

PARCEL ROAD: STEURY AVENUE

COUNTY: ELKHART

SECTION: 10

TOWNSHIP: 36 NORTH

RANGE: 6 EAST



1007 South Ninth Street
Goshen, IN 46526
T 574.533.9913
F 574.533.9911
abonmarche.com

Perthage/Kalamazoo
Goshen, IN 46526
Benton Harbor
South Haven
Fort Wayne
Engineering, Architecture, and Surveying

DRAWN BY: DAJ
CHECKED BY: GCS
QA/QC BY: GCS

DATE: 12-28-2020
DATE: 12-28-2020
DATE: 12-28-2020

WARRANTY DEED INSTRUMENT NO. 2010-18364 (PARCEL 2)

TAX KEY NO.: 20-11-10-126-009.000-015

TAKING: 0.083 ACRES±



**Engineering Department
CITY OF GOSHEN**

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

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

MEMORANDUM

TO: Goshen Board of Public Works & Safety

FROM: Goshen Engineering

RE: **DIRECT LINE COMMUNICATIONS, INC. LANE RESTRICTION ON
KERCHER ROAD – FIBER OPTIC CONDUIT INSTALLATION**

DATE: April 19, 2021

Direct Line Communications, Inc. is requesting permission to adjust traffic along Kercher Road between Messick Drive and the railroad tracks to the west. The contractor will be installing a new fiber optic conduit for Surf Broadband along Kercher Road. Current MUTCD traffic control standards are to be used. These traffic controls will include signs, cones and flaggers as required. The contractor will be allowed one lane to work within at any one time. See attached location maps provided by Direct Line Communications, Inc.

Requested Motion: Approve lane restriction on Kercher Road, see attached location map, beginning April 20 through April 27, 2021.

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

Jeremy Stutsman, Mayor

Mary Nichols, Member

Michael Landis, Member

See Sheet 4



Maplenet
Goshen South Neighborhood 5

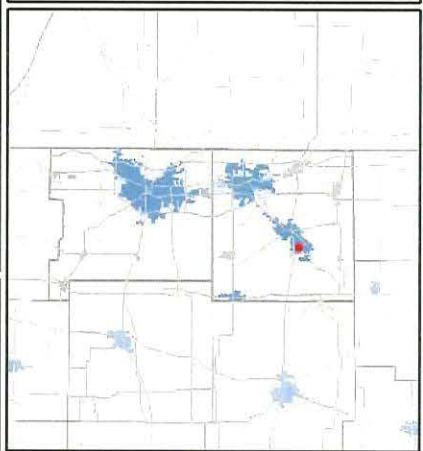
MAPLENET
Internet Service Provider

- Proposed Fiber and Duct
- Proposed Duct Only
- Proposed Handhole
- Proposed Flowerpot Handhole

