

**BOARD OF PUBLIC
WORKS & SAFETY
MEMBERS**

Nick Barbknecht
Chuck Lehman
Mayor Willis



CITY OF WESTFIELD, IN
Board of Public Works Meeting Agenda

BOARD OR COMMISSION: Board of Public Works Meeting

MEETING DATE: Wednesday, April 23, 2025 at 1:00 PM

MEETING PLACE: Westfield City Hall- Assembly Room

THE FOLLOWING AGENDA IS SUBJECT TO CHANGE AT THE DISCRETION OF BOARD OF PUBLIC WORKS

OPENING OF REGULAR MEETING

Note the presence of a quorum

APPROVAL OF MINUTES

Action Item #1:

- Approval of Minutes – March 26, 2025

Action Item #2:

- Approval of Minutes – April 7, 2025

CHANGES TO AGENDA

RESOLUTIONS

Action Item #3:

- Resolution #25-121 – A Resolution of the City of Westfield Board of Public Works & Safety Approving a Lease Agreement with Pattern, Inc.

Action Item #4:

- Resolution #25-125 - A Resolution of the City of Westfield Board of Public Works & Safety Declaring Certain Personal Property to be Surplus & Authorizing Transfer Pursuant to Westfield Police Department General Order 26.1.2

CONTRACTS/AGREEMENTS

Action Item #5:

- **Adoption of Final Request for Proposals for Residential Solid Waste, Yard Waste, Recycling Collection and Disposal**

Action Item #6:

- **Approval of Utility Easement Agreement- Citizens Water of Westfield and Westfield Washington Schools**

Action Item #7:

- **Approval of Donation Agreement- Citizens Water of Westfield and Westfield Washington Schools**

**Public Hearing
Action Item #8:**

- **Award of Public Private Agreement/Build-Operate-Transfer Agreement- Fiber Infrastructure Project**

Action Item #9:

- **Approval of Neighborhood Vibrancy Grant Agreement – Bent Creek**

Action Item #10:

- **Approval of Neighborhood Vibrancy Grant Agreement – Brookside**

Action Item #11:

- **Approval of Neighborhood Vibrancy Grant Agreement – Countryside**

Action Item #12:

- **Approval of Neighborhood Vibrancy Grant Agreement – Crosswind Commons**

Action Item #13:

- **Approval of Neighborhood Vibrancy Grant Agreement – Derby Ridge**

Action Item #14:

- **Approval of Neighborhood Vibrancy Grant Agreement – Lakes of Westfield**

Action Item #15:

- **Approval of Neighborhood Vibrancy Grant Agreement – Maple Knoll**

Action Item #16:

- **Approval of Neighborhood Vibrancy Grant Agreement – Maple Ridge**

Action Item #17:

- **Approval of Neighborhood Vibrancy Grant Agreement – Oak Manor**

Action Item #18:

- **Approval of Neighborhood Vibrancy Grant Agreement – Oak Preserve**

Action Item #19:

- **Approval of Neighborhood Vibrancy Grant Agreement – Scofield Farms**

Action Item #20:

- **Approval of Neighborhood Vibrancy Grant Agreement – Setters Run**

Action Item #21:

- **Approval of Neighborhood Vibrancy Grant Agreement – Sheffield Park**

Action Item #22:

- **Approval of Neighborhood Vibrancy Grant Agreement – Springdale Farms**

Action Item #23:

- **Approval of Neighborhood Vibrancy Grant Agreement – Viking Meadows**

Action Item #24:

- **Approval of Neighborhood Vibrancy Grant Agreement – Village Farms**

Action Item #25:

- **Approval of Neighborhood Vibrancy Grant Agreement – William Trace**

Action Item #26:

- **Approval of Neighborhood Vibrancy Grant Agreement – Willow Creek**

Action Item #27:

- **HWC Water & Land Resources, LLC & City of Westfield – Agreement for Land Management Services**

Action Item #28:

- **Resolution Group, Inc. & City of Westfield – Inventory of Private Post-Construction Best Management Practices**

Action Item #29:

- **Egis BLN USA, Inc. & City of Westfield – Local Public Agency Consulting Contract – Towne Road Extension from 166th Street to SR 32**

Action Item #30:

- **A&F Engineering Co., LLC & City of Westfield - Local Public Agency Consulting Contract – Construction Inspection Services for 161st & Spring Mill RAB**

Action Item #31:

- **A&F Engineering Co., LLC & City of Westfield – Local Public Agency Consulting Contract – 191st Street from Grand Park Blvd. to Spring Mill Rd. Design Services**

Action Item #32:

- **Westfield Collective & City of Westfield – Dedication of Public Right-of-Way**

Action Item #33:

- **Westfield Properties, LLC & City of Westfield – Quitclaim Deed – Austrian Pine Greenway Trail Corridor Dedication**

Action Item #34:

- **Lennar Homes of Indiana & City of Westfield – Osborne Trails, Section 15 – Perimeter Trail - Developer Agreement**

Action Item #35:

- **Lochmueller Group & City of Westfield - On-Call Inspection and Design Services Master Agreement**

Action Item #36:

- **Waypoint Strategies & City of Westfield – Signing Authority**

Action Item 37:

- **Recommendation of Per Diem for Westfield Fire Department Merit Commission and Westfield Police Department Merit Commission members (Rob Gaylor & Shawn Keen)**

CONSENT AGENDA

- **April Bond Information**

DEPARTMENT REPORTS

WFD March Report

WPD March Report

ADJOURNMENT



CITY OF WESTFIELD, IN
Board of Public Works Meeting Minutes - 3/26/2025
Wednesday, March 26, 2025 at 1:00 PM

OPENING OF REGULAR MEETING

Note the presence of a quorum

Nick Barbknecht and Chuck Lehman made up the quorum. Deputy Mayor, Danielle Carey-Tolan, City Attorney, Kaitlin Glazier, and Records Manager, Kim Strang were in attendance.

APPROVAL OF MINUTES

Action Item #1: Approval of Minutes – February 26, 2025

Motion to approve made by: Chuck Lehman

Seconded by: Nick Barbknecht

Vote: Yes-2; No-0. Motion carried.

CHANGES TO AGENDA

Action Item number 8 will be added: Citizens Water of Westfield, LLC & City of Westfield-Utility Reimbursement Agreement

CONTRACTS/AGREEMENTS

Action Item #2: Options Charter School & City of Westfield - Amended & Restated Termination of Payment in Lieu of Taxes Agreement

Kaitlin Glazier relayed that there were some language modifications in the Termination of Payment in Lieu of Taxes Agreement between Options Charter School and the City of Westfield approved at the February 26, 2025, meeting. This agreement amends, replaces and supersedes the previously approved agreement.

Motion to approve made by: Nick Barbknecht

Seconded by: Chuck Lehman

Vote: Yes-2; No-0. Motion carried.

Action Item #3: Najem Family Real Estate & City of Westfield – 207 Mill Street – Road Impact Fee Installment Agreement

Michael Pierce stated that this is a standard RIF agreement between the City of Westfield and Najem Family Real Estate. The city has agreed to accept installment payments for road impact fees over the next 5 years with \$5,000 or 5%, whichever is greater, paid prior to issuance.

Motion to approve made by: Chuck Lehman

Seconded by: Nick Barbknecht

Vote: Yes-2; No-0. Motion carried.

Action Item #4: Clark Dietz & City of Westfield – On-Call Plan Review Services Contract Amendment #1

Michael Pierce presented this amendment, stating that as the city continues to grow, periodic assistance is needed for new development infrastructure plan reviews. Clark Dietz will attend project meetings with the city's plan reviewer, and perform engineering reviews using the city's plan review checklist. The amendment allows \$40,000 to be added to the original \$40,000 service contract approved in May 2024, a total not to exceed \$80,000 without prior authorization.

Motion to approve made by: Nick Barbknecht

Seconded by: Chuck Lehman

Vote: Yes-2; No-0. Motion carried.

Action Item #5: American Structurepoint, Inc. & City of Westfield Inspection Services Contract 181st & Wheeler Road RAB

Michael Pierce said that this is an Inspection Service Contract with American Structurepoint to oversee the construction of the 181st Street and Wheeler Rd RAB. The project is projected to begin at the end of May or early June with an anticipated completion date of October 2025. Inspection fees total \$225,960.00.

Motion to approve made by: Chuck Lehman

Seconded by: Nick Barbknecht

Vote: Yes-2; No-0. Motion carried.

Action Item #6: Union Square Multifamily, Phase 1, LLC & City of Westfield Road Impact Fee Credit Agreement

Michael Pierce stated this is a Road Impact Fee CREDIT Agreement with Union Square Multifamily Phase I LLC. This will be a credit of approximately \$800,000 for public parking improvements and added unplanned infrastructure improvements to the parking structure. The parking structure is being constructed in accordance with the city's Zone Improvement Plan and as part of the development of the Union Square at Grand Junction PUD.

Motion to approve made by: Nick Barbknecht

Seconded by: Chuck Lehman

Vote: Yes-2; No-0. Motion carried.

RESOLUTIONS

Action Item #7: Resolution 25-115: A Resolution of the City of Westfield Board of Public Works and Safety Approving an Intergovernmental Transfer of Real Property Interest and Real Estate Purchase Agreement with Hamilton County, Indiana for the Public Safety Training Facility Project

Danielle Carey-Tolan stated the city owns two parcels of land (approximately 86.83 acres) that the current public safety training center is on. The county would like to design, construct, and equip a multi-use public safety training facility on the property. The training facility would provide advanced public safety training resources, opportunities and educational programs for the use and benefit of the police, fire, EMT and other public safety personnel from each city within the county. The county wishes to purchase the property from the city for subsequent sale and transfer to the Hamilton County Public Safety Corporation. Kaitlin Glazier

commented that this will be treated as an intergovernmental transfer relating to Ind. Code § 36-1-11-8, which authorizes the transfer of property between governmental entities upon terms and conditions agreed upon by both entities. The city got 2 appraisals and the county got 2 appraisals for the property. Ms. Glazier confirmed there is language in the agreement that guarantees the county will use the property for these purposes.

Motion to approve made by: Chuck Lehman
Seconded by: Nick Barbknecht
Vote: Yes- 2; No-0. Motion carried.

ADDED AGENDA ITEM

Action Item #8: Citizens Water of Westfield, LLC & City of Westfield-Utility Reimbursement

Michael Pierce stated this is to reimburse Citizens Water for relocating a fire hydrant which is currently in an easement related to the 181st Street and Wheeler Road RBA project. The request is for board approval on a preliminary estimate of reimbursement of \$51,700.

Motion to approve made by: Nick Barbknecht
Seconded by: Chuck Lehman
Vote: Yes-2; No-0. Motion carried.

CONSENT AGENDA

March Bond List

Motion to approve made by: Chuck Lehman
Seconded by: Nick Barbknecht
Vote: Yes-2; No-0. Motion carried.

DEPARTMENT REPORTS

WFD

Deputy Fire Chief Roberts gave the February 2025 report

WPD

Police Department report given by Chief Keen

WPWD

City Engineer Michael Pierce gave the Public Works report.

ADJOURNMENT

Chuck Lehman made the motion to adjourn. Nick Barbknecht seconded.

Meeting adjourned at 1:35 PM

These minutes are a summary of actions taken at the City of Westfield Board of Public Works Meeting. A full video archive of the meeting is available for viewing at:
<https://www.youtube.com/cityofwestfieldin>

Deputy Clerk

Board Member



CITY OF WESTFIELD, IN
Board of Public Works Meeting Minutes - 4/7/2025
Monday, April 7, 2025 at 3:00 PM

OPENING OF SPECIAL MEETING

Note the presence of a quorum

Chuck Lehman and Mayor Willis were in attendance. Kaitlin Glazier, City Attorney, was also present. Kim Strang, Records Manager, attended virtually.

CONTRACTS/AGREEMENTS

Action Item #1: City of Westfield & Daniel L. Duffer – Agreed Findings & Judgment

Chou-il Lee with Taft Law, presented the items together, emphasizing that both properties are owned by the same family. These properties are the final two land acquisitions required for the Jersey Street Project. The items being presented today seek approval of the agreed-upon findings and judgments which outline the terms of the agreement.

Nick Barbknecht joined the meeting at 3:06 PM. Chou-il Lee recapped the items of business for Mr. Barbknecht.

Motion to approve made by: Chuck Lehman

Seconded by: Nick Barbknecht

Vote: Yes-3; No-0. Motion carried

Action Item #2: City of Westfield & Compound Maple, LLC – Agreed Findings & Judgment

Motion to approve made by: Chuck Lehman

Seconded by: Nick Barbknecht

Vote: Yes-3; No-0. Motion carried.

ADJOURNMENT

Nick Barbknecht made the motion to adjourn. Chuck Lehman seconded.

Meeting Adjourned at: 3:09 PM

Deputy Clerk-Treasurer

President or Vice President

These minutes are a summary of actions taken at the City of Westfield Council meetings. A full video archive of the meeting is available for viewing at: <https://www.youtube.com/cityofwestfieldin>

RESOLUTION 25-121

A RESOLUTION OF THE CITY OF WESTFIELD BOARD OF PUBLIC WORKS AND SAFETY APPROVING A LEASE AGREEMENT WITH PATTERN, INC.

WHEREAS, the City of Westfield, Indiana ("City") is an Indiana municipal corporation;

WHEREAS, the Board of Public Works and Safety ("Board") of the City holds real property of the City pursuant to Ind. Code § 36-9-6-3;

WHEREAS, the City owns certain real estate located generally along the north side of the Grand Junction Plaza in the right-of-way on Jersey Street ("Property");

WHEREAS, pursuant to Ind. Code § 36-1-11-1, the City may lease property to an Indiana nonprofit corporation organized for educational, literary, scientific, religious, or charitable purposes that is exempt from federal income taxation under Section 501 of the Internal Revenue Code, and the additional regulations established in Ind. Code § 36-1-11 *et seq.* are inapplicable;

WHEREAS, PATTERN, Inc. is an Indiana nonprofit corporation organized for educational, literary, scientific, religious, or charitable purposes that is exempt from federal income taxation under Section 501 of the Internal Revenue Code; and

WHEREAS, the City has determined that it is now in the best interests of the City and its residents to lease the Property to PATTERN, Inc. for a period of one (1) year pursuant to the terms and conditions of the Lease Agreement, a substantially final version of which is attached hereto as Exhibit A and incorporated herein by reference.

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

Section 1. The foregoing Recitals are fully incorporated herein by this reference.

Section 2. The Board hereby finds and determines that leasing the Property to PATTERN, Inc. is in the best interests of the City and its citizens. The Board hereby approves the proposed Lease Agreement between the City and PATTERN, Inc. in substantially the form attached hereto as Exhibit A, with such changes thereto as the Mayor may approve, such approval to be conclusively evidenced by the Mayor's

execution thereof.

Section 3. The City will execute and deliver such other agreements, instruments, certificates, and other documents, and perform and observe such other actions, covenants, and obligations, as necessary or desirable in connection with the Lease Agreement.

Section 4. Each agreement, instrument, certificate, and other document contemplated by this Resolution to be executed and delivered by the City shall be in a form approved by, and satisfactory to, the Board President and the Mayor, which approval and satisfaction shall be conclusively evidenced by the execution and delivery thereof by the Board President and/or Mayor.

Section 5. The Board President and/or Mayor are authorized to execute and deliver all of the agreements, instruments, certificates, and other documents contemplated by this Resolution to be executed and delivered by the City. In the absence of the Board President and/or Mayor, the Deputy Mayor shall be authorized to execute and deliver any or all of the agreements, instruments, certificates, and other documents contemplated by this Resolution to be executed and delivered by the City. The Board members, Mayor, Deputy Mayor, and Clerk-Treasurer are further authorized to take all other lawful actions necessary in connection with the lease of the Property and the other matters contemplated by this Resolution.

Section 6. This Resolution is effective upon passage.

ADOPTED and PASSED this 23rd day of April 2025.

BOARD OF PUBLIC WORKS AND SAFETY,
CITY OF WESTFIELD, INDIANA

President Nick Barbknecht

Mayor Scott A. Willis

Chuck Lehman

Attest: _____

LEASE AGREEMENT

THIS LEASE AGREEMENT ("**Agreement**") is entered into as of the ____ day of April, 2025, by and between the City of Westfield, Indiana, by and through its Board of Public Works and Safety ("**Landlord**"), and PATTERN, Inc., an Indiana nonprofit corporation ("**Tenant**").

WHEREAS, Landlord is the owner in fee simple of certain real estate located generally along the north side of the Grand Junction Plaza in the right-of-way on Jersey Street, and more particularly described in Exhibit "A" attached hereto and incorporated herein ("**Premises**");

WHEREAS, pursuant to Ind. Code § 36-1-11-1, Landlord may lease property to an Indiana nonprofit corporation organized for educational, literary, scientific, religious, or charitable purposes that is exempt from federal income taxation under Section 501 of the Internal Revenue Code, and the additional regulations established in Ind. Code § 36-1-11 *et seq.* are inapplicable;

WHEREAS, Tenant is an Indiana nonprofit corporation organized for educational, literary, scientific, religious, or charitable purposes that is exempt from federal income taxation under Section 501 of the Internal Revenue Code; and

WHEREAS, Landlord and Tenant desire to enter into this Agreement whereby Landlord will lease the Premises to Tenant pursuant to the terms and conditions herein.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant ("**Parties**") agree as follows:

Section 1. Recitals. The above Recitals are an integral part of this Agreement and are specifically incorporated herein by reference.

