

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

**FROM:** Wendy Stremlaw, Administrative Manager, Parks Department

**SUBJECT:** Board to Consider Services Agreement with Myers Construction Mgmt. Inc. for repair work to the roof of Forest Park Shelter #5

**DATE:** September 24, 2024

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During a significant storm event in Noblesville over the summer, Shelter #5 at Forest Park sustained damage to the roof of the structure due to a fallen tree. While it was a significant amount of damage, thankfully it did not impact the integrity of the shelter itself. An insurance claim has been submitted and approved, and we are now ready to proceed with repair. Myers Construction answered our appeal for this repair to be done and upon completion, the entire cost of the repair will be reimbursed by insurance.

**We recommend the Board of Public Works approve the Services Agreement with Myers Construction Management for repair work to Shelter #5.**



## **SERVICES AGREEMENT**

This Services Agreement (hereinafter referred to as "Agreement"), entered into by and between the **City of Noblesville, Indiana, a municipal corporation** (hereinafter referred to as "City") and **Myers Construction Management Inc.** (hereinafter referred to as "Contractor"), and its successors and assigns, is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

### **SECTION I. INTERPRETATION AND INTENT**

- 1.1 The "Agreement", as referred to herein, shall mean this Agreement executed by City and Contractor, and shall include this Services Agreement and the **Exhibit A** attached hereto, and any written supplemental agreement or modification entered into between City and Contractor, in writing, after the date of this Agreement.
- 1.2 This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, written or verbal, between City and Contractor. No statements, promises or agreements whatsoever, in writing or verbal, in conflict with the terms of the Agreement have been made by City or Contractor which in any way modify, vary, alter, enlarge or invalidate any of the provisions and obligations herein stated. This Agreement may be amended and modified only in writing signed by both City and Contractor.
- 1.3 In resolving conflicts, errors, discrepancies and disputes concerning the scope of the work or services to be performed by Contractor or other rights or obligations of City or Contractor the document or provision thereof expressing the greater quantity, quality or scope of service or imposing the greater obligation upon Contractor and affording the greater right or remedy to City, shall govern.
- 1.4 Any interpretation applied to this Agreement, by the parties hereto, by an arbitrator, court of law, or by any other third party, shall not be made against City solely by virtue of City or City's representatives having drafted all or any portion of this Agreement.
- 1.5 This Agreement shall include, and incorporate by reference, any provision, covenant or condition required or provided by law or by regulation of any state or federal regulatory or funding agency.

### **SECTION II. DUTIES OF CONTRACTOR**

- 2.1 Contractor shall provide services as specified in **Exhibit A**, attached hereto and incorporated into this Agreement.

### **SECTION III. TERM**

- 3.1 The term of this Agreement shall begin upon execution and terminate October 31, 2024, ("Termination Date") unless terminated earlier in accordance with this Agreement.

### **SECTION IV. COMPENSATION**

- 4.1 Contractor proposes to furnish all labor, materials and supplies in accordance with the conditions of this Agreement necessary to complete the work as defined in **Exhibit A**.

Compensation shall not exceed Seven thousand six hundred eighty dollars and zero cents. (\$7,680.00)

- 4.2 Funding for a multi-year agreement is not guaranteed. All of the City's obligations under this Agreement shall be subject to annual appropriation and shall not constitute a general obligation or indebtedness of the City.

## **SECTION V. GENERAL PROVISIONS**

- 5.1 Independent Contractor. The parties agree that Contractor is an independent contractor as that term is commonly used and is not an employee of the City. As such, Contractor is solely responsible for all taxes and none shall be withheld from the sums paid to Contractor. Contractor acknowledges that it is not insured in any manner by City for any loss of any kind whatsoever. Contractor has no authority, express or implied, to bind or obligate City in any way.

- 5.2 Subcontracting.

Approval required. The parties agree that Contractor shall not subcontract, assign or delegate any portion of this Agreement or the services to be performed hereunder without prior written approval of City. In the event that City approves of any such subcontracting, assignment or delegation, Contractor shall remain solely responsible for managing, directing and paying the person or persons to whom such responsibilities or obligations are sublet, assigned or delegated. City shall have no obligation whatsoever toward such persons. Contractor shall take sole responsibility for the quality and quantity of any services rendered by such persons. Any consent given in accordance with this provision shall not be construed to relieve Contractor of any responsibility for performing under this Agreement.