Sheet 3

1 inch = 154.59 feet

0 0.01 0.01 0.03 Miles



See Sheet 2

Date Printed: 1/27/2021

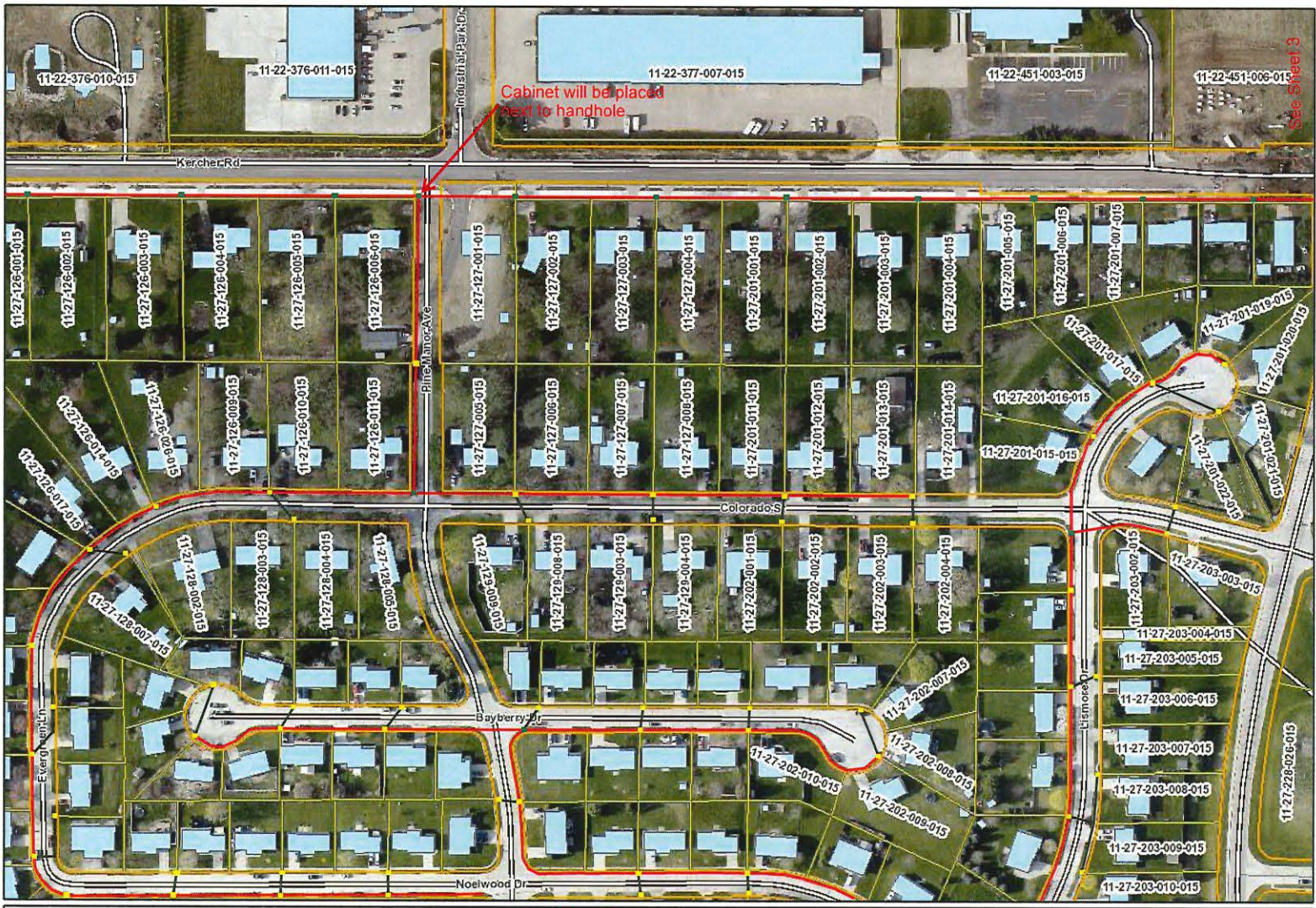
Map Generated By: Bobby Haluska

Coordinate grid is based on Indiana East State Plane Coordinate System 1983 North American Datum.

Information shown on this map is not warranted for accuracy or merchantability. Reproduction or distribution of this material is not authorized without the express written permission of MACOG.



See Sheet 6



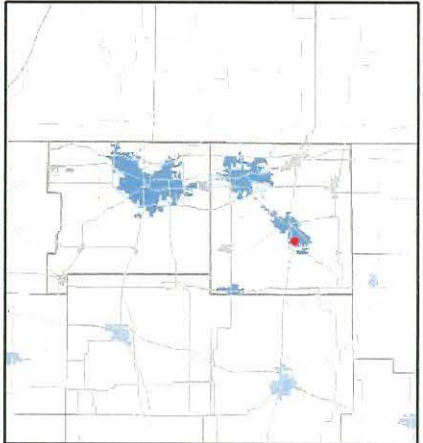
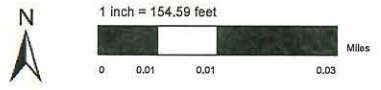
See Sheet 5

Maplenet
 Goshen South Neighborhood 5



- Proposed Fiber and Duct
- Proposed Duct Only
- Proposed Handhole
- Proposed Flowerpot Handhole