Section 2. Premises. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, upon and subject to the terms and provisions of this Agreement, the Premises generally located along the north side of the Grand Junction Plaza in the right-of-way on Jersey Street, and more particularly described in Exhibit "A" attached hereto and incorporated herein. The Premises shall not include the explicit use of public amenity space, such as tables, trash cans, restrooms, etc. Landlord agrees to make

reasonable efforts to provide 110-amp electricity at the Premises for use by Tenant. Landlord and Tenant will agree to specific terms related to the provision of electricity in a separately executed document.

Section 3. Term and Possession. The Term of this Agreement shall commence on May 1, 2025 and shall continue through April 30, 2026. This Agreement shall not automatically renew, but may be renewed upon terms and conditions agreed to by both Landlord and Tenant in writing. Landlord reserves the right to terminate this Agreement at any time upon fourteen (14) days prior notice to the Tenant if, in Landlord's reasonable opinion, Tenant or its subtenant(s), assignees, officers, employees, agents, contractors, licensees, guests or invitees violate(s) or breach any term of this Agreement, applicable state or federal law, local ordinance, rule, or regulation. Landlord reserves the right at any time upon prior notice to the Tenant (except in emergencies), to cause the removal of Tenant or any of Tenant's subtenant(s), assignees, officers, employees, agents, contractors, licensees, guests or invitees, who (in the reasonable discretion of Landlord) has engaged or is engaging in illegal, undesirable, unsafe, disruptive or hazardous behavior in or on the Premises.

Section 4. Purpose and Use. Tenant shall occupy and use the Premises for the purpose of locating and maintaining a refurbished, decommissioned IndyGo bus ("Bus") that will serve as a pop-up retail space. Tenant agrees to use the Premises only for the purposes described herein, and for no other purpose(s).

Section 5. Assignment and Subleasing. With the prior written consent of Landlord, Tenant may sublease the Premises or enter into an agreement with a third-party vendor to utilize the Bus as a pop-up retail space, and for no other purpose. For purposes of this Section 5 only, "written consent" shall include approval via email by any member of the Landlord's Economic Development team. Any sublease or agreement shall be consistent with Landlord's policies, goals, and standards- by way of illustration and not limitation, Tenant agrees that the Bus may not operate as an adult bookstore and may not be used to sell or deliver pornographic materials, tobacco, or nicotine products. Landlord shall have the right to withhold its consent to any proposed assignment or sublease for any reason whatsoever. If Tenant enters into a sublease or assigns any rights hereunder, Landlord shall not be a party to such sublease or agreement and Tenant shall remain primarily responsible to Landlord for the performance of all terms and conditions of this Agreement.

Section 6. Rent. During the term of this Agreement, Tenant shall pay rent for the Premises in an amount of \$350 per month, for a total of \$4,200 for the duration of this

Agreement. Rent shall be paid to the Landlord's Parks Department on or before the first day of each month (with invoices provided to Tenant on or before the 15th day of each month).

Section 7. Condition of Premises. Tenant has inspected the Premises and accepts the same in its presently existing and "AS IS", "WHERE IS" condition, with all faults, as of the date of this Agreement. Tenant represents that it has relied upon its own inspection of the Premises to determine the condition thereof.

Section 8. Tenant's Responsibilities. Tenant shall be responsible for all cleaning, maintenance, upkeep, and trash removal in and around the Premises during the term of this Agreement. Tenant agrees that it will not, and will not permit its subtenant(s), assignees, officers, employees, agents, contractors, licensees, guests or invitees to, injure, damage, mar, or deface the Premises, or any improvements, appurtenances or equipment contained or located therein or thereon. Tenant will immediately report any damage to Landlord. Tenant shall be solely responsible for the repair of all damages to the Premises and will, upon demand, reimburse Landlord for the cost of any such repairs. Landlord will not be responsible to Tenant for the lack of use of any portion of the Premises due to repairs of such damages. Tenant shall take all necessary actions required to ensure the safety of its subtenant(s), assignees, officers, employees, agents, contractors, licensees, guests or invitees, and will be solely liable for any damages or injuries that arise as a result of Tenant's use of the Premises.

All activities conducted by Tenant and its subtenant(s), assignees, officers, employees, agents, contractors, licensees, guests or invitees hereunder shall comply with all local, state and federal laws, regulations, rules and regulations of the Landlord, and applicable ordinances. Tenant shall use the Premises for no unlawful purpose or act; shall commit or permit no waste or damages to the Premises; and shall maintain the Premises in a safe, secure and good condition during the term of this Agreement. Tenant shall obtain and maintain all approvals, permits, accreditations, and licenses necessary to operate on the Premises. Tenant shall not cause or maintain, or permit any subtenant(s), assignees, officers, employees, agents, contractors, licensees, guests or invitees to cause or maintain, a public or private nuisance on the Premises. Tenant agrees to comply with and implement any reasonable recommendations regarding the Premises made by Landlord or its liability insurance carrier.

Section 9. Alterations and Additions. Tenant shall make no alterations or additions to the Premises (aside from locating the Bus on the Premises and utilizing allowable, non-permanent signage) without the prior written consent of Landlord. Any

alterations or additions permitted by Landlord shall be paid for by Tenant, with no allowance or reimbursement from Landlord, and all such work shall be done in a workmanlike manner, in accordance with applicable laws and regulations, and without damage to the Premises. Tenant shall furnish and maintain the Bus (and any equipment located therein) at its own expense and with no allowance or reimbursement from Landlord.

Section 10. Personal Property. Tenant agrees that all personal property of every kind or description which may be located in or at the Premises (including the Bus) shall be at Tenant's sole risk, or at the risk of those claiming through or under Tenant (including subtenant(s), if any). Landlord shall not be responsible or liable for and shall be held harmless by Tenant against all claims for any damage to said personal property (including the Bus), unless such damage is caused solely by the negligence or willful act of Landlord.

Section 11. Liens and Claims. Tenant shall keep the Premises free and clear of any and all liens and encumbrances for work performed by or materials provided to Tenant or on Tenant's behalf. Without limiting the foregoing, Tenant shall not permit any mechanics', materialmen's, or similar liens or claims to exist or be filed against the Premises for labor or materials furnished in connection with any work performed by Tenant or by its employees, subtenant(s), assignees, representatives, consultants and/or contractors under this Agreement. Upon notice of any such lien or claim, Tenant shall either immediately pay the lien or claim in full or bond over and contest the validity and the amount of such lien and immediately pay any judgment rendered in such contest and pay all proper costs and charges therefor, and in both events, will have the lien or claim promptly released at its sole expense not later than thirty (30) days following Landlord's notice to Tenant.

Section 12. Insurance. Throughout the term of this Agreement, Tenant shall obtain, maintain and keep in full force and effect at Tenant's sole cost and expense a policy of comprehensive general liability insurance, protecting and indemnifying Landlord and Tenant against any and all liabilities and claims for injury or damage to persons or property occasioned on or about any part of the Premises, with such policy to be in the minimum amount of \$1,000,000.00 each occurrence and \$2,000,000.00 general aggregate. All policies required to be maintained hereunder shall: (a) name Landlord as an additional insured; (b) contain a clause whereby the insurer waives its right of subrogation against Landlord; and (c) provide that Landlord shall be given a ten (10) day prior written notice of cancellation. Tenant shall provide to Landlord a

current certificate of such insurance, showing Landlord as an additional insured, upon execution of this Agreement.

Section 13. Indemnification and Waiver. Tenant shall completely defend, indemnify, protect, and save harmless Landlord, its boards, affiliates, members, managers, officers, directors, and employees, from and against any and all claims, actions, suits, damages, liabilities, costs, and expenses, including, but not limited to, court costs and reasonable attorneys' fees and disbursements, arising from or related to or connected with Tenant's or Tenant's subtenant(s), assignees, officers, employees, agents, contractors, licensees, guests or invitees use of the Premises, except for any such matters arising solely out of Landlord's willful misconduct or gross negligence. Landlord shall not be held liable or responsible for damages to or theft of property related to Tenant's use of the Premises, and Tenant agrees to indemnify and hold harmless Landlord from any associated damage or loss. Tenant agrees that property stored on the Premises (including the Bus) shall be at Tenant's risk only, and that Tenant shall be liable and responsible for any and all damages and/or injuries resulting from Tenant's use of the Premises. Tenant assumes all risk of injury to or death of persons or damage to property with respect to Tenant's use of the Premises, and Landlord shall not be held liable for such injuries or damages. Tenant hereby releases Landlord of and from every right, claim and demand that Tenant may hereafter have against Landlord and from all liability for any accident, damage or injury caused to person or property in or about the Premises, unless caused solely by Landlord's willful misconduct or gross negligence. The indemnifications under this paragraph shall survive the expiration or early termination of this Agreement. Each Party shall give the other Party prompt notice of any claim coming to its knowledge that in any way directly or indirectly affects the other party.

Section 14. Rights Reserved to Landlord. Landlord reserves and shall at all times have the right to enter the Premises to inspect the same. Tenant shall make the Premises accessible and available to Landlord at all reasonable times for the purpose of inspecting the same. Tenant hereby waives against Landlord any claim for damages, injury, inconvenience, or interference with occupancy or quiet enjoyment of the Premises due to Landlord's right to inspect the same.

Section 15. Non-Exclusive Use of Additional Areas. Public restrooms located in Grand Junction Plaza, Grand Junction Cafe building, play structures, trash cans, seating areas, and shade structures are provided for the general non-exclusive use, in common, of Tenant, Landlord, and all guests, invitees, and users of various nearby public facilities. Such areas shall at all times be subject to reasonable regulation and

management by Landlord, and Tenant agrees to abide by any reasonable rules and regulations, which from time to time, as Landlord shall deem necessary, may be modified or amended.

Section 16. Surrender of Premises. Upon the expiration or sooner termination of this Agreement, Tenant shall surrender to Landlord the Premises, in the same order and condition in which Tenant received same, ordinary wear and tear excepted. Prior to such expiration or termination, Tenant shall retrieve all of its trade fixtures, furniture, equipment, and personal property from the Premises (including the Bus); provided that all trade fixtures, furniture, equipment, and personal property remaining in, on, or about the Premises after the expiration of the Agreement shall be deemed to be the property of Landlord, which Landlord may keep, use, sell, store, or dispose of in Landlord's sole discretion. Notwithstanding the foregoing, the Bus shall not be deemed to become property of the Landlord, but Landlord reserves the right to relocate the Bus upon expiration or termination of this Agreement, and to charge Tenant for such relocation and associated storage until Tenant retrieves the Bus. Tenant shall indemnify Landlord against any loss or liability resulting from delay by Tenant in surrendering the Premises.

Section 17. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Indiana. Litigation of all disputes between the Parties arising from or in connection with this Agreement will be conducted in the Circuit or a Superior Court of Hamilton County, Indiana, or federal courts for the Southern District of Indiana.

Section 18. Notice. All notices required or permitted to be given pursuant to the terms of this Agreement shall be in writing and shall be deemed to have been properly given when mailed by certified mail, postage paid, return receipt requested or hand delivered to the appropriate Party, addressed to the address provided below:

If to Landlord:

ATTN: Claire Gelinis, Economic Development Strategist
City of Westfield, Indiana
2728 East 171st Street
Westfield, IN 46074

With a Copy to:

ATTN: Legal Department
City of Westfield, Indiana
2728 East 171st Street

Westfield, IN 46074

If to Tenant:

ATTN: Polina Osharov, Executive Director

PATTERN, Inc.

The Stutz

1060 N. Capitol Avenue, 4-102

Indianapolis, IN 46204

Each Party shall have the right to designate other or additional addresses or addressees for the delivery of notices by giving notice of the same in the manner as previously set forth herein.

Section 19. Non-Discrimination. Tenant agrees that it, and its subcontractors and subtenant(s) will 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 matter directly or indirectly related to employment, because of the employee's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of the Agreement.

Section 20. Relationship. Persons engaged by Tenant or Tenant's subtenant(s) to provide labor or services shall not be deemed or considered employees, agents, or contractors of Landlord.

Section 21. Authorization. Each undersigned person executing this Agreement on behalf of Landlord and Tenant represents and certifies that: (a) he or she has been empowered and authorized by all necessary action of the applicable Party to execute and deliver this Agreement; (b) he or she has full capacity, power, and authority to enter into and carry out this Agreement; and (c) the execution, delivery, and performance of this Agreement have been authorized by the applicable Party.

Section 22. Miscellaneous. This Agreement may be executed in multiple counterparts which, taken as a whole, shall constitute one instrument. This Agreement, together with any exhibits or addenda annexed hereto, constitutes the entire agreement of the Parties on the specific subject matter of this Agreement. This Agreement supersedes all prior representations, understandings, and agreements between the

Parties with respect to the subject matter herein. Any invalidity, in whole or in part, of any provisions of this Agreement will not affect the validity of any other of its provisions. No term or provision hereof will be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the Party claimed to have waived or consented. This Agreement may be amended, supplemented, or modified only by a writing executed by authorized representatives of each Party.

IN WITNESS WHEREOF, the parties have signed this Lease Agreement as of the date first set forth above.

LANDLORD

By: _____

Printed: _____

Title: _____

TENANT

By: _____

Printed: _____

Title: _____

EXHIBIT A

A part of the Northeast Quarter of Section 1, Township 18N, Range 3 East of the Westfield Washington Township, Hamilton County, Indiana described as follows:

Commencing at the northeast corner of said Section 24; at Hamilton County survey marker number 18030103, thence S 35-15-8 W Distance: 473.2185 feet, thence S 89-54-59 W Distance: 43 feet, thence N 0-5-1 W Distance: 12 feet, thence Direction: N 89-54-59 E Distance: 43 feet back to the point of beginning, containing 0.0128 acres more or less.



Date: 4/11/2025

 Leased Premises



RESOLUTION NO. 25-125

A RESOLUTION OF THE CITY OF WESTFIELD BOARD OF PUBLIC WORKS AND SAFETY DECLARING CERTAIN PERSONAL PROPERTY TO BE SURPLUS AND AUTHORIZING TRANSFER PURSUANT TO WESTFIELD POLICE DEPARTMENT GENERAL ORDER 26.1.2

WHEREAS, it has come to the attention of the Board of Public Works and Safety ("Board") of the City of Westfield, Indiana ("City") that certain property owned by the City is now surplus and should be transferred;

WHEREAS, Ind. Code § 5-22-22 *et seq.* authorizes the City to follow certain procedures to dispose of or transfer surplus property;

WHEREAS, Westfield Police Department ("WPD") General Order 26.1.2(D)(8)(c) states that retired sworn WPD personnel may receive his/her primary duty weapon upon approval of the WPD Chief or his designee and Board approval;

WHEREAS, after leading WPD and serving the City and its citizens for over 29 years, WPD Assistant Chief Scott Jordan is retiring; and

WHEREAS, in light of the foregoing, the Board hereby seeks to declare as surplus property and approve the transfer of WPD Assistant Chief Scott Jordan's primary duty weapon pursuant to the applicable statutes and WPD General Orders.

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

Section 1. The above recitals are incorporated by reference.

Section 2. The following property belongs to the City, is no longer needed and/or is unfit for the purposes for which it was intended, and is therefore declared surplus property:

Make: Heckler and Koch
Model: VP9
Serial Number: 224-377107
"Primary Duty Weapon"

Section 3. The Primary Duty Weapon has an estimated value of less than one thousand dollars (\$1,000), so the City may transfer the Primary Duty Weapon without advertising, pursuant to Ind. Code § 5-22-22-6.

Section 4. In recognition of WPD Assistant Chief Scott Jordan's contributions to the City and its citizens, the Board hereby approves transfer of the Primary Duty Weapon to WPD Assistant Chief Scott Jordan pursuant to WPD General Order 26.1.2(D)(8)(c). WPD shall take all actions necessary to facilitate legal transfer of ownership of the Primary Duty Weapon pursuant to Indiana law and General Orders.

Section 5. This Resolution is effective upon passage.

ADOPTED and PASSED this ____ day of April, 2025.

BOARD OF PUBLIC WORKS AND SAFETY,
CITY OF WESTFIELD, INDIANA

President Nick Barbknecht

Mayor Scott A. Willis

Vice President Chuck Lehman

Attest: _____
Kim Strang, Deputy Clerk Treasurer

CITY OF WESTFIELD, INDIANA

Request for Proposals

RESIDENTIAL SOLID WASTE, YARD WASTE, RECYCLING COLLECTION AND DISPOSAL

Issued: Wednesday, April 23, 2025

Deadline for Proposals: 10:00 a.m.; Monday, June 2, 2025

Residential Solid Waste, Yard Waste, Recycling Collection and Disposal

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SUMMARY OF THE REQUEST FOR PROPOSALS

I. Executive Summary/Introduction

The City of Westfield, Indiana, by and through its Board of Public Works and Safety, (the “City”) is pleased to present this Request for Proposals (“RFP”) to prospective entities (the “Offeror(s)”) interested in submitting proposals and statements of qualifications (“Proposal(s)”) to exclusively provide for residential solid waste, yard waste, and recycling collection and disposal within the City (the “Services”).

Sealed Proposals in response to the City’s RFP may be received by the City at the Westfield City Services Building Attn: John Rogers, 2728 East 171st Street, Westfield, IN 46074, until Monday, June 2nd, 2025, at 10 a.m., local time. The Proposal should be clearly marked “PROPOSAL ENCLOSED Residential Solid Waste, Yard Waste, Recycling Collection and Disposal” on the outside of the envelope, and as otherwise set forth in the RFP Documents.