- 5.3 Necessary Documentation. N/A

- 5.4 Records; Audit. Contractor shall maintain books, records, documents and other evidence directly pertinent to performance of services under this Agreement. Contractor shall make such materials available at its offices at all reasonable times during the Agreement period copies thereof, if requested, shall be furnished at no cost to City.

- 5.5 Ownership.

5.5.1 "Works" means works of authorship fixed in any tangible medium of expression by Contractor or its officers, employees, agents or subcontractors in the course of performing the services under this Agreement, including, but not limited to, computer programs, electronic art, computer generated art, notes, specifications, drawings, flow charts, memoranda, correspondence, records, notebooks, documentation, reports and charts, regardless of the medium in which they are fixed, and all copies thereof.

5.5.2 All Works made or created by Contractor, either solely or jointly with City, in the course of Contractor's performance of services under this Agreement shall be deemed to be works for hire and are and shall be the exclusive property of City.

At City's request, Contractor will execute all documents reasonably required to confirm or perfect ownership of such Works and any corresponding copyright rights in and to such Works in City. Without the prior written consent of City, Contractor shall not use, copy or prepare derivative works of the Works, or any parts of them, other than as related to the performance of this Agreement. During the performance of this Agreement, Contractor shall be responsible for loss or damage to the Works while they are in Contractor's possession or control. Any loss or damage shall be restored at Contractor's expense. City shall have free and unlimited access to the Works at all times and, upon demand, shall have the right to claim and take possession of the Works and all copies. Notwithstanding the foregoing, Contractor shall be entitled to retain a set of its work papers for archival purposes only, in accordance with applicable professional standards.

5.6 Insurance.

Minimum Insurance Requirements. Prior to commencing Work, the Contractor shall purchase and maintain from insurance companies lawfully authorized to do business in Indiana policies of insurance acceptable to the City, which afford the coverages set forth below. Insurance shall be written for not less than limits of liability specified or required by law, whichever coverage is greater, and shall include coverage for Contractor's indemnification obligations contained in this Agreement. Certificates of Insurance acceptable to the City shall be given to the City prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. Each policy must be endorsed to provide that the policy will not be cancelled or allowed to expire until at least thirty (30) days' prior written notice has been given to the City; provided however that such policies may be cancelled with only ten (10) days' prior notice for non-payment of premium. The required coverages and limits which Contractor is required to obtain are as follows:

A. Commercial General Liability

Limits of Liability:	\$2,000,000 General Aggregate
	\$2,000,000 Products & Completed Ops.
	\$1,000,000 Bodily Injury / Prop. Damage
	\$1,000,000 Personal / Advertising Injury
	\$1,000,000 Each Occurrence

B. Auto Liability

Limits of Liability:	\$500,000 Per Accident
Coverage Details	All owned, non-owned, & hired vehicles

C. Workers Compensation and Employer's Liability

As required by Indiana law.

D. Professional/Errors & Omissions Liability

Limits of Liability	\$1,000,000 Each Occurrence
	\$2,000,000 Aggregate

All coverage provided above shall be endorsed to include the City as an additional insured except for the Worker's Compensation / Employer's Liability and Professional/Errors & Omissions policy.

5.7 Termination for Cause or Convenience.

5.7.1 If Contractor becomes insolvent, or if it refuses or fails to perform the work and services provided by this Agreement, or if it refuses to perform disputed work or services as directed pending resolution of such dispute, or if it fails to make payments to subcontractors employed by it, or if it otherwise violates or fails to perform any term, covenant or provision of this Agreement, then City may, without prejudice to any other right or remedy, terminate this Agreement in whole or in part, in writing, provided that Contractor shall be given (1) not less than ten (10) calendar days written notice of City's intent to terminate, and (2) an opportunity for consultation with City prior to termination. In determining the amount of final payment to be made to Contractor upon such termination for default, if any, no amount shall be allowed for anticipated profit on unperformed services or other work; furthermore, an adjustment shall be made to the extent of any additional costs incurred or reasonably foreseen by City to be incurred by reason of Contractor's default.

5.7.2 This Agreement may be terminated in whole or in part in writing by City for City's convenience; provided that Contractor is given (1) not less than ten (10) calendar days written notice of intent to terminate and (2) an opportunity for consultation with City prior to termination. If City terminates for convenience, Contractor's compensation shall be equitably adjusted.