Sheet 4

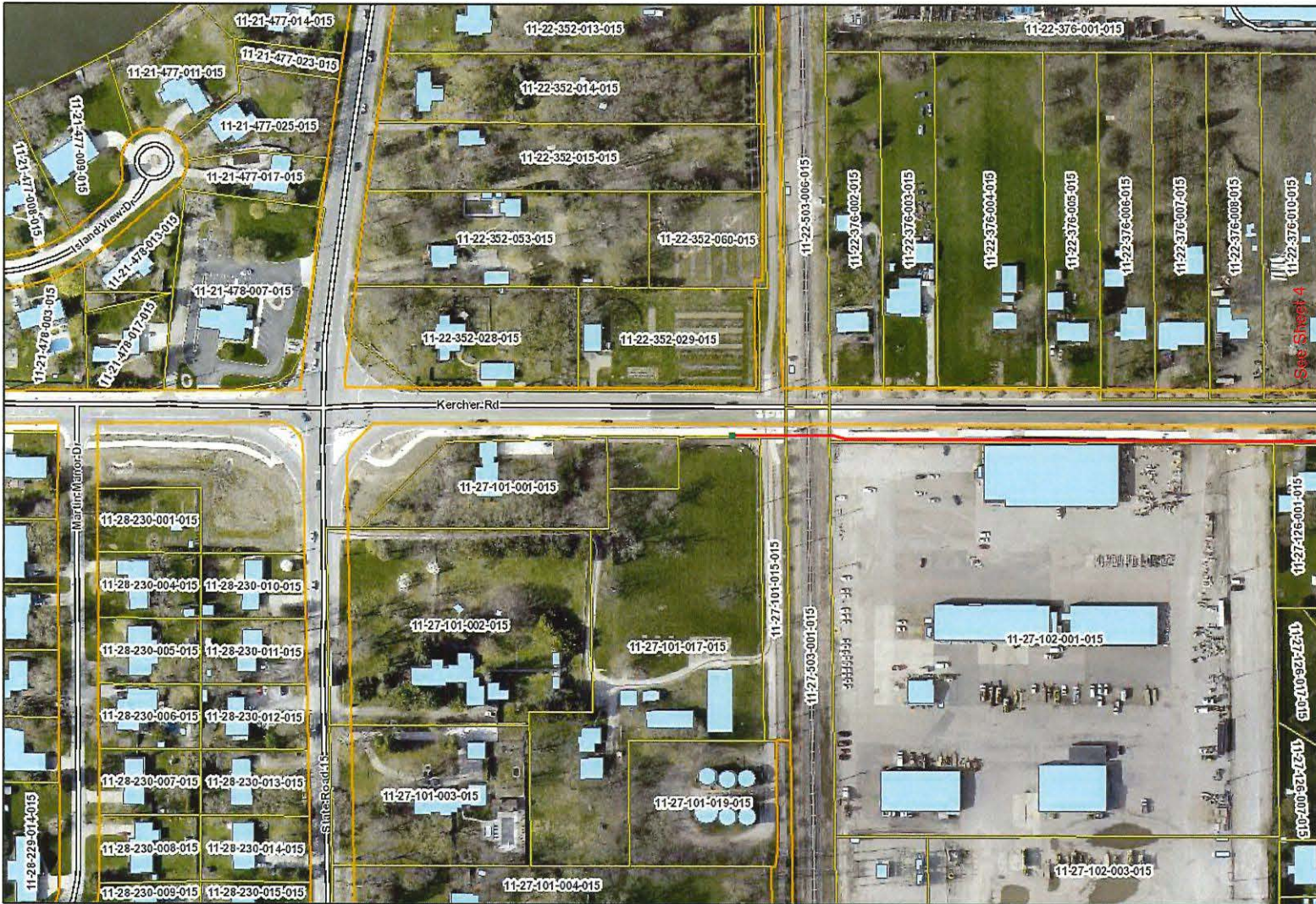


Date Printed: 1/27/2021
 Map Generated By: Bobby Haluska

Coordinate grid is based on Indiana East State Plane Coordinate System 1983 North American Datum.

Information shown on this map is not warranted for accuracy or merchantability. Reproduction or distribution of this material is not authorized without the express written permission of MACOG.





Maplenet
Goshen South Neighborhood 5

M⁺PLENET
Internet Service Provider

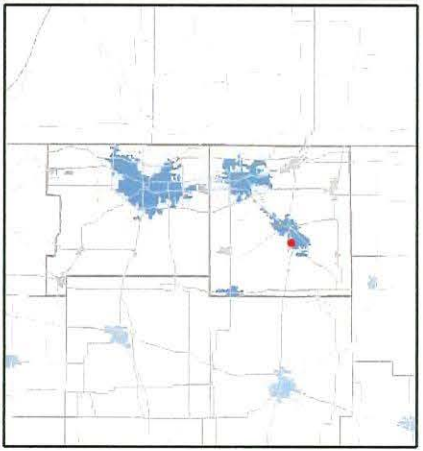
- Proposed Fiber and Duct
- Proposed Duct Only
- Proposed Handhole
- Proposed Flowerpot Handhole

Sheet 6

N

1 inch = 154.59 feet

0 0.01 0.01 0.03 Miles



Date Printed: 1/27/2021
Map Generated By: Bobby Haluska

Coordinate grid is based on Indiana East State Plane Coordinate System 1983 North American Datum.