General Services Description

In general, the Services outlined in this RFP consist of weekly pick-up of bagged, containerized and/or bundled household Solid Waste and bi-weekly (or alternatively weekly) curbside commingled Recycling from all eligible Residential Units within the geographic limits of the City, and disposal. The Services may also include weekly Yard Waste collection, and Solid Waste and Recycling collection and disposal for designated City Facilities, all as required by the RFP Documents, the Contract Between the City of Westfield, Indiana and Contractor, and the City of Westfield Residential Solid Waste, Yard Waste, Recycling Collection and Disposal Specifications (the “Specifications”). Once the City selects the Contractor, the City anticipates that the City will adopt rates and charges for the Services and collect monthly fees from the Residential Units as otherwise set forth in the awarded Contract and Specifications; however, the City is willing to consider an alternative proposal (Bid Package #2) for direct billing and collection by the Contractor if the City determines it to be in its best interest.

Overview of Proposal/Bid Requirements

Pursuant to Ind. Code § 36-9-30-5.3, the City is using an RFP process in which Offerors will submit bids based on the Specifications and Contract as set forth in the RFP Documents (the “Bid(s)”), along with additional information concerning the Offeror’s qualifications and plan for the Services. Each Proposal will constitute an offer from the Offeror to provide the Services to the Specifications under the terms of the Contract and in conformance with the RFP Documents.

In addition, Offerors may submit with their Proposal proposed alternatives, if any, to the Specifications and Contract, along with a statement of resulting change in price in the event the City determines to alter the Specifications and Contract as proposed. However, any such proposed revisions will have no impact on the Offeror’s Bid, which may be accepted by the City without any of the alternatives separately included in the Offeror’s Proposal.

Following receipt of the Proposals, the City shall evaluate the Proposals pursuant to the procedures and processes established in Ind. Code § 36-9-30-5.3 (including holding a public hearing whereby the public may submit comments on the Contract to be awarded) and may accept any Proposal to the original Specifications and Contract and proceed with entering into the Contract with such Offeror, or may conduct discussions with Offerors, negotiate with Offerors, and/or enter into an amended contract with revised specifications that the City determines to be most responsive to the needs of the City and its residents.

II. Procurement Process

Pursuant to Ind. Code § 36-9-30-5.3, the City is authorized to solicit proposals, to conduct discussions with Offerors, to have eligible Offerors revise their proposals, and to negotiate best and final offers with responsible Offerors who submit proposals that the City determines to be reasonably susceptible of being selected for award of the Contract for the Services. Prior to issuing the final RFP, the City will accept comments on the Proposed RFP for the City's consideration.

Questions regarding this RFP should be submitted in writing via email to jrogers@westfield.in.gov. The City may, in its sole discretion, respond to submitted questions. All responses to submitted questions will be made available in written format and available to other Offerors.

An approximate schedule of the procurement process is as follows:

Board of Public Works and Safety ("Board") Adopts Proposed RFP	February 26, 2025
City Publishes Notice of Intent to Issue RFP	March 4, 2025
Deadline to Submit Comments on Proposed RFP	April 4, 2025
Board Adopts Final RFP	April 23, 2025
City Publishes Notice of RFP	April 28, 2025
Deadline to Submit Proposals (Due by 10:00 AM)	June 2, 2025
Negotiations with Offerors (if any)	June, 2025
Board Public Hearing on Contract	June 25, 2025
Board Contract Award Via Resolution	July 23, 2025
Common Council Rate Ordinance & Public Hearing, if Required	August- December, 2025
Services to Begin	January 1, 2026

This schedule is subject to modification as may be required by applicable law, publication deadlines, and/or at the discretion of the City.

III. Proposal Contents

Each Offeror should submit its Proposal in accordance with the Instructions to Offerors included in the RFP Documents. Proposal packets should include:

- **Cover Letter**

The Proposal should be accompanied by a cover letter that designates the Offeror's preferred contact person and officer in charge (name, phone number, email address) for all correspondence through the RFP process.

- **Bid**

Each Proposal must include a completed Bid Form based on the Contract and Specifications as set forth in the final RFP documents, and must include additional materials required by the RFP Documents (e.g., Form No. 96, Bid Bond, Signature Affidavit, Affidavit of Non-Collusion and Acknowledgment of Exclusive Authority, and Non-Discrimination Affidavit).

- **Services Plan, Approach, and Proposal Alternatives**

Describe the Offeror's plan and approach to the Services, including a description of the project team, credentials of key project team members, and roles and responsibilities.

If the Offeror believes the City should consider changes to the Specifications or Contract, provide specific proposed changes and explain how the change(s), if accepted by the City, will impact the price for the Services, including the specific amount of prices to be increased or decreased based on the proposed changes.

- **Experience and City Residential Contracts**

List no more than five (5) projects led by Offeror that are most representative of Offeror's performance in the delivery of services similar to the Services requested pursuant to this RFP. The total number of projects submitted by an Offeror shall not exceed five (5) reference projects in the aggregate for all team members. List all service addresses within the City in which the Offeror currently provides residential and/or commercial solid waste, yard waste, and/or recycling collection and disposal, along with the contract date and term for each customer.

- **Qualifications and References**

Include in the main narrative of the Proposal a description of the Offeror's qualifications to perform the Services in accordance with the requirements of the RFP. Provide (3) three references from past projects, including project name and contact information of the owner or owner's representative.

Provide a statement of the Offeror's financial capacity relative to the scope of the Services. State whether the Offeror or any of its team members, officers, principals, or shareholders have filed bankruptcy, voluntarily or involuntarily, or has defaulted on a loan or other financial obligation in the past ten (10) years.

List any lawsuits filed against the Offeror or its affiliates in the last 5 years, and the current status of the lawsuit or resolution. Describe any pending or contemplated litigation or conflicts of interest which are material to the Offeror's business, financial condition, or qualifications for the Services

- **Affidavit of Non-Collusion and Acknowledgement of Exclusive Authority**

Each Offeror must certify that it has not participated in collusion or other anticompetitive practices in connection with the RFP process, and acknowledge the City's exclusive authority to contract with one or more Offerors for the Services within the City, by executing and returning with its Proposal the Affidavit of Non-Collusion and Acknowledgment of Exclusive Authority in the form set forth in the RFP Documents.

IV. Proposal Evaluations

After giving public notice (including the date, time, and place of the hearing) and before awarding the Contract, the City shall hold a public hearing at which the public may submit comments on the Contract to be awarded. After the public hearing and pursuant to Ind. Code § 36-9-30-5.3, the City shall award a contract to the responsible Offeror with the proposal most responsive to the needs of the City. The Contract award shall be in the form of a Resolution passed by the Board of Public Works and Safety, and will include particularized findings relative to the factors evaluated- indicating that the award meets the City's needs and is in the public interest. The City's decision to enter into the Contract with an Offeror will be made primarily on the basis of the most advantageous price to the City and its residents for the most advantageous services by a qualified Offeror, and may also include consideration of Services approach, ability to provide the Services in a timely and professional manner, cost considerations, impact on the City's other services and infrastructure, and ability to deliver the City with the best value and public benefit over the life of the Services, and the best interests of the City and its residents. The City reserves the right to reject all offers and shall make a decision it believes is the most responsive to the needs of the City.

When awarding the Contract, the City shall evaluate the Proposals as to net cost or revenues. The City may also evaluate the proposals on the basis of additional factors including:

- The technical evaluation of facility design;
- Net energy efficiency;
- Environmental protection;
- Overall system reliability; and
- The financial condition of the respondent.

Further, when awarding the Contract, the City shall also consider:

- Overall costs, including construction costs, tipping fees, and reductions in costs resulting from the sale of byproducts;
- The highly complex and innovative nature of byproduct recovery technology;
- The variety of waste collection and disposal technology available;
- The desirability of flexibility for the development of complex facilities;

- The economic and technical utility of contracts for byproduct recovery projects that include in their scope various combinations of design, construction, operations, management, or maintenance responsibilities over prolonged periods.

The City recognizes that, in some instances, it may be beneficial to the City to award a Contract on the basis of factors other than cost alone- factors such as: facility design, system reliability, energy efficiency, and compatibility with source separation, other recycling systems, and environmental protection.

The City may investigate the qualifications of any Offeror, require confirmation of information furnished, and require additional evidence of qualifications. The City also reserves certain rights, including, but not limited to, the right to: (a) Accept a Proposal and proceed to Contract; (b) Reject any or all Proposals; (c) Issue subsequent RFPs; (d) Cancel the entire RFP; (e) Remedy any errors in the RFP process; (f) Appoint additional persons or committees to review qualifications and Proposals; (g) Seek the assistance of outside technical experts in evaluation; (h) Approve or disapprove of the use of particular subcontractors; (i) Establish a shortlist of eligible Offerors for discussions or negotiations after review of Proposals; (j) Negotiate with any or all Offerors; (k) Solicit best and final offers from all, some, or none of the Offerors; (l) Enter agreements with all, some, or none of the Offerors; (m) Waive informalities and irregularities in the RFP; and (n) Enter into a Contract without additional discussions or negotiations. Any decision made by the City, including selection of a Proposal, shall be final. The Contract will be awarded in accordance with Ind. Code § 36-9-30 et. Seq. and other applicable laws.

V. Assumption of Liability

The City and its employees, advisors and consultants assume no obligations, responsibilities, and/or liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by parties considering a response to and/or responding to this RFP. All such costs shall be borne solely by each Offeror.

In no event shall the City or its employees, advisors or consultants be bound by, or be liable for, any obligations with respect to the Services until such time (if at all) a written agreement, in form and substance satisfactory to the City, has been executed and authorized by the City pursuant to the RFP and applicable law. It is an express condition of tender and consideration of any proposal that the Offeror release the City and all its elected and appointed officials, representatives, attorneys, accountants, consultants, engineers and employees from all causes of action, suits, claims or demands which may arise as a result of any decision made as a result of this RFP. Any and all information made available to the Offerors is made for convenience purposes and is without representation or warranty of any kind.

NOTICE OF INTENT TO ISSUE REQUEST FOR PROPOSALS

CITY OF WESTFIELD, INDIANA

Residential Solid Waste, Yard Waste, Recycling Collection and Disposal

Pursuant to Ind. Code § 36-9-30-5.3, notice is hereby given that the City of Westfield, Indiana, by and through its Board of Public Works and Safety (the "City"), intends to issue a Request for Proposals ("RFP") for Residential Solid Waste, Yard Waste, Recycling Collection and Disposal within the City (the "Services"). In general, the proposed Services consist of weekly pick-up of bagged, containerized and/or bundled household Solid Waste, Yard Waste and bi-weekly (or alternatively weekly) curbside commingled Recycling from all eligible Residential Units within the geographic limits of the City and disposal. The Services may also include Solid Waste and Recycling collection and disposal for designated City Facilities.

Beginning on February 27, 2025, the proposed RFP may be viewed by the general public during business days, 8:30 a.m. to 4:30 p.m., at the following location:

Westfield City Services Building

2728 East 171st Street

Westfield, IN 46074

The RFP may also be viewed online at <https://Westfield.in.gov/RFP>. Questions regarding the RFP should be submitted in writing via email to jrogers@westfield.in.gov

The City will further receive written comments on the proposed RFP until **April 4, 2025 @ 10:00 a.m.**, local time, to the City of Westfield, Attn: Residential Solid Waste RFP Comments, Westfield City Services, 2728 East 171st Street, Westfield, IN 46074, or emailed to jrogers@westfield.in.gov. Comments may address the scope or contents of the proposed RFP. Following the completion of the comment period, the City may select proposers and adopt and issue the RFP as originally proposed or as may be modified.

NOTICE OF REQUEST FOR PROPOSALS

CITY OF WESTFIELD, INDIANA

Residential Solid Waste, Yard Waste, Recycling Collection and Disposal

Notice is hereby given that Sealed Proposals for Residential Solid Waste, Yard Waste, Recycling Collection and Disposal (the "Services") will be received by the City of Westfield, Indiana (the "City"), Westfield City Services Building Attn: John Rogers, 2728 East 171st Street Westfield, IN 46074, until **June 2, 2025 @ 10 a.m.**, local time. The City issued a Proposed Request for Proposals on February 26, 2025 and accepted comments pursuant to statute. The City has selected Offerors and adopted this final Request for Proposals ("RFP"). The City has notified each Offeror of the selection, informed the Offerors of the date and place established for submission of proposals, and delivered to each Offeror a copy of this final RFP.

Proposals should be clearly marked "PROPOSAL ENCLOSED Residential Solid Waste, Yard Waste, Recycling Collection and Disposal" on the outside of the envelope, and as otherwise set forth in the RFP Documents.

In general, the Services outlined in the RFP consist of weekly pick-up of bagged, containerized and/or bundled household Solid Waste, Yard Waste and bi-weekly (or alternatively weekly) curbside commingled Recycling from all eligible Residential Units within the geographic limits of the City and disposal. The Services may also include Solid Waste and Recycling collection and disposal for designated City Facilities, all as required by the RFP Documents, the Contract Between the City of Westfield, Indiana and Contractor, and the City of Westfield Residential Solid Waste, Yard Waste, Recycling Collection and Disposal Specifications (the "Specifications"). Copies of the RFP Documents may be examined without charge at the Westfield City Services Building, 2728 East 171st Street, Westfield, Indiana 46074, during business hours- 8:30 a.m. to 4:30 p.m., Monday through Friday. The RFP Documents are also available online at Westfieldin.gov/RFP

The term of the Contract resulting from this RFP is expected to be three (3) years. If both Parties agree, there may be an option to extend the contract for three (3) additional one (1) year terms, with a total maximum term of six (6) years. The Parties agree that the awarded Contract may be extended for an additional period of up to three (3) years only upon written approval of both Parties. The Contract shall not provide for automatic renewal.

Proposals are required to include a Bid based on the Contract and Specifications as set forth in the RFP Documents but may also propose alternative contract terms and specifications for the Services. Any such alternative proposals should include a statement of the impact of each proposed alternative on the price. Proposals must be submitted on the forms in the RFP Documents, must contain the names of every person or company interested therein, and shall be accompanied by:

(1) Indiana State Board of Accounts Revised Form No. 96 as required in the Instruction to Proposers, including a financial statement, a statement of experience, a proposed plan or plans for performing the Services and the equipment the Proposer has available for the performance of the Services;

(2) Bid Bond or certified check in the amount of ten percent (10%) of the total Bid amount, including alternates with a satisfactory corporate surety or on a solvent bank. The Bid Bond or certified check shall be evidence of good faith that the successful Offeror, if the original Bid is accepted, will execute the Contract as included in the RFP Documents. The Bid Bond or certified check shall be made payable to the City.

Any Bid may be withdrawn prior to the scheduled closing time for receipt of Bids, but no Offeror shall withdraw its Bid within one hundred eight (180) days after the actual opening of the Bids.

All Bid Bonds and certified checks of unsuccessful Offerors will be returned upon selection of the successful Offeror and execution of the Contract, and provision of the required Performance and Payment Bonds.

A Performance Bond with good and sufficient surety, acceptable to the City, on the form enclosed, shall be required of the successful Offeror in an amount equal to at least one hundred percent (100%) of the Contract Sum for one (1) year, conditioned upon the faithful performance of the Contract.

The Contractor shall execute a Payment Bond to the City, approved by the City, on the form enclosed, and for the benefit of the City, in an amount equal to one hundred percent (100%) of the Contract Sum for one (1) year. The Payment Bond is binding on the Contractor, its subcontractors and material suppliers, and their successors and assigns for the payment of all indebtedness to a person for labor and services performed, material furnished, or services rendered. The Payment Bond must state that it is for the benefit of the subcontractors, laborers, material suppliers, and those performing services. The surety of the Payment Bond may not be released until one (1) year after the City's final settlement with the Contractor.

All out-of-state corporations must have a certificate of authority to do business in the State. Application forms may be obtained by contacting the Secretary of State, State of Indiana, Statehouse, Indianapolis, Indiana 46204.

At the City's discretion, to further assist in its evaluation, one or more responding Offerors may be requested to participate in discussions or negotiations. The City may accept any Proposal as submitted, or alternatively may negotiate with Offerors on the scope of services, specifications, contract terms, or any other aspect of the RFP. The City reserves the right to reject and/or cancel any and all Bids or Proposals, and/or to waive any informalities, solicitations and/or offers in whole or in part as specified in the RFP when it is not in the best interests of the City as determined by the purchasing agency in accordance with Ind. Code § 5-22-18-2.

INSTRUCTIONS TO OFFERORS

1. Defined Terms. Terms used in these Instructions to Offerors, which are defined in the Specifications and shall have the meanings assigned to them in the Specifications. Certain additional terms used in these Instructions to Offerors have the meanings indicated below, which are applicable to both the singular and plural thereof.

1.1 Offeror - One who submits a Proposal directly to the City.

1.2 Successful Offeror - The Offeror to whom the City (on the basis of the City's evaluation as hereinafter provided) makes a Contract award.

1.3 Services- The exclusive right to conduct weekly pick-up of bagged, containerized and/or bundled household Solid Waste, Yard Waste and bi-weekly (or alternatively weekly) curbside commingled Recycling from all eligible Residential Units within the geographic limits of the City and disposal. The Services may also include Solid Waste and Recycling collection and disposal for designated City Facilities, all as required by the RFP Documents, the Contract Between the City of Westfield, Indiana and Contractor, and the City of Westfield Residential Solid Waste, Yard Waste, Recycling Collection and Disposal Specifications.

1.4 Contract- The contract for the Services awarded to the Successful Offeror in accordance with the RFP and Ind. Code § 36-9-30-5.3.

2. Copies of RFP Documents

2.1 Complete sets of the RFP Documents may be obtained as stated in the Notice of Request for Proposals.

2.2 Complete sets of RFP Documents shall be used in preparing Proposals; the City assumes no responsibility for errors from the use of incomplete RFP Documents.

2.3 The City, in making copies of RFP Documents available on the above terms, does so only for the purpose of obtaining Proposals and does not confer a license or grant for any other use.