5.7.3 Upon receipt of notice of termination for default or for City's convenience, Contractor shall (1) promptly discontinue all services affected, unless the termination notice directs otherwise, and (2) deliver or otherwise make available to City all Works and such other information, materials or documents as may have been accumulated by Contractor in performing this Agreement, whether completed or in process.

5.7.4 If, after termination for Contractor's default, it is determined that Contractor was not in default, the termination shall be deemed to have been made for the convenience of City. In such event, adjustment of the price provided for in this Agreement shall be made as provided in Section 5.7.1 and the recovery of such price adjustment shall be Contractor's sole remedy and recovery.

5.8 Termination for Failure of Funding. Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by City are at any time insufficient or not forthcoming through failure of any entity to appropriate funds or otherwise, then City shall have the right to terminate this Agreement without penalty by giving written notice documenting the lack of funding, in which instance this Agreement

shall terminate and become null and void on the last day of the fiscal period for which appropriations were received. City agrees that it will make its best efforts to obtain sufficient funds, including but not limited to, requesting in its budget for each fiscal period during the term hereof sufficient funds to meet its obligations hereunder in full.

- 5.9 Indemnification. To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the City and its board, agents and employees of any of them (“Indemnitees”) from and against claims, damages, losses and expenses, including but not limited to attorneys’ fees and court costs and other expenses, arising out of or resulting from any negligent acts, errors, or omissions of the Work. The Contractor’s indemnification under this Section shall survive both final payment and the termination of this Agreement.
- 5.10 Notice. Any notice required to be sent under this Agreement shall be sent by internationally recognized overnight courier, certified mail, or other delivery method which provides confirmation of receipt and shall be directed to the persons and addresses specified below (or such other persons and/or addresses as any party may indicate by giving notice to the other party):
- |   |   |
|---|---|
| To Contractor:<br>Myers Construction Management Inc.<br>Attn: Chad Arnold<br>13518 Myrtle Lane<br>Fishers, IN 46038 | To City:<br>Noblesville Parks<br>Attn: Savannah Wines<br>16 S. 10 <sup>th</sup> Street<br>Noblesville, IN 46060 |
|   | <i>Courtesy Copy:</i><br>City Attorney<br>16 S. 10 <sup>th</sup> Street<br>Noblesville, IN 46060                |
- 5.11 Disputes. Contractor shall carry on all work required under this Agreement and maintain the schedule for services during all disputes or disagreements with City. No work shall be delayed or postponed pending resolution of any disputes or disagreements except as Contractor and City may otherwise agree in writing. Should Contractor fail to continue to perform its responsibilities as regards all non-disputed work without delay, any additional costs incurred by City or Contractor as a result of such failure to proceed shall be borne by Contractor, and Contractor shall make no claim against the City for such costs. City may withhold payments on disputed items pending resolution of the dispute.
- 5.12 Non-discrimination. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age or national origin. The Contractor will take affirmative action to ensure that applicants are employed without regard to their race, color, religion, sex, age or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

5.13 Conflict of Interest.

5.13.1 Contractor certifies and warrants to City that neither it nor any of its officers, agents, employees, or subcontractors who will participate in the performance of any services required by this Agreement has or will have any conflict of interest, direct or indirect, with City.

5.13.2 For purposes of compliance with IC 36-1-21, Contractor certifies and warrants to City that Contractor, or a person who wholly or partially owns Contractor, is not a relative, as that term is defined by IC 36-1-21-3, of an elected official of Noblesville, Indiana.

5.14 Non-contingent Fees. Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach or violation of this warranty City shall have the right to annul this Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

5.15 Force Majeure. In the event that either party is unable to perform any of its obligations under this Agreement – or to enjoy any of its benefits – because of fire, explosion, power blackout, natural disaster, strike, embargo, labor disputes, war, terrorism, acts of God, acts or decrees of governmental bodies or other causes beyond such party's reasonable control (hereinafter referred to as Force Majeure Event), the party who has been so affected shall immediately give notice to the other and shall take commercially reasonable actions to resume performance. Upon receipt of such notice, all obligations under this Agreement shall immediately be suspended except for payment obligations with respect to service already provided. If the period of nonperformance exceeds sixty (60) days from the receipt of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Agreement.