Information shown on this map is not warranted for accuracy or merchantability. Reproduction or distribution of this material is not authorized without the express written permission of MACOG.





**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 Public and Safety

FROM: Engineering

RE: **NORTH MAIN STREET IMPROVEMENTS
(JN: 2016-0020)**

DATE: April 19, 2021

DBL will be performing work to install pavement markings on North Main Street. The work will require partial lane restrictions on North Main Street between Pike Street and Middlebury Street by Meadowlark Cars, with DBL providing traffic control. DBL will maintain open access for the businesses and residents on North Main Street. The lane restriction will occur April 20-22, 2021.

Requested motion: Move to approve the North Main Street partial lane restriction between Pike Street and Middlebury Street on April 20-22, 2021.

**City of Goshen
Board of Works & Safety**

Jeremy Stutsman, Mayor

Mike Landis, Board Member

Mary Nichols, Board Member



**Engineering Department
CITY OF GOSHEN**

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

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

MEMORANDUM

TO: Board of Public Works and Safety

FROM: Goshen Engineering Department

RE: **OLIVE STREET ROAD CLOSURE AT LINCOLN AVENUE (JN: 2019-0046)**

DATE: April 19, 2021

NIPSCO has requested permission to close Olive Street, just north of Lincoln Avenue, from Tuesday, April 20, until Friday, April 23, 2021. This closure is necessary in order for NIPSCO crews and Miller Pipeline to fully retire the existing gas main.

Requested motion: Move to approve the closure of Olive Street, just north of Lincoln Avenue, from April 20 until April 23, 2021.

ACCEPTED:

City of Goshen
Board of Works & Safety

Jeremy Stutsman, Mayor

Mike Landis, Board Member

Mary Nichols, Board Member



CITY OF GOSHEN LEGAL DEPARTMENT

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

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

April 19, 2021

To: Board of Public Works and Safety

From: Shannon Marks

Subject: Resolution 2021-12, Approve the Sale of Real Estate at 2601 Woodland Drive

The City acquired the real estate at 2601 Woodland Drive in 2016 for additional rights-of-way needed for the intersection improvement project at Kercher Road and Main Street. The acquisition was funded by the Goshen Redevelopment Commission. The construction project is completed, and the excess real estate that includes a residence is no longer needed by the City.

The Goshen Redevelopment Commission issued a request for proposals for the sale and purchase of real estate in January. Three proposals were received and opened on March 9, 2021. After review of the proposals, the Commission decided to accept the proposal submitted by Mario Garcia and Diana Estrada, and subsequently authorized the execution of an Agreement for the Sale and Purchase of Real Estate at the April 13, 2021 meeting.

It is recommended that Board of Public Works and Safety also approve the terms and conditions of the Agreement for the Sale and Purchase of Real Estate, and authorize the Mayor to sign any and all documents to effectuate the transfer of this real estate.

Suggested motion:

Move to adopt Resolution 2021-12, Approve the Sale of Real Estate at 2601 Woodland Drive.

RESOLUTION 2021-12

Approve the Sale of Real Estate at 2601 Woodland Drive

WHEREAS the City of Goshen acquired the real estate at 2601 Woodland Drive, Goshen (subject real estate) to carry out an economic development project.

WHEREAS the acquisition of the subject real estate was funded by the Goshen Redevelopment Commission.

WHEREAS after the completion of the intersection improvement project at Kercher Road and Main Street, there is excess real estate that is no longer needed by the City.

WHEREAS the Redevelopment Commission issued a request for proposals for the sale and purchase of the subject real estate, received and reviewed the proposals submitted, accepted the highest offer, and subsequently authorized the execution of an Agreement for the Sale and Purchase of Real Estate at 2601 Woodland Drive by adoption of Resolution 16-2021 on April 13, 2021.

WHEREAS the Common Council will consider Resolution 2021-13 on April 20, 2021 to approve the disposal of the subject real estate.