3. Qualifications of Offerors. To demonstrate qualifications to perform the Services, each Proposal must include written evidence, including but not limited to financial data, previous experience, present commitments, equipment manufacturers to be used, a list of key personnel proposed for the Services along with their experience. The evaluation of the Offeror's qualifications will be based on all of the written evidence presented. Each Proposal must contain evidence of Offeror's qualification to do business in the State of Indiana or covenant to obtain such qualification prior to award of the Contract.

4. Examination of RFP Documents.

4.1 It is the responsibility of each Offeror before submitting a Proposal to:

4.1.1 Thoroughly examine the RFP Documents;

4.1.2 Visit the site to become familiar with and satisfy Offeror as to the general service and local conditions that may affect cost, progress, performance or furnishing of the Services;

4.1.3 Consider federal, state and local law and regulations that may affect cost, progress, performance or furnishing of the Services;

4.1.4 Study and carefully correlate Offeror's knowledge and observations with the RFP Documents; and

4.1.5 Promptly notify the City of all conflicts, errors, ambiguities or discrepancies, which Offeror discovers in the RFP Documents.

4.2 Before submitting a Proposal, each Offeror will be responsible to obtain such additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions which may affect cost, progress, performance or furnishing of the Services or which relate to any aspect of the means, methods, techniques, sequences or procedures to be employed by Offeror and safety precautions and programs incident thereto or which Offeror deems necessary to determine its Proposal for performing the Services in accordance with the time, price and other terms and conditions of the RFP Documents. Offerors shall assume the full risk of their own judgments as to the nature, quality, and amount of work to be done, and for the price proposed must assume all risk of any and all variances or errors in any computation or statement of amounts or quantities necessary to complete the Services in compliance with this RFP and the final Contract awarded.

4.3 Reference is made to the Specifications for the identification of the general nature of Services that are to be performed for which a Proposal is to be submitted.

4.4 The submission of a Proposal will constitute an incontrovertible representation by Offeror that Offeror has complied with every requirement, that without exception the Proposal is premised upon performing the Services required by the RFP Documents and applying the specific means, methods, techniques, sequences or procedures (if any) that may be shown or indicated or expressly required by the RFP Documents, that Offeror has given the City written notice of all conflicts, errors, ambiguities and discrepancies that Offeror has discovered in the RFP Documents and the written resolutions thereof by the City is acceptable to Offeror, and that the RFP Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Services

5. Availability for Services. The lands upon which the Services are to be performed, rights- of-way and easements for access thereto and other lands designated for use by Contractor in performing the Services are identified in the RFP Documents. All additional lands and access required for facilities, equipment, or storage of materials and equipment to be incorporated in the Services are to be provided by and at Contractor's cost.

6. Interpretations and Addenda

6.1 All questions about the meaning or intent of the RFP Documents are to be directed to the City via email to John Rogers at jrogers@westfield.in.gov. Interpretations or clarifications

considered necessary by the City in response to such questions will be issued by written Addenda, emailed, mailed, or delivered to all parties recorded by the City as having received the RFP. Questions received less than seven (7) days prior to the date for receiving of Proposals may not be answered. Only questions answered by formal written Addenda will be binding on the City. Oral and other interpretations or clarifications will be without legal effect.

6.2 Addenda may also be issued to modify the RFP Documents as deemed advisable by the City.

7. Bid Security

7.1 Each Proposal must be accompanied by Bid security made payable to the City in an amount stated in the Notice of Request for Proposals and in the form of a certified check or a Bid Bond (on the form attached) issued by a Surety meeting the requirements of the RFP Documents.

7.2 The Bid security of the successful Offeror will be retained until such Offeror has executed the Contract, furnished the required contract security, and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. If the successful Offeror fails to execute and deliver the Contract and furnish the required contract security within seven (7) days of the time specified in the Notice of Award, the City may annul the Notice of Award and the Bid security of that Offeror will be forfeited. The Bid security of other Offerors whom the City believes to have a reasonable chance of receiving the award may be retained by the City until the earlier of seven (7) days after the execution of the Contract or the time specified in the Notice of Request for Proposals, whereupon Bid security furnished by such Offerors will be returned. Bid security with Proposals which are not competitive will be returned within seven (7) days after the Proposal opening.

8. Bid Form.

8.1 The Bid Form is included with the RFP Documents.

8.2 All blanks on the Bid Form must be completed by printing in ink, typing and printing, or by typewriter. The Bid price of each item on the form must be stated in numerals.

8.3 Bids must be attached to State Form 96.

8.4 Bids by partnerships must be executed in the partnership name and signed by the general partner, whose title must appear under the signature, and official address of the partnership must be shown below the signature.

8.5 All names must be typed or printed in blue ink below the signature.

8.6 The Bid shall contain an acknowledgment of receipt of all Addenda (the numbers of which must be filled in on the Bid Form).

8.7 The address and telephone number for communications regarding the Bid must be shown.

8.8 Evidence of authority to conduct business as an out-of-state corporation in the State of Indiana shall be provided, if necessary.

8.9 In all unit price items, the Offeror shall fill in the unit price for each item and in addition thereto make an extension based on the estimated quantities.

8.10 "Residential Unit Monthly" prices in the Bid Form for the Base Bid and each Base Bid Alternate must include a \$2 City administrative fee per Residential Unit; however, the gross bid amount for the Base Bid Calculation and Base Bid Alternate Calculations should not include the \$2 fee per Residential Unit. By way of example, if the Offeror's Base Bid Price in the first year is \$10 per month per Residential Unit, the Base Bid Calculation in the Bid Form for the 1st year Price would be \$4,152,000 (\$10 x 12 x 26,600), and the Residential Unit Monthly for the 1st year Price would be \$12 (\$10 Offeror's fee per Residential Unit plus \$2 City administrative fee Per Residential Unit).

9. Submission of Proposals. Proposals shall be submitted at the time and place indicated in the Notice of Request for Proposals and shall be enclosed in an opaque sealed envelope, marked with the required title marked "PROPOSAL ENCLOSED Residential Solid Waste, Yard Waste, Recycling Collection and Disposal" and name and address of Offeror and accompanied by the Bid Security and other required documents. If the Proposal is sent through the mail or other delivery system, the sealed opaque envelope shall be enclosed in a separate envelope with the notation "PROPOSAL ENCLOSED." Pursuant to Ind. Code § 36-9-30-5.3, the information submitted by an Offeror must be sufficiently detailed to permit the City to evaluate the proposal fairly and equitably.

10. Forfeiture/Termination of Existing Contracts within City. In submitting a Proposal, each Offeror accepts the City's authority to contract with a Successful Offeror for the exclusive provision of residential solid waste, yard waste, and recycling collection and disposal services within the City, and the Offeror agrees and acknowledges that any of Offeror's existing contracts for residential solid waste, yard waste, and/or recycling collection and disposal service within the City are forfeited and may be terminated by the residential customer and/or City, irrespective of whether Offeror is selected by the City for the Services, as of January 1, 2026.

11. Bids to Remain Subject to Acceptance. All Bids shall remain subject to acceptance for the time stated in the Notice of Request for Proposals, but the City may, in its sole discretion, release any Bid and return the Bid security prior to that date. Offerors are notified that the actual scheduled date for Service performance is anticipated to be January 1, 2026. As such, the City will not actually award the Contract until approximately July 23, 2025, and Contractor agrees by submitting a Bid to hold the Bid open until October 15, 2025.

12. Award of Contract

12.1 After giving public notice (including the date, time, and place of the hearing) and before awarding the Contract, the City shall hold a public hearing at which the public may submit comments on the Contract to be awarded.

12.2 After the public hearing and pursuant to Ind. Code § 36-9-30-5.3, the City shall award a Contract to the responsible Offeror with the Proposal most responsive to the needs of the City. The Contract award shall be in the form of a Resolution passed by the Board of Public Works and Safety, and will

include particularized findings relative to the factors evaluated- indicating that the award meets the City's needs and is in the public interest.

12.3 The City reserves the right to reject any and all Proposals, including without limitation the right to reject any and all nonconforming, non-responsive, or conditional Bid or Proposal and to reject the Bid or Proposal of any Offeror if the City believes that it would not be in the best interest to make an award to that Offeror, whether because the Bid or Proposal is not responsive or the Offeror is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by the City. The City reserves the right to waive any and all informalities and to negotiate contract terms with the successful Offeror. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of words.

12.4 When awarding the Contract, the City shall evaluate the Proposals as to net cost or revenues. The City may also evaluate the proposals on the basis of additional factors including:

- The technical evaluation of facility design;
- Net energy efficiency;
- Environmental protection;
- Overall system reliability; and
- The financial condition of the respondent.

Further, when awarding the Contract, the City shall also consider:

- Overall costs, including construction costs, tipping fees, and reductions in costs resulting from the sale of byproducts;
- The highly complex and innovative nature of byproduct recovery technology;
- The variety of waste collection and disposal technology available;
- The desirability of flexibility for the development of complex facilities;
- The economic and technical utility of contracts for byproduct recovery projects that include in their scope various combinations of design, construction, operations, management, or maintenance responsibilities over prolonged periods.

12.5 The City recognizes that, in some instances, it may be beneficial to the City to award a Contract on the basis of factors other than cost alone- factors such as: facility design, system reliability, energy efficiency, and compatibility with source separation, other recycling systems, and environmental protection.

12.6 In evaluating Proposals, the City will also consider the qualifications of the Offeror, whether or not the Proposals comply with the prescribed requirements, and such alternates, unit prices, and other data as may be requested in the Bid Form or prior to the Notice of Award.

12.7 The City may consider the qualifications and experience of suppliers, and other persons and organizations proposed for those portions of the Services as to which the identity of other persons and organizations must be submitted as provided in the RFP Documents. The City also may consider the operating costs, maintenance requirements, performance data, and guarantees of major items of

materials and equipment proposed for incorporation in the Services when such data is required to be submitted prior to Notice of Award.

12.8 The City may conduct such investigations as the City deems necessary to assist in the evaluation of any Proposal and to establish the responsibility, qualifications and financial ability of Offerors, proposed subcontractors, suppliers, and other persons and organizations to perform and furnish the Services in accordance with the RFP Documents to the City's satisfaction within the prescribed time.

12.9 If the Contract is to be awarded, it will be awarded to the Offeror whose evaluation by the City indicates to the City that the award will be most responsive to the needs of the City. Each Offeror agrees to waive any claim it has or may have against the City, and their respective employees, arising out of or in connection with the administration, evaluation, or recommendation of any Proposal.

12.10 The Contract will be awarded in accordance with Ind. Code § 36-9-30 et seq. and other applicable laws. Offerors agree to comply with all federal laws, state laws, City ordinances, and any other applicable laws or regulations pertaining to the provision of the Services.

12.11 Any action to contest the validity of the Contract awarded or the procedure by which the contract was awarded must be initiated within thirty (30) days after the Contract is awarded. An action to contest the Contract, regardless of the cause, may not be initiated more than thirty (30) days after the Contract is awarded.

12.12 Under Ind. Code § 22-5-1.7-11, the awarded Contract will contain (1) a provision requiring the Contractor to enroll in and verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program, and (2) a provision that provides that the Contractor is not required to verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program if the E-Verify program no longer exists. The Contractor must sign an affidavit, and submit it with its proposal, affirming that the Contractor does not knowingly employ an unauthorized alien.

12.13 Under Ind. Code § 22-9-1-10, the awarded Contract will contain a provision requiring the Contractor and its subcontractors not to discriminate against any employee or applicant for employment to be employed in the performance of such contract, with respect to his hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of his race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of the Contract.

12.14 Under Ind. Code § 5-22-16.5, a person placed on the list of persons engaged in investment activities in Iran shall be considered non-responsible for purposes of submitting a Proposal in response to this RFP.

13. Notice of Award and Award Procedure. Prior to execution of the Contract, the City will issue to the successful Offeror a Notice of Award stating that its Proposal and Bid was the responsible and responsive Proposal, most responsive to the needs of the City, and that the enclosed Contract is submitted for execution. If the successful Offeror finds it in accordance with the RFP Documents, it is to be returned to the City by certified mail or in person after receipt for further execution and with the caution that a Contract will not exist until it is signed by all signatories required. Failure to execute the

proper Contract and furnish the ancillary documents shall constitute reason for surrender of the Bid Bond or certified check.

14. Contract Security. The Specifications, Contract and the enclosed Performance and Payment Bond forms set forth the City's requirements as to performance and payment bonds. When the successful Offeror delivers the executed Contract to the City, it must be accompanied by the required Performance and Payment Bonds on the attached forms.

15. Signing of Contract. Contractor shall sign and deliver at least three (3) counterparts of the Contract and attached documents to the City with the required Bonds. The City shall deliver one

(1) fully signed counterpart to Contractor. Each counterpart is to be accompanied by a complete set of the Specifications with appropriate identification.

16. Indiana Revised Form 96. Each Offeror shall submit State of Indiana, Revised Form 96 with and as a part of their Bid.

REQUEST FOR CLARIFICATION

RFC # _____

(To be completed by City)

Date: _____

Services: _____

City: _____

Contractor: _____

Phone #:

Email Address: _____

Ref. Spec. Sect. _____

Clarification Request:

[illegible]

Response needed by: _____

Note: Any responses will be made in writing and made available to all Offerors.

BID FORM

[SEE NEXT PAGE FOR FORM]

BID BOND

BIDDER / PRINCIPAL (Name and Address):

SURETY (Name and Address of Principal Place of Business):

CITY City of Westfield, Indiana

CONTRACT: Residential Solid Waste, Yard Waste, Recycling Collection and Disposal Contract:

BID

Bid Due Date:

BOND

Bond Number:

Date: (Not earlier than Bid due date):

Penal Sum (10% of Bid): _____ \$ _____

Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.

“Bidder”

“Surety”

Company: _____

Company: _____

Signature: _____

By: _____

Printed: _____

Printed: _____

Title: _____

Counter- signed: _____

The above addresses are to be used for giving any required notice. Provide execution by any additional parties, such as joint ventures, if necessary.

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to pay City upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond shall be City's sole and exclusive remedy upon default of Bidder. Surety is held and firmly bound unto City in the full and just sum equal to ten percent (10%) of the price stated in the Bid, including accepted alternates, if any, to be paid upon demand of the City, plus interest at the maximum legal rate from date of demand and any attorneys' fees and court costs incurred by City to enforce this Bid Bond.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required (or any extension thereof agreed to in writing by City) the executed Contract, Performance and Payment Bonds required.
3. This obligation shall be null and void if:
 - 3.1 City accepts Bidder's Bid and Bidder delivers within the time required (or any extension thereof agreed to in writing by City) the executed Contract, Performance and Payment Bonds and other documentation required to be delivered prior to commencement of Services, or
 - 3.2 All Bids are rejected by City.
4. Payment under this Bond will be due and payable upon default of Bidder and within ten (10) calendar days after receipt by Bidder and Surety of written notice of default from City, which notice will be given with reasonable promptness, identifying this Bond and the Bid and/or Contract and including a statement of the amount due.
5. No suit or action shall be commenced under this Bond prior to ten (10) calendar days after the notice of default required in Paragraph 4 above is provided to Bidder and Surety.
6. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in Hamilton County, Indiana.
7. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
8. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.
9. The Surety, for value received, hereby stipulates and agrees that the obligations of the Surety and its Bid Bond shall be in no way impaired or affected by any extension of the time within which the City may accept such Bid; and said Surety does hereby waive notice of any such extension.

[END OF DOCUMENT]

SIGNATURE AFFIDAVIT

STATE OF INDIANA

SS:

COUNTY OF _____

Before me, the undersigned notary public, appeared _____ and being duly sworn, on his/her oath says that he/she is the _____ of _____ responding to the City of Westfield, Indiana, Residential Solid Waste, Yard Waste, Recycling Collection and Disposal Request for Proposals, and affirmed that:

1. This Proposal and Bid are submitted in good faith in the amount stated therein and will be fulfilled according to the Bidding Documents (Contract, Specification and Addendums thereto), if the Proposal and Bid are accepted;
2. The statements contained in the Affidavit of Non-Collusion and Acknowledgment of Exclusive Authority are true;
3. The statements contained in the Non-Discrimination Affidavit are true;
4. The information contained in Part II of the Bid experience questionnaire, the plan and equipment questionnaire, the financial statement, and the affidavit, all of which are commonly referred to as the Form No. 96A, when required, is true, correct, and current.

By: _____

(Signature)

(Title)

(Printed or typed name of Company)

(Must be signed by principal of organization)

STATE OF

COUNTY OF

SS:

_____ personally, appeared before me, a Notary Public, in and for said County and State, this _____ day of _____, 2025, after being duly sworn upon his oath, says that the facts alleged in the foregoing affidavit are true.

My Commission Expires:

My County of Residence:

Notary Public – Signature Notary

Public – Printed Name

(S E A L)

AFFIDAVIT OF NON-COLLUSION & ACKNOWLEDGMENT OF EXCLUSIVE AUTHORITY

The Offeror, by its officers and its agents or representatives present at the time of filing the Proposal and Bid, first duly sworn, on their oath say that neither they nor any of them have in any way, directly or indirectly, entered into any arrangement or agreement with any other Offeror, or with any agent or representative of the City of Westfield whereby such affiant or affiants or either of them, has paid or is to pay to such other Offeror anything of value whatever or such affiant or affiants or either of them have not, directly or indirectly, entered into any arrangement or agreement with any other Offeror or Offerors which tends to or does lessen or destroy free competition in the letting of the Contract sought for by the attached proposal or bid(s); but no inducement of any form or character other than that which appears upon the face of the Proposal and Bid will be suggested, offered, paid or delivered to any person whatsoever to influence the acceptance of the Proposal or Bid or awarding of the Contract, nor has this Offeror any agreement or understanding of any kind whatsoever, with any person whomsoever to pay, deliver to, or share with any other person in any way or manner, any of the proceeds of the Contract sought by this Proposal and Bid.