5.16 Applicable Laws: Forum.

5.16.1 Contractor agrees to comply with all applicable federal, state and local laws, rules, regulations or ordinances, and all provisions required thereby to be included in this Agreement are hereby incorporated by reference. This includes, but is not limited to, the Federal Civil Rights Act of 1964 and, if applicable, the Drug-Free Workplace Act of 1988. The enactment of any state or federal statute or the promulgation of regulations thereunder after execution of this Agreement shall be reviewed by City and Contractor to determine whether the provisions of the Agreement require formal modification.

5.16.2 This Agreement shall be construed in accordance with the laws of the State of Indiana, and by all applicable Municipal Ordinance or Codes of the City of Noblesville, County of Hamilton. Suit, if any, shall be brought in the State of Indiana, County of Hamilton.

- 5.17 Waiver. City's delay or inaction in pursuing its remedies set forth in this Agreement, or available by law, shall not operate as a waiver of any of City's rights or remedies.
- 5.18 Severability. If any provision of this Agreement is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the provision shall be stricken, and all other provisions of this Agreement which can operate independently of such stricken provisions shall continue in full force and effect.
- 5.19 Attorneys' Fees. Contractor shall be liable to City for reasonable attorneys' fees incurred by City in connection with the collection or attempt to collect, any damages arising from the negligent or wrongful act or omission of Contractor, or from Contractor's failure to fulfill any provisions or responsibility provided herein.
- 5.20 Successors and Assigns. City and Contractor each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement; except as otherwise provided herein, Contractor shall not assign, sublet or transfer its interest in this Agreement without the written consent of City. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of City or the Contractor.
- 5.21 Authority to Bind Contractor. Notwithstanding anything in this Agreement to the contrary, the signatory for Contractor represents that he/she has been duly authorized to execute agreements on behalf of Contractor and has obtained all necessary or applicable approval from the home office of Contractor to make this Agreement fully binding upon Contractor when his/her signature is affixed and accepted by City.
- 5.22 Debarment and Suspension
- 5.22.1 Contractor certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from or ineligible for participation in any Federal assistance program by any Federal department or agency, or by any department, agency or political subdivision of the State of Indiana. The term "principal" for purposes of this 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 Contractor.
- 5.22.2 Contractor certifies, by entering into this Agreement, that it does not engage in investment activities in Iran as more particularly described in IC 5-22-16.5.
- 5.22.3 Contractor shall provide immediate written notice to City if, at any time after entering into this Agreement, Contractor learns that its certifications were erroneous when submitted, or Contractor is debarred, suspended, proposed for debarment, declared ineligible, has been included on a list or received notice of intent to include on a list created pursuant to IC 5-22-16.5, voluntarily excluded from or becomes ineligible for participation in any Federal assistance program.



Any such event shall be cause for termination of this Agreement as provided herein.

5.22.4 Contractor shall not subcontract with any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in any Federal assistance programs by any Federal department or agency, or by any department, agency or political subdivision of the State of Indiana.

5.23 Compliance With E-Verify Program. Pursuant to IC 22-5-1.7, Contractor shall enroll in and verify the work eligibility status of all newly hired employees of Contractor through the E-Verify Program ("Program"). Contractor is not required to verify the work eligibility status of all newly hired employees through the Program if the Program no longer exists.

5.23.1 Contractor and its subcontractors shall not knowingly employ or contract with an unauthorized alien or retain an employee or contract with a person that Contractor or its subcontractor subsequently learns is an unauthorized alien. If Contractor violates this Section 5.23, City shall require Contractor to remedy the violation not later than thirty (30) days after City notifies Contractor. If Contractor fails to remedy the violation within the thirty (30) day period, City shall terminate the contract for breach of contract. If City terminates the contract, Contractor shall, in addition to any other contractual remedies, be liable to City for actual damages. There is a rebuttable presumption that Contractor did not knowingly employ an unauthorized alien if Contractor verified the work eligibility status of the employee through the Program.

5.23.2 If Contractor employs or contracts with an unauthorized alien but City determines that terminating the contract would be detrimental to the public interest or public property, City may allow the contract to remain in effect until City procures a new contractor.

5.23.3 Contractor shall, prior to performing any work, require each subcontractor to certify to Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and has enrolled in the Program. Contractor shall maintain on file a certification from each subcontractor throughout the duration of the Project. If Contractor determines that a subcontractor is in violation of this Section 5.23, Contractor may terminate its contract with the subcontractor for such violation.