NOW, THEREFORE, BE IT RESOLVED that the Goshen Board of Public Works and Safety approves the terms and conditions of the Agreement for the Sale and Purchase of Real Estate at 2601 Woodland Drive, Goshen attached to and made a part of this resolution.

BE IT FURTHER RESOLVED that, in accordance with Indiana Code § 36-4-5-3(9), Mayor Jeremy P. Stutsman is authorized to execute any and all documents on behalf of the City of Goshen to effectuate the transfer the real estate at 2601 Woodland Drive, Goshen.

PASSED and ADOPTED by the Goshen Board of Public Works and Safety on April 19, 2021.

Jeremy P. Stutsman, Mayor

Michael A. Landis, Board Member

Mary Nichols, Board Member

AGREEMENT FOR THE SALE AND PURCHASE OF REAL ESTATE

THIS AGREEMENT is made and entered into on _____, 20²¹ by and between City of Goshen, a municipal corporation and political subdivision of the State of Indiana acting through the Goshen Redevelopment Commission and Goshen Board of Public Works and Safety, hereinafter referred to as "Seller," and Mario Garcia and Diana Estrada, Husband and Wife, hereinafter referred to as "Buyers".

REAL ESTATE

In consideration of the purchase price and on the terms, covenants and conditions to be kept and performed by the respective parties, Seller agrees to sell and Buyers agrees to purchase the following real estate located in Elkhart Township, Elkhart County, Indiana, more commonly known as 2601 Woodland Drive, Goshen, Indiana, 46526, and more particularly described as follows:

Parcel number 20-11-28-228-005.000-015

Lot Number Twenty-two (22) in Martin Manor Addition, located in the Northeast corner of Section 28, Township 36 North, Range 6 East, as appears of record in Plat Book 3, Page 116 in the office of the Recorder of Elkhart County.

And Also:

A part of Lot Number 23 as the said Lot is known and designated on the Plat of Martin Manor Addition, a subdivision in Elkhart County, Indiana; said Plat being recorded in Plat Book 3, page 116 in the Office of the Recorder of Elkhart County and being more particularly described as follows:

Beginning at a rebar marking the Southeast corner of said Lot Number 23; thence North 00 degrees 01 minute 48 seconds West along the East line of said Lot Number 23 a distance of 141.91 feet (recorded as 141.85 feet) to the Northeast corner of said Lot Number 23; thence Southwesterly along the North line of said Lot Number 23, being on the arc of a 547.96 foot radius curve to the left, concave to the Southeast, a distance of 12.24 feet (chord bearing South 79 degrees 46 minutes 04 seconds West, chord distance 12.24 feet) to a rebar; thence South 04 degrees 57 minutes 23 seconds East a distance of 140.26 feet to the point of beginning of this description containing 855 square feet or 0.02 of an acre, more or less, being subject to all easements, restrictions and public rights of way of record.

Less and Excepting:

A part of Lot 22 in Martin Manor Addition as per plat thereof, recorded in Plat Book Number 3, Page 116 on the 6th day of May, 1948 in the Office of the Recorder of Elkhart County, Indiana being more particularly described as follows:

Beginning at the Northeast corner of said Lot 22, thence South 00°01'23" West along the East line of said Lot 22, 15.00 feet; thence North 89°58'37" West, 55.15 feet; thence South 88° 23' 59" West, 94.89 feet to a point on the Westerly line of said Lot 22; thence North 00°01'23" East along said Westerly line, 9.75 feet to the Northwest corner of said Lot 22; thence Northeasterly 92.27 feet along an arc to the right having a radius of 535.00 feet and subtended by a long chord having a

bearing North 85°04'55" East and length of 92.16 feet; thence South 89°58'37" East, 58.18 feet to the point of beginning and containing 0.05 acres, more or less.

And Also:

A part of Lot 23 in Martin Manor Addition as per plat thereof, recorded in Plat Book Number 3, Page 116 on the 6th day of May, 1948 in the Office of the Recorder of Elkhart County, Indiana being more particularly described as follows:

Beginning at the Northeast corner of said Lot 23; thence South 00°01'23" West along the East line of said Lot 23, 9.75 feet; thence South 88°23'59" West, 11.37 feet; thence North 04°53'53" West, 7.86 feet; thence Northeasterly 12.25 feet along an arc to the right having a radius of 535.00 feet and subtended by a long chord having a bearing North 79°29'07" East and a length of 12.25 feet to point of beginning and containing 104 square feet, more or less.