The Offeror further affirms, under penalties for perjury, that the Offeror has not (nor has any other member, representative, or agent of the firm, company, partnership, or corporation represented by the Offeror) entered into any combination, collusion, or agreement with any person relative to the price to be offered by anyone, to prevent a person from making an offer, or to induce a person to refrain from making an offer. The Offeror affirms that this offer is made without reference to any other offer and without agreement, understanding, or combination with any other person in reference to such offer. The Offeror further states that no person or persons, firms, or corporation has, have, or will receive (directly or indirectly) any rebate, fee, gift, commission or thing of value on account of such offer.

The Offeror, by its officers and its agents or representatives present at the time of filing the Proposal and Bid, further say that they acknowledge, agree, and accept the City of Westfield's authority to contract with one or more contractors for the exclusive provision of residential solid waste, yard waste, and recycling collection and disposal services within the City of Westfield. Offeror further agrees and acknowledges that any of Offeror's existing contracts for residential solid waste, yard waste, and/or recycling collection and disposal service within the City are forfeited and may be terminated by the residential customer and/or City, irrespective of whether Offeror is selected by the City for the services, as of January 1, 2026.

(Name of Contractor)

Subscribed and sworn to this _____ day of _____, 20__.

Printed:

(S E A L)

My Commission Expires: _____, 202_. Resident of _____ County.

[Note: The form must be signed by the same person(s) who sign(s) the Bid.]

AFFIDAVIT OF NON-DISCRIMINATION

Pursuant to Ind. Code § 5-16-6, this "Affidavit of Non-Discrimination" is hereby incorporated in and made a part of the Contract dated _____ between the City of Westfield, Indiana, and the undersigned (herein called the "Contractor").

During the performance of this Contract, the Contractor agrees as follows:

1. That in the hiring of employees for the performance of Services under the Contract or any subcontract hereunder, neither the contractor nor subcontractor, nor any person acting on behalf of the contractor or subcontractor, shall, by reason of race, religion, color, sex, national origin or ancestry, discriminate against any citizen of the State of Indiana, who is qualified and available to perform the work/services to which the employment relates;
2. That neither the contractor, subcontractor, nor any person on his behalf shall in any manner discriminate against or intimidate any employee hired for the performance of Services under the Contract on account of race, religion, color, sex, national origin or ancestry;
3. That there may be deducted from the amount payable to the Contractor by the City, under the Contract, a penalty of five dollars (\$5.00) for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the Contract; and
4. That the Contract may be canceled or terminated by the City, and all money due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this section of the Contract.

(Name of Contractor)

By: _____

Title: _____

[Must be signed by principal of organization or person executing Signature Affidavit]. Subscribed and sworn to this _____ day of _____, 2025.

(S E A L)

Printed: _____

My Commission Expires: _____

Resident of _____ County.

NOTICE OF AWARD

Services: City of Westfield, Indiana, Residential Solid Waste, Yard Waste, Recycling Collection and Disposal.

The City has considered the Proposal submitted by “_____” for the above described Services in response to the City’s Request for Proposals and Instructions to Offerors. The City has accepted the following Items of the Proposal/Bid:

Additional Items, including, but not limited to:

You are notified that your Bid has been accepted for the items referenced above as provided in Westfield’s Residential Solid Waste, Yard Waste, Recycling Collection and Disposal Bid Form.

You are required by the Request for Proposals and Instructions to Offerors to execute “___” (“___”) copies of the attached Contract Between City of Westfield, Indiana, and Contractor (the “Contract”) and furnish the required Performance Bond, Payment Bond and Certificates of Insurance within “___” (“___”) calendar days from the date of this Notice of Award.

If you fail to execute the Contract and to furnish the required Performance Bond, Payment Bond and Certificates of Insurance within “___” (“___”) days from the date of this Notice of Award, the City will be entitled to consider all your rights arising out of the City’s acceptance of your Bid as abandoned and as a forfeiture of your Bid Bond or certified check. The City will be entitled to any other rights as may be granted by law.

You are required to return an acknowledged copy of this Notice of Award to the City.

Dated this _____ day of _____, 2025.

CITY OF WESTFIELD, INDIANA

By: _____

Title: _____

ACCEPTANCE OF NOTICE

Receipt of the above Notice of Award is hereby acknowledged by:

_____ this _____ day of _____, 2025.

**CONTRACT BETWEEN CITY OF WESTFIELD, INDIANA AND
"CONTRACTOR"**

RESIDENTIAL SOLID WASTE, YARD WASTE, RECYCLING COLLECTION AND DISPOSAL CONTRACT

RESIDENTIAL SOLID WASTE, YARD WASTE, RECYCLING COLLECTION AND DISPOSAL CONTRACT

This Residential Solid Waste, Yard Waste, Recycling Collection and Disposal Contract ("Contract"), is made and entered into on this _____ day of _____, 2025, by and between the City of Westfield ("City") and _____ ("Contractor"), a corporation duly organized under the laws of the State of _____, and being duly licensed to do business in the State of Indiana for Residential Solid Waste and Recycling Collection and Disposal. The City and Contractor agree as set forth below:

1. **The Services.** The intent of the Contract is to provide comprehensive Solid Waste, Yard Waste collection and disposal services consisting of weekly pick-up of bagged, containerized and/or bundled household Solid Waste, Yard Waste and bi-weekly curbside commingled Recycling from all eligible Residential Units within the limits of the City. Alternatively, the services may also include Solid Waste and Recycling collection and disposal for designated City Facilities. Contractor shall provide all materials, labor, tools, equipment, supplies, safety equipment, transportation and supervision necessary to perform, and shall perform, the services generally described herein, in accordance with the Contract Documents (as hereinafter defined) or reasonably inferable as necessary to produce the results intended by the Contract Documents (all hereinafter called the "Services").

A **Term.** The term of this Contract is three (3) years, commencing January 1, 2026 and terminating on December 31, 2028. In addition to the three-year initial term, this Contract may be renewed for up to three (3) successive one (1) year periods upon the written approval of the Parties upon the same terms and conditions of this Contract. Contractor agrees to contact the City at least one hundred and eighty (180) days before expiration of a term, to discuss renewal pursuant to the terms of this Contract.

B **Supervision and Procedures.** Contractor shall supervise and direct the Services using Contractor's best skill. Contractor shall be solely responsible for and have control over the means, methods, techniques, sequences and procedures for the Services. Contractor shall be an independent contractor and operate as a separate entity from the City. No liability or benefits such as workers' compensation, pension rights or other rights or liabilities arising out of a or related to a contract for hire, or employer/employee relationship shall arise or accrue to either party as a result of the performance of this Contract. Contractor shall be responsible to the City for the acts and omissions of Contractor's employees, agents, subcontractors, material suppliers, laborers, equipment lessors, and all other persons performing portions of the Services.

C **Labor and Materials.** Contractor shall provide and pay for all labor, materials, equipment, tools, transportation, and other facilities and services necessary for the proper execution and completion of the Services.

D **Taxes.** Contractor shall pay all sales, consumer, use and similar taxes for the Services provided by Contractor.

E **Permits, Licenses, Fees and Notices.** Contractor shall secure and pay for all required and necessary permits, licenses, governmental fees and inspections necessary for the proper execution of the Services. Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities bearing on the Services. If Contractor performs the Services contrary to laws, statutes, ordinances, codes or rules and regulations, Contractor shall assume full responsibility and shall bear the attributable costs.

F **Maps or Graphic Depictions.** The City shall furnish maps or graphic depictions describing the geographical boundaries for the provision of the Services. Such materials are for informational purposes only and City shall not be liable for inaccuracies or omissions therein, nor shall any inaccuracies or omissions in such items relieve Contractor of its responsibility to perform its Services in accordance with the Contract Documents.

G **Subcontractors.** The Contractor shall not assign any right or interest under the Contract, including the right to payment. Any attempt by the Contractor to assign any portion of the Contract shall not relieve the Contractor from any responsibility to fulfill its obligations in accordance with the provisions of the Contract Documents and shall be considered a breach of this Contract.

H **Labor Relations.** Contractor shall assure harmonious labor relations to prevent any delays, disruptions, or interference in the Services. Contractor shall prevent strikes, sympathy strikes, slowdowns, work interruptions, jurisdictional disputes or other labor disputes resulting for any reason whatsoever from the acts or failure to act of the employees of Contractor, Contractor's suppliers, or other such persons or entities. Contractor agrees that it will bind and require its suppliers and other such persons or entities to agree to all of the provisions of this paragraph. If Contractor or any of its suppliers or other such persons or entities fail to fulfill any of the covenants set forth in this paragraph, Contractor will be deemed to be in default and substantial violation of the Contract.

I **Representations.** Contractor represents and warrants the following as a material inducement to the City to execute this Contract, which representations and warranties shall survive the execution or termination of this Contract, and the final completion of the Services:

1. Contractor is able to furnish the tools, materials, supplies, equipment, and labor required to complete the Services and perform its obligations hereunder and has sufficient experience and competence to do so;
2. Contractor has reviewed the maps or graphic depictions and is familiar with the local conditions under which the Services are to be performed and has correlated its observations with the requirements of the Contract Documents;
3. Contractor possesses the required level of experience and expertise in the business administration and performance of services of the size, complexity and nature of the Services to be performed hereunder, and will perform the Services with the care, skill, and diligence of such a Contractor; and

4. Contractor represents and warrants that it has not, nor has any other member, representative, agent, or officer of the firm, company, corporation or partnership represented by the Contractor:

- a. employed or retained any company or person to solicit or secure this Contract;
- b. entered into or offered to enter into any combination, collusion, or agreement to receive or pay and that the Contractor has not received or paid, any fee, commission, percentage, or any other consideration, contingent upon or resulting from the award of and the execution of this Contract, excepting such consideration and subject to the terms and conditions of the Contract.

For a breach or violation of this representation, the City shall have the right to cancel this Contract without liability and to recover any and all monies or other consideration paid hereunder.

J The City's Right to Stop the Services. If Contractor fails to correct or persistently fails to carry out Services in accordance with the Contract Documents, the City may order Contractor to stop the Services, or any portion thereof, until the cause for such order has been eliminated; however, the right of the City to stop the Services shall not give rise to a duty on the part of the City to exercise this right for the benefit of Contractor or any other person or entity. Contractor shall have no right of action or claim against the City for or on account of orders for Services stoppage if given in good faith and upon reasonable belief that sufficient grounds exist.

K The City's Right to Carry Out the Services. If Contractor defaults or neglects to carry out the Services in accordance with the Contract Documents and fails within seven (7) days after receipt of written notice from the City to commence and continue correction of such default or negligence with diligence and promptness, the City may, without prejudice to other remedies the City may have, correct such deficiencies. In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due Contractor the cost of correcting such deficiencies. If payments then or thereafter due Contractor are not sufficient to cover such amounts, Contractor shall pay the difference to the City.

L Warranty. Contractor warrants to the City that the materials and equipment furnished under the Contract Documents shall be of good quality, in working order, and new unless otherwise permitted by the Contract Documents, and that the Services will conform with the requirements of the Contract Documents. Services not conforming to these requirements, including substitutions not properly approved and authorized, shall be considered defective.

M Indemnification. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold harmless the City and its officers, directors, employees, agents and consultants and Residential Unit Owners from and against all claims, costs, losses and damages (including but not limited to all attorneys' fees and costs) caused by, arising out of or resulting from the performance of the Services, provided that any such claim, costs, loss or damage: (i) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom, and (ii) is caused in whole or in part by any breach of this Contract or willful or negligent act or omission of Contractor, material

supplier, person or organization directly or indirectly employed by any of them to perform or furnish any of the Services or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by any negligence or omission of a person or entity indemnified hereunder or whether liability is imposed upon such indemnified party by law regardless of the negligence of any such person or entity.

All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion and acceptance of the Services and termination or completion of the Contract.

2. **Contract Documents.** The Contract Documents consist of this Contract, the Specifications identified in Exhibit A, Contractor's Bid identified in Exhibit B, and written modifications issued after execution of this Contract. The Contract Documents may not be changed, modified, added to, or deleted unless in a writing signed by Contractor and the City. The Contract Documents form the Contract for Services and represent the entire and integrated Contract between the parties hereto and supersede any and all prior negotiations, representations or Contracts, either written or oral. The Contract Documents shall not be construed to create a contractual relationship of any kind between the City and any persons or entities other than the Contractor.

The Specifications are the written requirements for materials, equipment, systems and standards for the Services, and performance of related Services including the directions, provisions and requirements pertaining to performance of the Services. Contractor shall promptly call to the attention of the City any discrepancy or conflict in the Specifications that affects the Services. In the event of an inconsistency or conflict within the Specifications, not clarified by addendum, the better quality or greater quantity of Services shall be provided. Likewise, the Services to be undertaken by Contractor shall include all incidental services necessary for the completion of the Services even though it may not be specifically described in the Specifications.

Contractor has carefully studied and compared the Contract Documents with each other and with information furnished by the City and has reported to the City all errors, inconsistencies, or omissions. Contractor shall have no rights against the City for errors, inconsistencies, or omissions in the Contract Documents unless Contractor recognized such error, inconsistency or omission and reported it prior to the date of this Contract. Contractor warrants and represents to the City that the Specifications for the Services are suitable for the Services and guarantees the sufficiency of the Specifications for the intended purpose and agrees that it will perform the Services and complete the same to the satisfaction of the City.

3. **Contract Sum and Payment.** The City agrees to pay Contractor monthly for the provision of the Services to each Residential Unit and City Facilities for the preceding month as prescribed in Contractor's Bid Form, a portion of which is attached hereto as Exhibit B (the "Contract Sum"). Contractor agrees that its payment from the City is contingent upon the actual amounts received by the City from each Residential Unit; thus, the Contractor assumes the risk of nonpayment by the Residents, subject to City's good faith efforts to collect for the Services and enforce its collection rights against the Residents; actual receipt of payment from the Resident for Service provided to the Residential Unit shall be a condition precedent to the City's obligation to make payment to the Contractor. The Contract Sum, including

authorized adjustments, is the total amount payable by the City to Contractor for performance of the Services under the Contract Documents. In determining the Contract Sum, Contractor has taken into account the level of completeness of the Contract Documents and has exercised its best skill and efforts to make (1) appropriate judgments and inferences in connection with the requirements of the Contract Documents, and (2) all inquiries to clarify the Contract Documents as necessary to calculate and establish the Contract Sum. The Contract Sum may be changed only by Change Order signed by Contractor and the City.

A Alternates / Unit Prices. Contractor has included in the Contract Sum the alternates and unit prices described in Exhibit B hereto. Items covered by alternates and unit prices shall be supplied for such amounts and by such persons or entities as the City may direct. Unless otherwise provided in the Contract Documents: (1) materials and equipment under an alternate and unit price shall be selected promptly by the City to avoid delay in the Services; (2) alternates and unit prices shall cover the cost to Contractor of the Services provided and all required taxes; (3) Contractor's costs for labor, overhead, profit and other expenses contemplated for stated alternate and unit price amounts are included in the Contract Sum; and (4) whenever alternate and unit price Services are more than or less than alternates and unit prices, the Contract Sum shall be adjusted accordingly by Change Order signed by Contractor and the City. The amount of the Change Order shall reflect the difference between actual costs and the alternate and unit price sum specified.

B Applications for Payment. All payments provided herein are subject to the availability of funds as provided by the City and the laws of the State of Indiana. The City shall make payments within forty-five (45) days of actual receipt of Contractor's Application for Payment for the Services. By the fifth (5th) day of the month, the Contractor shall submit a detailed Application for Payment to the City for all Services rendered based on the number of Residential Units and City Facilities receiving Services the proceeding calendar month and as required by the Contract Documents. Such Application for Payment shall be supported by such data substantiating Contractor's right to payment as the City may require. If requested by the City prior to making said payment, Contractor shall submit to the City an Affidavit and Waiver of Lien, in the form and content attached, stipulating that all costs for labor and materials incurred in the previous month have been paid to laborers and suppliers. The City shall remit payment within forty-five (45) days following actual receipt of Contractor's Application for Payment. Subject to Section 3 herein, all payments shall be based on the total number of Residential Units and City Facilities and the Residential Unit and City Facilities cost as detailed in the Bid Form (Exhibit B) submitted by the Contractor and made a part of this Contract.

C Payment of Suppliers. Upon receipt of a progress payment, Contractor shall pay promptly all valid bills and charges for materials, equipment, labor and other costs in connection with the Services and hold the City harmless from and against all liens and claims of liens for such materials, equipment, labor and other costs, and against all expenses and liability in connection therewith including, but not limited to, court costs and attorneys' fees.

D **Withholding of Payment.** If any claim or lien is made or filed with or against the City, or Contract proceeds by any person claiming that Contractor or any person for whom Contractor is liable has failed to make payment for labor, services, materials, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Services, or if at any time there shall be evidence of such non-payment or of any claim or lien which is chargeable to Contractor, or if Contractor or any other person for whom Contractor is liable causes damages, or if Contractor fails to perform or is otherwise in default under any of the terms of the Contract Documents, the City shall have the right to retain from any payment then due or thereafter to become due an amount which it deems sufficient to (1) satisfy, discharge and/or defend against such claim or lien or any action which may be brought or judgment which may be recovered thereon, (2) make good any such non-payment, damage, failure or default, and (3) compensate the City for and indemnify it against any and all losses, liability, damages, costs, and expenses, including attorneys' fees and disbursements which may be sustained or incurred in connection therewith.