5.23.4 Pursuant to IC 22-5-1.7 a fully executed affidavit affirming that the business entity does not knowingly employ an unauthorized alien and confirming Contractor's enrollment in the Program, unless the Program no longer exists, shall be filed with City prior to the execution of this Agreement. This Agreement shall not be deemed fully executed until such affidavit is filed with the City.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates subscribed below.

MYERS CONSTRUCTION ("Contractor")  
MANAGEMENT, INC.

By: CDM

Date: 9/24/24

Printed: CHAD D. ARNOLD

Title: SECRETARY

City of Noblesville

By: 

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


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

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

All of which is approved by the Board of Public Works and Safety of the City of Noblesville this  
15<sup>th</sup> day of October 2024.

  
\_\_\_\_\_  
JACK MARTIN, PRESIDENT  
\_\_\_\_\_  
JOHN DITSLEAR, MEMBER  
\_\_\_\_\_  
LAURIE DYER, MEMBER  
\_\_\_\_\_  
ROBERT J. ELMER, MEMBER  
\_\_\_\_\_  
RICK L. TAYLOR, MEMBER

ATTEST:

  
\_\_\_\_\_  
EVELYN L. LEES, CLERK  
CITY OF NOBLESVILLE, INDIANA

### E-Verify Affidavit

Pursuant to Indiana Code 22-5-1.7-11, the Contractor entering into a contract with the City is required to enroll in and verify the work eligibility status of all its newly hired employees through the E-Verify program. The Contractor is not required to verify the work eligibility status of all its newly hired employees through the E-Verify program if the E-Verify program no longer exists.

The undersigned, on behalf of the Contractor, being first duly sworn, deposes and states that the Contractor does not knowingly employ an unauthorized alien. The undersigned further affirms that, prior to entering into its contract with the City, the undersigned Contractor will enroll in and agrees to verify the work eligibility status of all its newly hired employees through the E-Verify program.

(Contractor): MYERS CONSTRUCTION MANAGEMENT, INC.

By (Written Signature): 

(Printed Name): CHAD D. ARNOLD

(Title): SECRETARY

Important - Notary Signature and Seal Required in the Space Below

STATE OF INDIANA

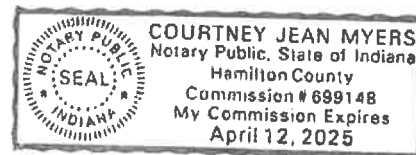
SS:

COUNTY OF HAMILTON

Subscribed and sworn to before me this 24<sup>th</sup> day of SEPTEMBER,  
2024.

My commission expires: 4/12/25 (Signed) 

a. Residing in HAMILTON County, State of INDIANA



# EXHIBIT A



August 9, 2024

Mr. Kevin Conner  
City of Noblesville Parks & Recreation

RE: Proposal for the Forest Park Shelter Repair

Dear Mr. Conner,

The following is a summary of the Scope-Of-Work and pricing for the completion of the Forest Park Shelter Repair project in Noblesville, IN based on site visit to review damage.

### **Scope-Of-Work**

#### **General Conditions**

- Supervision
- Construction Cleanup
- Debris will be placed in parks dumpsters on site.

#### **Carpentry**

- Furnish and install (20) new 2x6x20 T&G boards
- Furnish and install 20 LF of 2x6 treated fascia board

#### **Roofing**

- Patch Asphalt shingles to match existing

**Total Budget..... \$7,680.00**

#### **Exclusions:**

- Building permit fees
- Performance and payment bond
- Unforeseen conditions
- Anything not specifically listed above

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All the above pricing was based on site visit to review damage.

We thank you again for the opportunity to bid this project. Please feel free to contact us if you have any questions.