The above described real estate is hereinafter referred to as the "Real Estate."

The Real Estate shall include all land, all pertinent rights, privileges and easements and all buildings and fixtures in their present condition.

PURCHASE PRICE

Buyers agrees to pay and Seller agrees to accept the total sum of Two Hundred Seventy-Five Thousand Dollars and Zero Cents (\$275,000.00) to be paid at the closing.

TAXES AND ASSESSMENTS

Seller shall pay the real estate taxes and assessments for 2020 due and payable in 2021. The real estate taxes and assessments for 2021 due and payable in 2022 shall be prorated between Seller and Buyers as of the date of closing. If the tax rate and/or assessment for 2021 taxes payable in 2022 have not been determined, the rate and/or assessment shall be assumed to be the same as the prior year for the purpose of proration and credit for due but unpaid taxes and assessments. Buyers shall pay all real estate taxes and assessments for 2022 due and payable in 2023 and thereafter.

TITLE INSURANCE

At the time of closing, Seller agrees to provide Buyers with a policy of title insurance in standard ALTA owner's form insuring the title to the Real Estate to be conveyed by Seller to Buyers in the amount Two Hundred Seventy-Five Thousand Dollars (\$275,000.00), to be free of defects except such defects that are included in the standard exceptions forming a part of such policies, and easements, public ways and restrictions of record.

TITLE SEARCH

A title search for the Real Estate shall be obtained. The cost of the title search shall be paid by Seller. Any encumbrances or defects in title must be removed and Seller must convey merchantable title subject to standard title exceptions. Seller agrees to pay the cost of obtaining all other documents necessary to perfect title so that a merchantable title can be conveyed.

CLOSING

A closing will be held on or before July 1, 2021 unless the parties agree to a later date in writing.

If the inspection reports reveal defects in the condition of the Real Estate and improvements that remain unresolved, or the title search reveals defects in the title to the Real Estate that have not been resolved, the Seller shall have until August 1, 2021 to remedy said defects.

Buyers will pay the cost of the closing agent and costs of the closing except to the extent that such costs are specifically designated as the cost of the Seller by the terms of this agreement.

WARRANTY DEED

Seller shall deliver to Buyers a warranty deed conveying merchantable title to the Real Estate free and clear of all liens and encumbrances, except conditions of record including, but not limited to zoning restrictions, taxes, easements, and assessments. Title shall be transferred to Mario Garcia and Diana Estrada, Husband and Wife.

POSSESSION OF REAL ESTATE

Possession and occupancy of the Real Estate will be delivered to Buyers on the date of closing unless a later date of occupancy is agreed to in writing by Seller and Buyer.

As long as Seller retains possession, Seller shall be responsible for all utilities.

RISK OF LOSS

Seller shall assume the risk of loss until the closing at which time Buyers shall assume the risk of loss.

WARRANTIES

(1) Seller warrants that Seller will convey a good and merchantable title to Buyers. Buyers accept the Real Estate AS IS without warranty of habitability. Seller makes no warranty, express or implied, that the Real Estate is suitable for any particular purpose.

(2) Buyers have made their own inspection of the Real Estate and relies solely upon Buyers' observation in deciding to purchase the Real Estate. Buyers do not rely upon any representation of Seller or any agent of Seller.

MISCELLANEOUS

(1) This agreement shall be construed in accordance with and governed by the laws of the State of Indiana.

(2) In the event that legal action is brought to enforce or interpret the terms of and conditions of this agreement, the proper venue for such action will be in a court of competent jurisdiction in Elkhart County, Indiana.

(3) In the event that either party brings an action to enforce any right conferred by this agreement or to force the other party to fulfill any obligation imposed by this agreement, the prevailing party of such action shall be entitled to recover all costs of that action, including reasonable attorneys' fees.

(4) 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 this agreement shall not affect the validity or enforceability of any other provision of this agreement.

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

(6) This agreement constitutes the entire agreement between the parties and supersedes all other agreements or understanding between Buyers and Seller.

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


Seller

Buyers



Mark Brinson
Community Development Director
Goshen Redevelopment Commission
City of Goshen, Indiana

Date: April 13, 2021


Mario Garcia, Husband

Date: 03/24/21

Jeremy P. Stutsman, Mayor
Goshen Board of Public Works and Safety
City of Goshen, Indiana

Date: _____


Diana Estrada, Wife

Date: 03/24-21