If the City withholds any payment from Contractor, the City may, but shall not be obligated or required to, make direct or joint payment on behalf of Contractor for any part or all of such sums due and owing to said suppliers, equipment lessors and/or laborers for their labor, materials or equipment furnished, not to exceed the Contract Sum remaining due and owing to Contractor, and charge all such direct payments against the Contract Sum; provided, however, that nothing contained in this paragraph shall create any direct liability on the part of the City to any supplier, equipment lessor or laborer, or any direct contractual relationship.

E **Final Payment.** Final payment shall not become due until Contractor submits (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Services have been paid or otherwise satisfied, (2) consent of surety, if any, to final payment, and (3) if required by the City, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances.

Acceptance of final payment by Contractor shall constitute a waiver of claims by Contractor except those previously made in writing and identified by Contractor as unsettled at the time of final payment.

F **Interest.** Unless otherwise expressly provided in the Contract Documents, payments due to Contractor under the terms of the Contract Documents and unpaid shall bear no interest and Contractor shall be entitled to no interest, statutory or otherwise.

4. **Date of Commencement and Completion.** Subject to potential renewal as provided for in Paragraph 1(A) herein, Contractor shall commence the Services promptly on January 1, 2026 and Contractor shall provide the Services until December 31, 2028 subject to adjustments authorized by the City ("Contract Term"). The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined. Time limits stated in the Contract Documents are of the essence of this Contract. Contractor shall not knowingly, except by Contract or instruction of the City in writing,

prematurely commence operations prior to the effective date of insurance required by paragraph 7 to be furnished by Contractor.

A Commencement. It is not incumbent upon the City to notify Contractor when to begin (other than the Notice to Proceed), cease or resume the Services, to give early notice of the rejection of faulty Services, nor in any way to superintend so as to relieve Contractor of responsibility or of any consequence of neglect or carelessness by Contractor or its subordinates.

B Overtime. If the progress of the Services are delayed by any fault or neglect or act or failure to act of Contractor or any of its officers, agents, servants or employees, then Contractor shall, in addition to all of the other obligations imposed by this Contract upon Contractor in such cases, and at its own cost and expense, provide such overtime as may be necessary to make up for all time lost and to avoid delay in the completion of the Services. If, after written notice is given, Contractor refuses to provide overtime required to make up lost time or to avoid delay in the completion of the Services, the City may hire others to perform the Services and deduct the cost from the Contract Sum.

C Delay. Should the progress of the Services be delayed by any fault or neglect or act or failure to act of Contractor or any of its officers, agents, servants or employees so as to cause any additional cost, expense, liability or damage to the City, or any damages or additional costs or expenses for which the City may or shall become liable, Contractor shall and does hereby agree to compensate the City for and indemnify them against all such costs, expenses, attorneys' fees, damages and liability.

D Excusable Delay. If Contractor is delayed, suspended, accelerated, interfered with, or otherwise hindered (collectively referred to as "hindrance" or "hindrances") at any time in the progress, performance or completion of the Services as a result of flood, cyclone, hurricane, tornado, earthquake or other similar catastrophe, or as the result of acts of God, the public enemy, acts of the Government, or fires, epidemics, quarantine restrictions, strikes or labor disputes, freight embargoes or unusual delay in transportation, unavoidable casualties, or on account of any acts or omissions of the City or others engaged by it (except as herein provided), or by their employees, agents or representatives, or by changes ordered in the Services by the City which are not required to correct problems or discrepancies in Contractor's Services, or by any other causes which Contractor could not reasonably control or circumvent, and which are not due to any fault, neglect, act or omission of Contractor, and the risks of which are not otherwise assumed by Contractor pursuant to the provisions of the Contract Documents, then the Contract Term shall, upon timely written request of Contractor, be extended by a period equivalent to the time lost by Change Order approved and signed by the City.

All claims for an extension of the Contract Term shall be based on written notice delivered to the City within twenty-four (24) hours of the commencement of the event or occurrence giving rise to the claim. Such notice must set forth (a) the cause of the Hindrance, (b) a description of the portion or portions of the Services affected, and (c) all details pertinent thereto, including supporting data and the specific number of days requested. It is a condition precedent to the

consideration or validity of all claims for an extension of the Contract Term that such claims be made in writing and delivered in strict accordance with all applicable time limits; otherwise, such claims shall be waived, invalid and unenforceable.

E **No Damages for Delay.** Contractor agrees that, whether or not any Hindrances shall be the basis for an extension of the Contract Term, it shall have no claim for an increase in the Contract Sum, nor a claim for a payment or allowance of any kind for damage, loss or expense resulting from Hindrances, except for acts constituting intentional, arbitrary, and capricious interference, disruption, or delay by the City with Contractor's performance of its Services when such acts continue forty-eight (48) hours after Contractor's written notice to the City of such interference, disruption, or delay. The City's exercise of its rights under the Contract Documents, including but not limited to, its rights regarding changes in the Services, regardless of the extent or number of such changes or carrying out Contractor's Services by the City, directing overtime or changes in the sequence of the Services, withholding payment or otherwise exercising its rights under the provisions of this Contract shall not be construed as intentional or unjustified interference with Contractor's performance of the Services.

5. **Changes in the Services.** Changes in the Services may be accomplished after execution of this Contract only by Change Order. Changes in the Services shall be performed under applicable provisions of the Contract Documents, and Contractor shall proceed promptly. A Change Order is a written instrument signed by the City and Contractor and stating agreement upon all of the following: (1) a change in the Services; (2) the amount of the adjustment in the Contract Sum, if any; and (3) the extent of the adjustment in the Contract Term, if any.

6. **Safety.** Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Services. Contractor shall take reasonable precautions for the safety of, and shall provide reasonable protection to prevent damage, injury or loss to: (1) employees performing the Services and other persons who may be affected thereby; (2) the Services and materials and equipment to be incorporated therein, whether in storage, or under the care, custody or control of Contractor; and (3) other property, such as vehicles, trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities. Contractor shall erect and maintain, as required by existing conditions, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying the City and users.

7. **Insurance and Bonds.**

A. **Insurance.** The Contractor shall purchase from and maintain from an insurance company or insurance companies lawfully authorized to do business in Indiana policies of insurance acceptable to the City, in a form and substance reasonably satisfactory to the City, which afford, at a minimum, the coverages set forth in below. This insurance shall be written for not less than limits of liability specified herein or required by law, whichever coverage is greater, and shall include coverage for Contractor's indemnification obligations contained in this Contract.

Certificates of Insurance acceptable to the City shall be given to the City prior to commencement of the Services. 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. The required coverages and limits which Contractor is required to obtain are as follows:

- .1 **COMMERCIAL GENERAL LIABILITY**
 - a. Commercial General Liability (including Completed Operations)

Each occurrence	\$2,000,000.00
General Aggregate	\$5,000,000.00
 - b. Bodily Injury & Property Damage (Combined Single Limit /Per Occurrence)

	\$2,000,000.00
--	----------------
 - c. Personal / Advertising Injury (Per Occurrence)

	\$2,000,000.00
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The Commercial General Liability Policy must be endorsed to provide that the general aggregate amount applies separately to each of Contractor's separate service agreements.

ISO Endorsement CG2503 Per Project Endorsement or its equivalent shall be used to satisfy this requirement.

- .2 **COMMERCIAL AUTO LIABILITY (Owned, Non-Owned and Hired) Bodily Injury & Property Damage (Per Occurrence)**

	\$1,000,000.00
--	----------------
- .3 **WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY**

Coverage A (Worker's Compensation) - Statutory Minimum Requirements

Coverage B (Employers Liability) - \$500,000/each accident; \$500,000 Disease – each employee; \$500,000 Disease policy limit.
- .4 **EXCESS LIABILITY (Umbrella Form)**

Each Occurrence	\$5,000,000.00
-----------------	----------------

All coverage provided above shall be endorsed to include the City, as an additional insured except for the Worker's Compensation/Employer's Liability. ISO forms CG 2010 07 04 and CG 2037 or equivalent endorsement forms must be used on the commercial general liability policy to provide additional insured status to the City, and shall include coverage for completed operations. The policies for which the City is named as an additional insured shall provide primary and non-contributing coverage and any valid and collectible insurance carried separately by the City shall be in excess of the limits provided by such policies and shall be non-contributory. All insurance requirements and limits (other than the limit for Excess Liability) contained in this Section apply to all of Contractor's subcontractors, material suppliers, vendors and sub-subcontractors and Contractor is responsible to verify those insurance requirements and limits. The commercial general liability, automobile liability, and workman's compensation policies must be endorsed to provide a waiver of subrogation in favor of City.

B. The Contractor hereby agrees to deliver to the City, within ten (10) days of the date of the Contract and prior to bringing any equipment or personnel onto the location of the Services, certified copies of all insurance policies procured by the Contractor under or pursuant to this Section or, with consent of the City, Certificates of Insurance in form and substance satisfactory to the City evidencing the required coverages with limits not less than those specified in the Contract.

C. In no event shall any failure of the City to receive certified copies or certificates of policies required or to demand receipt of such certified copies or certificates prior to the Contractor's commencing the Services be construed as a waiver by the City of the Contractor's obligations to obtain insurance pursuant to this Section 7. The obligation to procure and maintain any insurance required by this Section 7 is a separate responsibility of the Contractor and independent of the duty to furnish a certified copy or certificate of such insurance policies.

D. Waiver of Subrogation. The City and Contractor waive all rights against each other and any of their subcontractors, sub-subcontractors, material suppliers, agents and employees, each of the other, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained herein or other property insurance applicable to the Services, except such rights as they have to proceeds of such insurance held by the City as fiduciary. The City or Contractor, as appropriate, shall require of the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

A loss insured under the City's property insurance shall be adjusted by the City as fiduciary and made payable to the City as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause. The Contractor shall pay subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require subcontractors to make payments to their sub-subcontractors in similar manner.

E. Performance and Payment Bonds. The City shall require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated or specifically required in the Contract Documents on the date of execution of the Contract. The Contractor shall furnish a Performance Bond and Labor and Material Payment Bond on the forms provided in the Bidding Document, in form and substance satisfactory to the City and, without limitation, and complying at a minimum with the following specific requirements:

.1 Except as otherwise required by Indiana statute or law, the form and substance of such bonds shall be satisfactory to the City in the City's sole judgment. Insurance and surety companies shall be deemed acceptable to the City only if such companies have a policy holders rating of "A+", "A" or "A-", in A.M. in Standard and Poor's and a financial category not less than Class VII as shown in the latest edition of Best's Key Rating Guide in effect as of the date of the Contract, and subsequently in effect at the time of renewal of any policies required by the Contract Documents; provided, however, that the bond is furnished by one of the aforesaid sureties that is also listed in the Department of Treasury circular 570, volume 41, no. 132, part V (Federal Register) and is licensed in the State of Indiana and the penal sum of the bond does not extend the underwriting limitation set forth in the subject circular, unless the excess, if any, is reinsured with the approval of the City;

.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

8. Default and Remedies.

A City Default. Subject to Section 9(J) herein, Contractor may terminate this Contract if the Services are stopped for a period of ninety (90) days through no act or fault of Contractor or any of its agents or employees or any other persons performing portions of the Services under the Contractor because the City has not made payment within the time stated in the Contract Documents. If the Services are stopped for a period of ninety (90) days under an order of any court or other public authority having jurisdiction, or as a result of any act of government such

as a declaration of a national emergency making materials unavailable, through no act or fault of Contractor or its agents or employees or any other persons performing any of the Services under contract with Contractor, then Contractor may, upon seven (7) days' written notice to the City, terminate this Contract and recover from the City applicable payment for all conforming Services executed to date. Recovery by Contractor of lost anticipated profit and other consequential damages is hereby specifically excluded.

B Termination for City's Convenience. This Contract may be terminated by the City in whole or in part without cause and for its sole convenience upon thirty (30) days' written notice to Contractor. In the event of such termination for convenience, Contractor shall be compensated for that portion of the Contract Sum for conforming Services earned to the date of termination, but the City shall not be liable for any additional or consequential damages. Such entitlement of Contractor shall constitute Contractor's sole and exclusive remedy and recovery, and in no event shall Contractor be entitled to recover anticipated profits and/or overhead on unperformed Services.

C Contractor Default. Contractor shall be in default of this Contract if (1) Contractor fails to perform or comply with its obligations under this Contract; (2) the City reasonably believes that Contractor is not capable of satisfactorily completing the Services; (3) Contractor becomes insolvent, is unable to meet current obligations, or seeks relief under the Bankruptcy Code or other similar law or procedure; (4) a receiver is appointed for Contractor or its property; or (5) Contractor is dissolved or otherwise ceases to exist.

If Contractor is in default, the City may, at its option, proceed with one or more of the following: (1) terminate this Contract; (2) take possession of all materials and equipment; (3) accept assignment of subcontracts, in writing; (4) complete the Services by whatever reasonable method the City may deem expedient; (5) withhold payment of all or any portion of the Contract Sum until (i) the default is cured and the Services are completed, and (ii) all costs, expenses, and damages, including supervision and any other damages incurred by the City because of default, have been determined; and/or (6) exercise any other remedy available at law or in equity. All costs, expenses, attorneys' fees and damages incurred by the City due to a default by Contractor may be deducted from the Contract Sum. Upon demand, Contractor shall pay the City the amount, if any, by which the costs, expenses, attorneys' fees and damages incurred by the City exceed the unpaid balance of the Contract Sum. Contractor shall pay the City's reasonable attorneys' fees and expenses in connection with any lawsuit or other proceeding between the City and Contractor relating to the enforcement of this Contract.

9. **Miscellaneous Provisions.**

A. Existing Collection Contracts. By executing this Contract, Contractor agrees to terminate its existing contract(s) for residential collection services, if any, within the Service limits as detailed by this Contract at no cost to the City or the Residential Unit Owner being serviced. Contractor acknowledges that this Contract is sufficient consideration for Contractor's Contract to terminate these existing contracts within the Service limits. In addition, Contractor acknowledges and understands that there may be existing contracts within the Service limits held by other providers that may have to be phased out prior to Contractor assuming Service obligations for the entire Service area. As such, all Residential Units will be phased in as is reasonable without the City or Residential Unit Owner incurring any additional costs.

B. Governing Law. This Contract shall be governed by the laws of the State of Indiana.

C. Successors and Assigns. The Contractor respectively binds itself, its successors, assigns and legal representatives to the other party hereto in respect to covenants, Contracts and obligations contained in the Contract Documents. Contractor shall not assign this Contract without the written consent of the City. If Contractor attempts to make such an assignment without such consent or if City consents to an assignment, Contractor shall nevertheless remain legally responsible for all obligations under this Contract.

D. E-Verify Provisions. Contractor shall enroll in and verify the eligibility status of all newly hired employees of Contractor through the E-Verify program as outlined in I.C. § 22-5- 1.7; however, Contractor shall not be required to verify the work eligibility status of all newly hired employees of Contractor through the E-Verify program if the E-Verify program no longer exists. CONTRACTOR AFFIRMS, UNDER THE PENALTIES OF PERJURY, THAT CONTRACTOR DOES NOT KNOWINGLY EMPLOY AN UNAUTHORIZED ALIEN. The Contractor will sign City's affidavit (Exhibit E) to this effect.

Contractor and its consultant(s) and subcontractor(s) may not knowingly employ or contract with an unauthorized alien; or retain an employee or contract with a person that the Contractor or its consultant or subcontractor subsequently learns is an unauthorized alien. If Contractor violates this requirement, the City shall require in writing that the Contractor remedy the violation not later than thirty (30) days after the date the City notifies the Contractor of the violation. There is a rebuttable presumption that Contractor did not knowingly employ an unauthorized alien if the Contractor verified the work eligibility of the employee through the E-Verify program. If the Contractor fails to remedy the violation within the thirty (30) day period, the City shall terminate the Contract with Contractor for breach. However, if City determines that terminating the Contract would be detrimental to the public interest or public property, the City may allow the Contract to remain in effect until the City procures a replacement Contractor. If the City terminates the Contract, the Contractor shall be liable to the City for any and all actual damages incurred, including, but not limited to, attorneys' fees.

Contractor shall maintain in its files a certification of each of its subcontractor(s) throughout the duration of the term of this Agreement and the term of Contractor's subcontract with its subcontractor(s).

Termination of the Contract for violation of this requirement may not be considered by the Contractor or its subcontractor(s) as a breach of contract by the City.

E. Written Notice. All notices, consents and other communications (collectively, "Notices") shall be given to the City or the Contractor in writing to the addresses set forth below:

The City: City of Westfield
 Westfield City Services
 2728 East 171st Street,
 Westfield, IN 46074
 Attn: _____
 Email: _____

The Contractor: _____

 Attn: _____
 Email: _____

Either party may change its address for Notices by giving written notice to the other party in accordance with this provision. Written notice shall be deemed to have been duly served if delivered in person to the individual or to an officer of the corporation for which it was intended, or if delivered at or sent by registered or certified mail or email to the last business address known to the party giving notice.

F. Rights and Remedies. Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law. No act or failure to act by the City shall constitute a waiver of a right or duty afforded them under this Contract, nor shall such action or failure to act constitute approval of or acquiescence thereunder.

G. Severability. In the event that any provision, term or other portion of the contract, or any document or item referred to in the Contract, shall be found to be invalid or unenforceable, then such provision, term or other portion shall be reformed in accordance with applicable law. The invalidity or unenforceability of any provision, term or other portion of the Contract, or any document item referred to in the Contract, shall not affect the validity or enforceability of any other provision, term or other portion of the Contract, or any document or item referred to in the Contract.

H. Waiver. A waiver by either party of any breach of any provision of the Contract Document shall not be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself. Except where otherwise provided in the Contract, no inspection, observation, payment or acceptance of compensation for any period subsequent to any breach shall be deemed a waiver of any right or acceptance of defective performance. Where the condition to be waived is a material part of the Contract such that a waiver would affect the essential bargains to the parties, the waiver must take the form of a contract modification as provided for elsewhere in the Contract Documents.