Sincerely,

Chad D Arnold  
Project Coordinator

13518 Myrtle Lane, Fishers, IN 46038 (317) 773-3590 Fax (317) 773-3591



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

09/25/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Martin & Martin Insurance Agency 62 S 9th Street  Noblesville IN 46060	<b>CONTACT NAME:</b> Jenna Romens <b>PHONE (A/C, No, Ext):</b> <b>E-MAIL:</b> <b>ADDRESS:</b>  <b>INSURER(S) AFFORDING COVERAGE</b> <table><tr><td><b>INSURER A:</b> ERIE INS EXCH</td><td><b>NAIC #</b> 26271</td></tr><tr><td><b>INSURER B:</b> ERIE INS EXCH</td><td>26271</td></tr><tr><td><b>INSURER C:</b> ERIE INS EXCH</td><td>26271</td></tr><tr><td><b>INSURER D:</b> ERIE INS CO</td><td>26263</td></tr><tr><td><b>INSURER E:</b></td><td></td></tr><tr><td><b>INSURER F:</b></td><td></td></tr></table>	<b>INSURER A:</b> ERIE INS EXCH	<b>NAIC #</b> 26271	<b>INSURER B:</b> ERIE INS EXCH	26271	<b>INSURER C:</b> ERIE INS EXCH	26271	<b>INSURER D:</b> ERIE INS CO	26263	<b>INSURER E:</b>		<b>INSURER F:</b>	
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<b>INSURER C:</b> ERIE INS EXCH	26271												
<b>INSURER D:</b> ERIE INS CO	26263												
<b>INSURER E:</b>													
<b>INSURER F:</b>													
<b>INSURED</b> Myers Construction Management Inc. 13518 Myrtle Lane  Fishers IN 46038													

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Q43-0750348	07/07/2024	07/07/2025	EACH OCCURRENCE \$ 1000000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1000000 MED EXP (Any one person) \$ 5000 PERSONAL & ADV INJURY \$ 1000000 GENERAL AGGREGATE \$ 2000000 PRODUCTS - COMP/OP AGG \$ 2000000 \$
B	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Q07-0730291	07/07/2024	07/07/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1000000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$		Q31-0770058	07/07/2024	07/07/2025	EACH OCCURRENCE \$ 5000000 AGGREGATE \$ 5000000 \$
D	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input checked="" type="checkbox"/> N	N/A	Q91-5700020	07/07/2024	07/07/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 100000 E.L. DISEASE - EA EMPLOYEE \$ 100000 E.L. DISEASE - POLICY LIMIT \$ 500000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

**CERTIFICATE HOLDER****CANCELLATION**

City of Noblesville 16 S 10th Street  Noblesville IN 46060	<b>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</b>  <b>AUTHORIZED REPRESENTATIVE</b> 
---	---

Fax: ACORD 25 (2016/03)  
Email:

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**PURCHASE ORDER**  
**CITY OF NOBLESVILLE**  
**16 SOUTH 10TH STREET STE 270**

Form 98 (Rev. 1998)

PAGE: 1

INDIANA RETAIL TAX EXEMPT  
CERTIFICATE NO. 0031216070010

FEDERAL EXCISE TAX EXEMPT  
356001141

NOBLESVILLE IN 46060  
PHONE: 317-776-6328  
FAX: 317-776-6369

**PURCHASE ORDER NO. 240322**

THIS NUMBER MUST APPEAR ON INVOICES, A/P  
VOUCHER, DELIVERY MEMO, PACKING SLIPS,  
SHIPPING LABELS AND ANY CORRESPONDENCE.

SHIP TO:

TO

**VENDOR # 2459**  
**MYERS CONSTRUCTION MGMT INC**  
**13518 MYRTLE LANE**  
**FISHERS IN 46038**

ATTN:

DATE		DEPARTMENT		SHIP TO ARRIVE BY		
09/24/2024		PARKS				
APPROPRIATION NUMBER	QUANTITY	UNIT	DESCRIPTION	PROJECT #	UNIT PRICE	AMOUNT
108020390.100	1.0		REPAIR OF FOREST PARK SHELTER #5		7680.00	7680.00

SHIP VIA	TOTAL
	7680.00

**SHIPPING INSTRUCTIONS**

- \* SHIP PREPAID
- \* C.O.D. SHIPMENTS CANNOT BE ACCEPTED
- \* PURCHASE ORDER NUMBER MUST APPEAR ON ALL SHIPPING LABELS.
- \* THIS ORDER ISSUED IN COMPLIANCE WITH CHAPTER 99, ACTS 1945 AND ACTS AMENDATORY THEREOF AND SUPPLEMENTAL THERETO.

**PAYMENT**

- \* A/P VOUCHER CANNOT BE APPROVED FOR PAYMENT UNLESS THE P.O. NUMBER IS MADE A PART OF THE VOUCHER AND EVERY INVOICE AND VOUCHER HAS THE PROPER SWORN AFFIDAVIT ATTACHED.
- \* I HEREBY CERTIFY THAT THERE IS AN UNOBLIGATED BALANCE IN THIS APPROPRIATION SUFFICIENT TO PAY FOR THE ABOVE ORDER.

ORDERED BY

TITLE

CONTROLLER

ORIGINAL - VENDOR'S COPY



# AZTEC HOMES, INC. CONTRACTOR AGREEMENT

THIS agreement is made and entered into this 30<sup>th</sup> day of June 2024, by Aztec Homes, Inc., a corporation, its principal place of business located at 8611 E. 300 S., Zionsville, Indiana 46077, hereinafter referred to as "Contractor" and City of Noblesville referred to as "Owner."

WHEREAS, Contractor is engaged in the business of installing fiber cement siding and related work. WHEREAS, Owner and Contractor desire to enter into a written agreement pursuant to which Contractor will install fiber cement siding and perform other work at 701 Cicero Rd – Shelter #5, 46060 hereinafter referred to as the “Property.”

**1. Services Provided:** Contractor shall perform the following described services, and sell the following described products ("Products"), hereinafter collectively referred to as "Services," according to the specifications set out as follows, and attached hereto as proposal:

<b>Install new roof</b> -Remove existing roof from shelter and dispose of trash -Install new decking as needed > 2OSB included, additional OSB required at \$70/installed sheet - Remove and replace wood boards that were damaged - 1 > 2x6x12 and 10 > 1x6x12 included for replacement -Install new Rhino Synthetic Felt -Install new Owens Corning Duration or GAF Shingles >> Type & Color to be determined -Install Drip edge and gutter apron -Install starter shingle at all eaves and rakes • Any additional work in normal manner of roofing install included - All removal and disposal of materials included	\$16,125
<b>Total:</b>	<b>\$16,125</b>

**ALL CHANGE ORDERS SHALL BE IN WRITING, NUMBERED AND SIGNED BY BOTH OWNER AND CONTRACTOR.**

**1. Sale Price & Terms:** Price for the Services to be paid by OWNER to CONTRACTOR as follows:

a) 25% due at signing of contract for materials	\$4032
b) 75% due at end of job and any additional addendums that were added	\$12,093

c) Balance, incorporating any additions or deductions required pursuant to executed change orders, due upon completion. OWNER recognizes and agrees that if the price, or any portion thereof, is not paid promptly when due, CONTRACTOR may demand and seek payment of the entire balance due immediately, together with interest at the rate of Five Percent (5%) per month, or any portion thereof, plus CONTRACTOR'S reasonable attorney's fees and the costs and expenses of collection. CONTRACTOR may also cease work, without breach, pending payment or resolution of any dispute. Final payment is a result of a completed project by Aztec. OWNER will incur no additional fees unless specifications are renegotiated by both parties. CONTRACTOR shall be responsible for obtaining, at its sole expense, any and all licenses, permits or the like necessary for installation of the Services. CONTRACTOR shall not be liable for damages, or any expenses sustained by Owner in or resulting from subsequent installation.

1. **Scope of Work:** Contractor shall furnish all of the materials and perform all of the work shown on the drawings and/or described in the specifications herein, or change orders attached hereto. **All change orders shall be in writing, numbered and signed by both OWNER and CONTRACTOR.** OWNER agrees and understands that window screens should be removed by OWNER before work commences. Any screens still in windows that become ripped or damaged will be repaired by CONTRACTOR at the standard rate of \$40 per screen.

2. **Time of Completion:** The work to be performed under this Contract shall begin, weather permitting, no sooner than the week of \_\_\_\_\_, 2024 unless our schedule allows and homeowner agrees. This is only an estimate. However, should OWNER desire to execute a change order necessitating the alteration of the above dates, the dates specified in said change order will replace what is herein described. CONTRACTOR shall not be responsible for delay as a result of circumstances beyond its control, including, but not limited to, strikes, weather, casualty or general unavailability of materials.