I. Nondiscrimination. Consistent with Ind. Code §22-9-1-10, Contractor agrees that it, and its subcontractors, will not discriminate against any employee or applicant for employment to be employed in the performance of this Contract with respect to the employee's hire, tenure, terms, conditions or privileges or employment, or any matter directly or indirectly related to employment, because of the employee's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Contract.

J. Non-Appropriation. The Parties acknowledge that the City is a governmental entity whose funds are subject to appropriation by its fiscal body. Therefore, if at any time during the initial term or subsequent term of this Contract, the City's fiscal body should fail to appropriate sufficient funds to continue this Contract, it will become null and void. The City shall not be obligated to perform unless and until sufficient funds are appropriated. The City agrees to seek funding for the continuation of this Contract during each budget cycle during the initial term or subsequent term of this Contract. The City agrees to inform Contractor in writing of any such non-allocation of funds at the earliest possible date, and shall pay for all services provided prior to exhaustion of the appropriated funds.

K. Counterparts. This Contract may be executed simultaneously in one or more counterparts, each of which shall be considered an original, but all of which together shall constitute one Contract.

L. Venue. In the event it becomes necessary to litigate any term or condition of the Contract, the parties shall agree that the State Circuit or Superior Courts of Hamilton County, Indiana, or federal courts in the Southern District of Indiana, shall be proper venue to settle such disputes.

CITY OF WESTFIELD, INDIANA

CONTRACTOR

By: _____

Scott Willis, Mayor

By: _____

Authorized Signature

Date: _____

Printed Name: _____

Title: _____

FID/TIN: _____

Date: _____

EXHIBIT A

SPECIFICATIONS

1. City of Westfield - Residential Solid Waste, Yard Waste, Recycling Collection and Disposal Specifications with its separate Exhibits

Exhibit 1 - City of Westfield Scope of Service Limits

Exhibit 2 - City Facilities for Solid Waste and Recycling Collection

Addendum 1 - Dated “ ”

Addendum 2 - Dated “ ”

EXHIBIT B

CONTRACTOR'S BID FORM

EXHIBIT C

AFFIDAVIT AND WAIVER OF LIENS AND CLAIMS

() **FINAL** () **PARTIAL** () **PAYMENT TO FOLLOW**

CITY: City of Westfield

PROJECT: Residential Solid Waste, Yard Waste, Recycling Collection and Disposal

CONTRACTOR:

CONTRACT DATE:

_____ being duly sworn states that he or she is the
_____ of CONTRACTOR, which was awarded Contract No.
_____ with the City in accordance with the Contract terms and conditions to install and/or furnish certain materials and labor as follows: weekly pick-up of bagged, containerized and/or bundled household Solid Waste and Yard Waste from all eligible Residential Units within the corporate limits of the City. Such program includes bi-weekly curbside commingled Recycling from all eligible Residential Units. In addition, the services include Solid Waste and Recycling collection and disposal for designated City Facilities ("Services"), DOES HEREBY STATE, WARRANT AND REPRESENT ON BEHALF OF THE CONTRACTOR the following:

PARTIAL WAIVER That the balance due from the City is the sum of (\$ _____).

() Receipt of which is hereby acknowledged; or

() Payment of which has been promised as the sole consideration for this AFFIDAVIT AND WAIVER OF LIENS AND CLAIMS and which is given to and for said amount effective upon receipt of such payment.

FINAL WAIVER That the final balance due from the City is the sum of (\$ _____).

() Receipt of which is hereby acknowledged; or

() Payment of which has been promised as the sole consideration for this AFFIDAVIT AND WAIVER OF LIENS AND CLAIMS which is given to and for said amount effective upon receipt of such payment.

THEREFORE, through the date hereof, Contractor waives and releases the City of all liens or claims, including, but not limited to, claims for materials, equipment, labor, superintendence and other services performed or furnished by Contractor and further affirms that no other party has any claim or right to lien on account of any materials, equipment, labor, and other services performed or furnished to or for Contractor for the Services. Contractor agrees to indemnify, defend and hold the City harmless, including costs and attorneys' fees, from and against any and all claims or liens for any subcontractors, materials, suppliers, equipment or labor furnished for, in connection with or incorporated into the Services by, through or under Contractor through the date hereof. This Affidavit and Waiver of Liens is

given to induce City to pay the amount indicated above. Contractor represents that all employees, subcontractors or materialmen have been paid or will be paid from these funds.

That through the date hereof, all Affidavits and Waiver of Liens and Claims are true, correct and unconditional and that there is no claim either legal or equitable to defeat the validity of said Affidavits and Waiver of Liens and Claims. That the following are the names of all parties who have furnished material or labor, or both, for said Services and all parties having contracts or subcontracts for specific portions of said Services or for material used in the performance thereof and the amount due or to become due to each, and that the items mentioned include all labor and material required to complete said Services according to Specifications:

1 CONTRACTOR	2 TYPE OF WORK	3 AMOUNT OF CONTRACT	4 TOTAL RETAINED	5 NET PREVIOUSLY PAID	6 NET AMOUNT THIS PAYMENT	7 BALANCE TO BECOME DUE

TOTAL

This instrument has been executed as of the ____ day of _____, 202 .

CONTRACTOR: _____

By: Name: _____

Title: _____

STATE OF INDIANA

COUNTY OF

Sworn to and subscribed before me the undersigned authority on this ____ day of _____, 202

Notary Public, State of _____

Printed Name of Notary _____

[SEAL]

My Commission Expires: _____

EXHIBIT D
CHANGE ORDER

Change Order No. _____

Date: _____

Contract Date: _____

Services: _____

Contractor: _____

The following changes are hereby made to the Contract:

Description of Change in Service: _____

Justification: _____

Original Contract Sum: \$ _____

Previous Changes to Contract Sum: \$ _____

Current Contract Sum adjusted by previous Change Order(s): \$ _____

The Contract Sum due to this Change Order will be (increased)(decreased) by: \$ _____

The new Contract Sum including this Change Order will be: \$ _____

Change to Contract Term: _____

The Contract Term will be (increased)(decreased) by _____ calendar days.

The date for completion of all work will be _____.

Requested by: _____.

Date Requested: _____

Recommended by: _____.

Date Recommended: _____

Accepted by: _____.

Date Accepted: _____

Approved by: _____.

Date Approved: _____

(Name and Title)

EXHIBIT E
E-VERIFY AFFIDAVIT

Pursuant to Ind. Code § 22-5-1.7-11, _____, by entering into a contract with the City of Westfield, is required to enroll in and verify the work eligibility status of all its newly hired employees through the E-Verify Program. _____ 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.

By executing below, the undersigned (being duly sworn) deposes and affirms that _____ does not knowingly employ an unauthorized alien. The undersigned further affirms that, prior to entering into a Contract with City of Westfield (if selected pursuant to the RFP), _____ will enroll in and agrees to verify the work eligibility status of all its newly hired employees through the E-Verify Program.

(Offeror): _____

By (Written Signature) _____

(Printed Name): _____

(Title): _____

Important – Notary Signature and Seal Required in the Space Below

STATE OF

COUNTY OF

SS:

Subscribed and sworn to before me this _____ day of _____, 20

My commission expires: _____ (Signed): _____

Residing in _____ County, State _____

PERFORMANCE BOND

CONTRACTOR/PRINCIPAL (Name and Address):
SURETY (Name and Address of Contractor Place of Business):
CITY City of Westfield, Indiana.
CONTRACT: Contract Between City of Westfield, Indiana and Contractor-
Residential Waste, Yard Waste, Recycling, Collection and
Disposal Contract.
Date:

BOND

Bond Number:

Date: (Not earlier than Contract date):

Penal Sum (100% of Contract Sum for one (1) year): \$ _____

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

“Contractor”

“Surety”

Company: _____

Company: _____

Signature: _____

By: _____

Printed: _____

Printed: _____

Title: _____

Counter- signed: _____

The above addresses are to be used for giving any required notice. Provide execution by any additional parties, such as joint ventures, if necessary.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns, including interest at the maximum legal rate from date of

demand and any attorneys' fees and court costs incurred by City to enforce this instrument for the performance of the Contract, which is incorporated herein by reference.

2. If the Contractor performs the Contract, whether during the original term, and any extensions which may be granted by the City, with or without notice to the Surety, and during any period of guaranty or warranty provided therein, and if Contractor shall satisfy all claims and demands incurred under such Contract, and shall fully indemnify, defend and save harmless the City from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the City all outlay and expense, including attorneys' fees, which the City may incur in making good any default, then the Surety and the Contractor shall have no obligation under this Bond; otherwise to remain in full force and effect.

3. The Surety's obligation under this Bond shall arise after:

3.1 The City provides notice to the Contractor and the Surety that the City is considering declaring a Contractor Default. Such notice shall indicate whether the City is requesting a conference among the City, Contractor and Surety to discuss the Contractor's performance. If the City does not request a conference, the Surety may, within seven (7) calendar days after receipt of the City's notice, request such a conference. If the Surety timely requests a conference, the City shall attend. Unless the City agrees otherwise, any conference requested shall be held within seven (7) calendar days of the Surety's receipt of the City's notice. If the City, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Contract, but such an Agreement shall not waive the City's right, if any, subsequently to declare a Contractor Default;

3.2 The City declares a Contractor Default, terminates the Contract and notifies the Surety; and

3.3 The City has agreed to pay the balance of the Contract Sum in accordance with the terms of the Contract to the Surety or to a contractor selected to perform the Contract.

4. Failure on the part of the City to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations.

5. The Surety shall promptly and at the Surety's expense take one of the following actions:

5.1 Arrange for the Contractor, with the prior consent of the City, to perform and complete the Contract;

5.2 Undertake to perform and complete the Contract itself, through its agents or independent contractors; or

5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the City for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by the City and a contractor selected with the City's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the

bonds issued on the Contract, and pay to the City the amount of damages, including attorneys' fees in excess of the balance of the Contract Sum incurred by the City as a result of the Contractor Default.

6. If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven (7) days after receipt of an additional written notice from the City to the Surety demanding that the Surety perform its obligations under this Bond, and the City shall be entitled to enforce any remedy available to the City.

7. If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the City shall not be greater than those of the Contractor under the Contract, and the responsibilities of the City to the Surety shall not be greater than those of the City under the Contract. Subject to the commitment by the City to pay the balance of the Contract Sum, the Surety is obligated, without duplication, for

7.1 The responsibilities of the Contractor for correction of defective work and completion of the Contract;

7.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and

7.3 Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of the Contractor or any combination of both liquidated and actual damages.

8. The Surety shall not be liable to the City or others for obligations of the Contractor that are unrelated to the Contract, and the balance of the Contract Sum shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the City or its heirs, executors, administrators, successors and assigns.

9. The Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders and other obligations.

10. No suit or action shall be commenced under this Bond other than in a court of competent jurisdiction in the state and county in which the Services are to be performed that are the subject of the Contract.

11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

[END OF DOCUMENT]

PAYMENT BOND

CONTRACTOR / PRINCIPAL: (Name and Address):
SURETY: (Name and Address of Contractor Place of Business):
CITY: City of Westfield, Indiana
CONTRACT: Contract with City of Westfield, Indiana for Residential Solid Waste, Yard Waste, Recycling, Collection and Disposal.

Date:

BOND

Bond Number:

Date: (Not earlier than Contract date):

Penal Sum (100% of Contract Sum for one (1) year): \$ _____

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

“Contractor”

“Surety”

Company: _____ Company: _____

Signature: _____ By: _____

Printed: _____ Printed: _____

Title: _____ Counter-signed: _____

The above addresses are to be used for giving any required notice. Provide execution by any additional parties, such as joint ventures, if necessary.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the City to pay for labor, materials and equipment furnished for use in the performance of the Contract, which is incorporated herein by reference, plus interest at

the maximum legal rate from date of demand and any attorneys' fees and court costs incurred by City to enforce this instrument, subject to the following terms.

2. If the Contractor shall promptly make payment of all sums due to Claimants, and defends, indemnifies and holds harmless the City from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment or insurance premiums furnished for use in the performance of the Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. The Surety's obligation to the City under this Bond shall arise after the City has notified the Contractor and the Surety of claims, demands, liens or suits against the City or the City's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Contract. The Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the City against a duly tendered claim, demand, lien or suit.
4. The Surety's obligations to the Claimant under this Bond shall arise after Claimant has complied with the requirements under applicable Indiana statute.
5. The City shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond, except as specified by Indiana statute.
6. The Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders and other obligations.
7. No suit or action shall be commenced under this Bond other than in a court of competent jurisdiction in the state and county in which the Services are to be performed that are the subject of the Contract. No suit or action shall be commenced under this Bond other than in a court of competent jurisdiction in the state and county in which the Services are to be performed that are the subject of the Contract.
8. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the Services were to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
9. Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and City shall promptly furnish a copy of this Bond or shall permit a copy to be made.

[END OF DOCUMENT]

NOTICE TO PROCEED

Dated _____, 2025

TO: _____

ADDRESS: _____

SERVICES: _____

CITY's CONTRACT NO.: _____

CONTRACT FOR: City of Westfield, Indiana, Residential Solid Waste, Yard Waste, Recycling
Collection and Disposal

You are notified that the Contract Term under the above Contract will commence to run on
January 1, 2026. By that date, you are to start performing your obligations under the Contract
Documents. In accordance with the Contract, the date of completion is December 31, 2028.

Before you may start Services, the Contract provides that you must deliver to the City Certificates of
Insurance which you are required to purchase and maintain in accordance with the Contract
Documents.

Also, before you may start any Services at the site, you must:

(CITY)

By: _____
(AUTHORIZED SIGNATURE)

(TITLE)

City of Westfield

Residential Solid Waste, Yard Waste, Recycling Collection, and Disposal

SPECIFICATIONS

A. SCOPE OF SERVICES

The Contractor is to provide a comprehensive program for Solid Waste and Yard Waste collection and disposal service consisting of weekly pick-up of containerized, bundled, and/or bagged household Solid Waste, Yard Waste, and bi-weekly (with an alternate for weekly) curbside commingled Recycling from all eligible Residential Units within the geographic limits of the City. As an alternate, the Services may also include additional Yard Waste collection during the months of March through December. In addition, as an alternate, the Services may include Solid Waste and Recycling collection and disposal from designated City Facilities. The Services are anticipated to start on or about January 1, 2026, and terminate on or about December 31, 2028. If both Parties agree, there may be an option to extend the contract for three (3) additional one (1) year terms, with a total maximum term of six (6) years. The Parties agree that the awarded Contract may be extended for an additional period of up to three (3) years only upon written approval of both Parties. The Contract shall not provide for automatic renewal.

B. AREA TO BE SERVICED

The Services shall be provided to all Residential Units within the City's geographic limits as set forth in Exhibit 1 attached hereto. As of the time of the request for proposals, there are approximately Twenty Thousand Six Hundred (26,600) individual Residential Units within the City's geographic limits that will be ultimately phased into the Services as existing collection contracts are phased out or terminated; however, the City does not guarantee the actual number of Residential Units the Contractor will provide Services to at any given time. The Services may alternatively include Solid Waste and Recycling collection and disposal from designated City Facilities in Exhibit 2, which will be billed directly to the City.

C. DEFINITIONS

For the purpose of the Specifications and the Contract, the following definitions apply:

1. **Alleyside:** Refers to as close as possible to the alley but not more than five (5) feet from the alley, and where a fence exists, the alleyside of the fence.
2. **Bulky Waste.** Such items include, but are not be limited to, stoves, washers, dryers, appliances, furniture, and other items with weights or volumes greater than those allowed for by approved Containers. This term also includes items that previously contained refrigerants, such as refrigerators, air conditioners, freezers, and dehumidifiers, as long as the Resident can provide the Contractor with appropriate documentation showing that the CFC's or HCFC's have been properly removed by a licensed technician.

3. Bundles. Rubbish or Yard Waste securely tied together forming an easily handled package not exceeding four feet (4') in length, eighteen inches (18") in diameter, nor weighing more than forty (40) pounds.
4. Container(s). Ninety-six (96) gallon (plus or minus five (5) gallons) or at Resident's request sixty-four (64) gallon (plus or minus five (5) gallon) reusable container(s) with wheels used for storing Solid Waste, Yard Waste, and Recycling. Container(s) should provide sufficient strength to be picked up using mechanical means by Contractor.
5. Construction Debris. Waste including building materials resulting from construction, remodeling, repair, or demolition operations. The term does not include fluorescent light fixtures, appliances, or regulated-asbestos containing materials defined in CRF 61.
6. Curbside. Refers to that portion of the right-of-way adjacent to and within five (5) feet of paved, traveled roadways.
7. Hazardous Materials. Any waste designated as "hazardous" by the United States Environmental Protection Agency or appropriate state agency as the same is now in effect or may hereinafter be amended. This term also includes any flammable/volatile liquids.
8. Public Street. Any public street or thoroughfare dedicated to public use and controlled by the City including alleyways.
9. Overage Bags. Fifty-five (55) gallon bags separately purchased by Resident from the Contractor to place any excess Solid Waste or Yard Waste over the normal Container limit. Overage Bags loaded by Resident shall not weigh more than forty (40) pounds. Overage Bags will be supplied by Contractor which will include the additional cost of any additional Services.
10. Recycling. Recycle waste including Recycling qualified commingled items such as:
 - 1) Aluminum, aluminum foil and foil pans;
 - 2) Steel, empty steel paint cans, tin and bimetal cans;
 - 3) Plastics (#1 through #7);
 - 4) Glass containers (amber, clear, blue, and green in color);
 - 5) Corrugated cardboard, paperboard, fiberboard;
 - 6) Newspapers, magazines, phone books and catalogues; and
 - 7) Additional items as designated by the Contractor.
11. Refuse/Garbage. Putrescible animal or vegetable waste resulting from the handling, preparation, cooking, serving or consumption of food, and including all paper, wrappings, boxes and cartons used to contain such food.
12. Resident. The individual currently occupying a Residential Unit.
13. Resident Drop-Off Program. Solid Waste, Yard Waste, Construction Debris, Bulky Waste, and Recycling delivered to designated centers and disposed of by Contractor.