3. **Custom Services:** OWNER recognizes and agrees that the Products sold hereunder are, by their very nature, custom Products, specifically designed for OWNER according to OWNER'S order and specifications. Accordingly, on all custom Products, OWNER recognizes and agrees that once CONTRACTOR begins production on OWNER'S order, CONTRACTOR will be unable to dispose of the Products in a commercially reasonable manner to any other person or entity.

except to OWNER. There shall therefore be no right of cancellation once in production. OWNER furthermore recognizes and agrees that CONTRACTOR has relied upon OWNER'S specifications for the development of the Products and if the specifications provided by OWNER should prove to be incorrect or in error, through no fault of CONTRACTOR, such error or mistake shall not relieve OWNER of liability for the price of the Products sold hereunder. If specified product(s) is not available at the time of installation a comparable product may be used. OWNER will be liable if there are any latent or patent defects that arise after the execution of this agreement.

4. **Warranty:** CONTRACTOR represents and warrants that the Services sold hereunder shall be developed according to specifications in a good and workmanlike manner and in accordance with all building codes and other applicable laws. CONTRACTOR may, at its discretion, engage subcontractors to perform any or all work described herein, provided CONTRACTOR will remain fully responsible for the proper completion of this Contract. CONTRACTOR shall furnish OWNER with appropriate releases and waivers against liens for all work performed or materials provided at the time the next periodic payment is due. CONTRACTOR will maintain adequate insurance for its employees and others incurring loss or injury as a result of the acts of CONTRACTOR, its employees, or subcontractors. CONTRACTOR agrees to remove all debris and leave the premises in broom clean condition. CONTRACTOR warrants a (1) year service warranty for workmanship from start of project and a (1) year warranty on painting. Caulking in the seams of the siding is no longer allowed per the manufacturer. Expansion and contraction can occur with Elastomeric caulk, causing it to separate and Aztec is not responsible for this occurrence.

CONTRACTOR MAKES NO OTHER WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, IN FACTOR IN LAW, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL CONTRACTOR BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES (DRYWALL POPS, ELECTRICAL WIRES, PLUMBING, LAWN'S, OR PERSONAL ITEMS ON WALLS) TO OWNER, PROPERTY, OR ANY OTHER PARTY, EVEN IF OWNER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. AZTEC IS NOT RESPONSIBLE TO REMOVE ANY CABLE DISH AND WILL TRY TO REINSTALL DISH IN ITS ORIGINAL PLACE, BUT NOT LIABLE FOR ALIGNMENT. PLEASE REMOVE ANY ITEMS FROM WALLS OR SHELVING THAT MAY SHIFT DURING PROJECT. AZTEC IS NOT A CERTIFIED ELECTRICIAN AND CANNOT COMPLETE ANY ELECTRICAL WORK IF REQUIRED. CONTRACTOR SHALL NOT BE LIABLE FOR OCCURRING MOLD. CONTRACTOR RESERVES THE RIGHT TO USE COMPLETED PROJECT FOR VISUAL REFERENCES.

5. **Payment:** If OWNER shall fail to pay any portion of the price when due or if OWNER shall breach any other term or condition of this Agreement, OWNER shall be considered to be in default of this Agreement and CONTRACTOR may pursue all available remedies either in law or equity for any loss suffered by CONTRACTOR as a result of OWNER'S default. Should CONTRACTOR employ legal counsel to seek enforcement of this Agreement, CONTRACTOR shall be entitled to recover, in addition to any and all damages or any other available remedy, its attorney's fees, costs and expenses incurred in enforcing this Agreement with an additional 10% charge of the total contract price. Any disputes hereunder shall be resolved by binding arbitration in accordance with rules of the American Arbitration Association. The remedies of CONTRACTOR herein are cumulative and not exclusive. The failure of CONTRACTOR to exercise its rights or to pursue any remedy for a default shall not operate as a waiver of the right to pursue a remedy for the same or subsequent default.

6. **Entire Agreement:** This Agreement contains the entire understanding of the parties and supersedes any prior agreements, oral or otherwise. If any portion of this Agreement shall be determined by a Court of competent jurisdiction to be unenforceable, such determination shall not affect the enforceability of any other term or condition herein. This Agreement may not be modified except in writing signed by both parties.

Signed this \_\_\_\_\_, 2024  
CONTRACTOR:  
AZTEC HOMES, INC

OWNER accepts the conditions set forth  
on all pages of this document:

By:  
Mike Powell – Director of Sales  
Aztec Homes Inc.

Signature \_\_\_\_\_ Email \_\_\_\_\_

Printed \_\_\_\_\_ Phone \_\_\_\_\_