14. Residential Unit. A room or series of rooms located within a building or mobile home and forming a single inhabitable unit with facilities, which are used, or are intended to be used for living, cooking, eating, and sleeping
 - a. Single-Family Residential Unit – A residential dwelling unit separated from any other dwelling unit by open space, and designed for occupancy for one person or family.
 - b. Multi-Family Residential Unit – A building or related group of buildings not to exceed four (4) units located on the same lot, tract or parcel of real estate, with each dwelling unit being completely independent of the other.
 - c. Townhouse – Any multi-story single family residential unit sharing one or more common walls with another similar residential unit.
15. Rubbish/Trash. Nonputrescible waste consisting of matter such as cans, glass, papers, cardboard, plastics, metals, ashes, etc.
16. Solid Waste. All putrescible and nonputrescible matter, including garbage and rubbish, but excluding hazardous materials and other matter that is specifically excluded elsewhere in these Specifications.
17. City Facilities. City Facilities designated for Solid Waste and Recycling Collection as defined in Exhibit 2, which will vary in size and frequency of collection and billed to the City for the Services and rental or use of the required Containers.
18. Yard Waste. All compost type materials including trees, grass clippings, brush, leaves and Christmas trees, etc.

D. DESCRIPTION OF SERVICES

1. Solid Waste Collection Service. Collection of Solid Waste by Contractor from each qualifying Residential Unit shall occur one (1) time per week.
 - a. Containers. Each Service pickup shall consist of a maximum of two (2) Containers per Residential Unit. One (1) Container will be automatically provided by Contractor to each Residential Unit and a second Container will be furnished upon the Residents' request at no additional cost.
 - b. Out-of-City Residents. Residents who are out of City and will not be using the Services for a minimum period of one (1) month or more will not be charged the monthly fee for those months the Resident does not use the Services. Residents shall request the suspension of Services a minimum of one (1) week prior to the City/Contractor's customer service office and specify the length of the Service suspension. City will notify the Contractor within forty-eight (48) hours of receipt of the need to suspend Services.

- c. Planned Unit Developments (PUD). Collection shall be on front street curbside with the exception of those planned unit developments (PUD) Residence where alley facing garages may necessitate alley pickup.
 - d. Yard Waste. Yard Waste and brush may be included with the Solid Waste Container quantities. A Bundle will be considered as one (1) Container within the Container limit.
 - e. Declined Collections. The Contractor may decline to collect Solid Waste for a reason specified in the Specifications (i.e., not properly bagged, bundled or contained; improper placement; non-residential Solid Waste; Hazardous Waste; etc.). Where the Contractor has reason to leave Solid Waste uncollected at a Residential Unit, the Contractor shall inform the Resident by tagging uncollected Container(s). The City shall be notified in writing at the end of each working day of any denied collections and the reason for denial.
- 2. Recycling Collection Service.
 - a. Collection of Recycling from each qualifying Residential Unit shall be once every two (2) weeks, or, as an ALTERNATE, the City may elect to require Recycling one (1) time per week. The Recycling collection day shall be the same day as the Solid Waste and Yard Waste collection day.
 - b. Gross volume of Recycling materials collected shall be weighed daily on a local certified scale to be agreed upon by the City and the Contractor.
 - c. A monthly record of the amount of Recycling materials in tons and pounds shall be kept by the Contractor. This record shall be submitted to the City on a monthly basis.
 - d. Collection shall be curbside with the exception of those planned unit developments (PUD) and Residences where alley facing garages necessitate alley pickup.
- 3. Special Needs Service. For those Residential Units in which all Residents over twelve (12) years of age have special needs or are physically unable to wheel Containers to the Curbside, as verified by a licensed healthcare provider, the Contractor shall provide Solid Waste and Recycling collection service at the Residential Unit by transferring the wheeled Containers on foot from the Residential Unit (at the front door, a back door, or outside a garage) to the street or alley for collection.
- 4. Additional Yard Waste & Christmas Tree Collection Service (ALTERNATE).
 - a. Additional Bags. During the months of March, April, May, October, November, and December, each Residential Unit is also allowed up to twenty (20) bags per week of leaves and other Yard Waste in lawn bags or tied Bundles. The bags shall be furnished by the Residents at their own cost. Residents will use recyclable bags (i.e. non-plastic) or bags specified by Contractor with the City's approval for environmentally friendly disposal of Yard Waste.

- b. Composting. The Contractor is to make every reasonable effort to dispose of easily identifiable Yard Waste in an environmentally friendly manner (i.e. composting or chipping Christmas Trees into usable mulch).
 - c. Collection Schedule. The Contractor shall provide, as applicable to federal regulation standards, weekly Yard Waste collection and disposal Services. Yard Waste collection should be scheduled on the same day as Solid Waste and Recycling Collection.
 - d. Christmas Tree. The Contractor will be required to pick up one (1) Christmas tree per Residential Unit over and above the Container limit at no additional charge. This Service shall begin on December 26th and end on the Friday closest to January 31st of each year. Christmas Trees over 4 feet shall be cut in half for pick up.
- 5. Bulky Waste (ALTERNATE).
 - a. The Contractor shall provide Services for collection and disposal of Bulky Waste from all eligible Residential Units on an on-call basis. The Resident must give a forty-eight (48) hour advanced notice to the Contractor prior to pick-up.
 - b. The Contractor shall not be required to pick-up more than one (1) of such item from each Residential Unit each month. Requested pickup of Bulky Items may occur on designated day(s) by Contractor's designation.
 - c. The Contractor shall not be required to pick-up Bulky Waste that contain or previously contained refrigerants unless the Resident can provide the Contractor with appropriate written verification showing that the CFC's or HCFC's have been properly removed by a licensed technician.
 - d. The charges for Bulky Waste will be assessed to and collected from Residents based on an agreed schedule as determined by the City and Contractor and posted for Resident review.
- 6. Resident Drop-Off Program (ALTERNATE).
 - a. Contractor agrees to provide adequate accommodations for and to accept non-hazardous waste, including Solid Waste, Yard Waste, Construction Debris, Bulky Waste, and Recycling delivered to a designated Resident Drop-Off Center to be agreed to by City and Contractor. Contractor will accept Solid Waste, Yard Waste, Construction Debris, Bulky Waste, and Recycling from any Residents of the City who produces a valid driver's license establishing City residency at City approved facilities. The Resident Drop-Off Centers will be operated consistent with City rules and charges will be assessed to and collected from Residents based on an agreed schedule as determined by the City and Contractor and posted for Resident review.
 - b. Contractor Requirements.
 - i. Contractor shall invoice or collect payment directly from Residents in accordance with the billing procedures established herein for all tonnage

delivered to the Residential Drop-Off Centers by Residents and in accordance with the schedule of fees established by the City and Contractor.

ii. Contractor shall be responsible to verify each Resident's driver's license information for each drop-off under the Residential Drop-Off Program.

iii. Contractor shall retain the right to reject any Resident under the Resident Drop-Off Program who attempts delivery of waste outside the scope and limits of waste normally generated by residential sources or any waste delivered in a commercial vehicle larger than a pick-up truck.

c. Billing and Payment.

i. City Portion: Contractor shall provide separate monthly invoicing to the City for operation of the Resident Drop-Off Centers and related functions based on the schedule of Services agreed to by the City and Contractor.

ii. Resident Portion: The Contractor shall collect payment from individual Residents if City decides to have Contractor operate facilities for provision of this portion of the Services based on the accepted schedule for said Services.

7. City's Facilities Services (ALTERNATE).

a. The Contractor shall provide Recycling and Solid Waste Services to the designated City Facilities indicated in Exhibit 2.

i. Required Service. The Contractor shall supply adequate containers to identified City Facilities, which will vary in size and frequency of collection. Such containers shall be charged to the City for the rental or use of such containers. The container size and frequency of collection listed in the attached Exhibit 2 are the recommended sizes to meet the City's current needs. If the Contractor chooses to supply different sized containers or change the frequency of the Services, such container sizes and/or Service frequencies shall be provided for the City's pre-approval and scheduling arrangements so that all Solid Waste and Recycling is contained inside a container during approved modifications between collections.

ii. Billing and Payment. Contractor shall provide separate invoicing to the City for City Facilities as specified in the Bid Form. The City agrees to pay Contractor separately and monthly for provision of this portion of the Services.

E. CONTRACTOR SERVICE RESPONSIBILITIES AND REQUIREMENTS

1. Solid Waste, Yard Waste, and Recycling Services. The Contractor shall provide Service for weekly collection and disposal of Solid Waste, Yard Waste, and Recycling from eligible Residential Units and City Facilities.

a. If selected by City, the Contractor shall supply all Containers required to each Residential Unit and City Facilities for the Services. Containers shall be delivered by Contractor to additional Residential Units and City Facilities as they become eligible for Services.

i. The cost for Containers shall not be paid for directly, but included as part of the total cost of the Services per Residential Unit and City Facilities.

ii. Any replacement Container(s) in excess of one (1) per Resident for the same Residential Unit and City Facilities will be billed at the Contractor's cost to the Resident and Residential Unit or City Facility.

iii. The Contractor shall maintain a record of addresses for all new and replacement Containers and shall submit the record to the City on a quarterly basis.

b. If Residents so desire, they may purchase Overage Bags from the Contractor to place any excess Solid Waste or Yard Waste over their normal Container and Yard Waste limit. The Contractor shall be responsible for collection of payment from the participating Residents.

i. The Contractor shall supply Overage Bags of a size no less than fifty-five (55) gallons for an agreed upon price which will include the additional cost of collection.

c. The Contractor shall supply to City Residents information relating to additional Service options that may be offered to them not covered or mentioned in these Specifications relating to Solid Waste and Yard Waste collection.

d. Except for special needs service, all collections shall be made on City owned streets or alleys where available. No collections shall be made on private property including streets or alleys unless a right of entry agreement is made between the Contractor and the property owner and is approved by the City. All collections for non-special needs service shall be made within five (5) feet of the curb or edge of the street or alley. For special needs service, the Contractor will also transfer the Containers from the outside of the Residential Unit to the street or alley.

e. The Contractor is prohibited from commingling Solid Waste, Yard Waste, or Recycling collected from ineligible residential units, commercial or other business establishments or from areas outside the City's geographic limits while providing the Services.

f. Within the Container limit, the Contractor is required to pick-up all Solid Waste, Yard Waste, and Recyclables placed in approved reusable and non-reusable Containers and additional items which are properly placed in Bundles. However, as appropriate, a single item need not be bagged, contained or place in Bundles to qualify for the Services.

2. Solid Waste, Yard Waste and Recycling does NOT require pick-up of:

- a. Solid Waste exceeding the contracted limit per week excluding Overage Bags,
- b. Solid Waste not in Containers or bags and not properly contained or placed in Bundles,
- c. Solid Waste not appropriately placed for collection,
- d. Hazardous Materials,
- e. Medical Waste of any type including but not limited to medical sharps,
- f. Dead animals,
- g. Liquid paint, sludge, oil or other chemicals,
- h. Bulky Waste containing refrigerants in which the Resident cannot provide the Contractor with appropriate documentation showing that the CFC's or HCFC's have been properly removed by a licensed technician,
- i. Solid Waste, Yard Waste, or Recycling that are generated from a different location than the Residential Unit,
- j. Any Solid Waste and Yard Waste that is specifically excluded by federal, state, or local laws from being disposed of in a landfill if that is the type of disposal facility being utilized,
- k. Tree limbs or branches exceeding four feet (4') in length or four inches (4") in diameter, or Bundles not properly secured or exceeding maximum dimensions,
- l. Construction Debris, or
- m. Bulky Waste when forty-eight (48) hour prior notice is not given.

3. Contractor's Collection Routes . If necessary, the City may be divided into geographic sectors for the purpose of provision of the Services. Each geographic sector shall be scheduled to receive Services on the same day. Contractor shall submit its proposed geographic sectors with its Proposal for consideration by City. The City reserves the right to review, comment on and finally approve Contractor's geographic sectors for the Services.

- a. If during the course of the Contract, the Contractor wishes to change the collection schedule, the Contractor shall bear the cost and responsibility of informing

the Residents of the new collection schedule. Any changes in schedules and/or routes shall not be made without the prior written approval of the City.

b. Exceptions may be made only after the City has been notified that the Contractor has reasonably determined that an exception is necessary to complete collection of an existing route due to unusual circumstances or upon the mutual Contract of the City and the Contractor.

c. Recycle Collection should be on the same day as Solid Waste collection. Yard Waste collection should be on the same day as Solid Waste collection, if the Alternate is approved. The Contractor shall immediately notify the City of any delays or deviations from a normally scheduled route.

4. Contractor's Collection Schedule

a. Hours and Days of Collection. The hours and days of Services are to be from 7:00 a.m. to 5:00 p.m. Monday through Friday. All Services shall be provided at least once per week Monday through Friday, year-round to all qualifying Residential Units and City Facilities within the City's geographic limits. Recycling Collection shall be once every two (2) weeks year-round (or once per week if Alternate is selected by the City). If the Alternate is approved, additional Yard Waste Service shall be provided at least once per week, Monday through Friday, from March 15th through December 15th.

b. Holidays. The holidays listed below may be observed as a non-Service days by the Contractor. The suspension of Services on these holidays does not relieve the Contractor of its obligation to provide Services to each Residential Unit and City Facilities at least once each week or every other week as the case may be. Whenever these holidays fall on a regularly scheduled collection day, the collection schedule for that day as well as the rest of the week may be delayed one (1) day. Under these circumstances only, Saturday collection is acceptable.

- i. New Year's Day
- ii. 4th of July
- iii. Thanksgiving Day
- iv. Christmas Day

c. Additional holidays may be granted upon Contractor's request and the City's prior approval in writing.

F. CONTRACTOR'S EQUIPMENT

1. Contractor's vehicles shall be licensed in the State of Indiana and shall operate in compliance with all applicable state, federal, and municipal regulations. All vehicles and equipment shall be manufactured and maintained to conform to the American National Standards Institute's (ANSI) standards.

2. Contractor's vehicles and other equipment shall be kept in proper repair and sanitary condition.

a. Contractor must have vehicles washed a minimum of two (2) times per week.

b. Each vehicle shall bear as a minimum, the name and phone number of the Contractor plainly visible on both vehicle cab doors.

c. Each vehicle shall be uniquely numbered in lettering at least seven (7) inches high. All vehicles used for recycling must have some type of signage on the vehicle stating that it is used for recycling. The signage must be clearly legible by the public.

d. Each vehicle shall have at least one (1) broom and one (1) shovel to clean up Solid Waste that may be spilled or otherwise scattered during the process of collection.

e. All vehicles shall be sufficiently secure so as to prevent any littering of Solid Waste and/or leaking of fluid. No vehicles shall be willfully overloaded.

3. The Contractor will be solely responsible for immediately collecting or cleaning up, to the City's satisfaction, any litter, fluids refuse or landscape waste which may leak, spill or blow off any of Contractor's vehicles or in the course of Contractor providing the Services.

4. Any use of larger vehicles may be banned if there are more than two (2) incidences of property and/or pavement damage. Collection vehicles must be enclosed and secure so as to prevent any littering. Vehicles other than properly equipped packer vehicles operating in the alley shall discharge their loads into a proper packer vehicle not less frequently than every block where alley pickup is required. Packer vehicles exceeding the gross vehicle weight limit shall use the streets in the area and receive the loads from the alley vehicles on area streets rather than in area alleys.

5. Contractor shall provide the gross weight of the alley vehicles when full and the number of axles and wheels on each vehicle with Contractor's Bid.

G. CONTRACTOR'S EMPLOYEES

1. The Contractor shall provide courteous and neat personnel for its collection crews and provide courteous and knowledgeable personnel for its customer service office(s).

a. The Contractor's collection employees working within the City shall be required to wear a uniform of some matter clearly showing that the employee is employed by the Contractor.

b. All of the Contractor's vehicle operators working within the City shall carry a valid Indiana driver's license for the class of vehicle operated. Such vehicle operators shall obey all traffic regulations, including weight and speed limits.

c. The Contractor shall prohibit its drivers and crew members from consuming any alcoholic beverages while working or using a controlled substance that negatively affects their ability to perform their duties under this Contract.

d. If the City determines that any of the Contractor's employees are unfit or unsuitable to perform the Services as a result of intoxication, drug use or by virtue of abusive or obnoxious behavior, then, upon the City's written request, the Contractor shall remove such employee from Services within the City and furnish a suitable and competent replacement employee.

H. CONTRACTOR'S DISPOSAL SITE

1. The Contractor shall furnish the City with the name and location of the waste disposal and/or recycling facility which will receive the Solid Waste, Yard Waste, and Recyclables generated under the Contract. The proposed disposal facility and recycling facility shall meet all the requirements of Federal, State, county, and local jurisdictions in which said facility is located.

a. The City reserves the right in its sole discretion to approve any change in Solid Waste and Yard Waste disposal methods or Recycling methods regardless of the initiating party.

2. Contractor shall furnish the City with copy of a redacted contract executed by waste disposal site or recycling facility agreeing to receive all Solid Waste, Yard Waste, and/or Recycling generated under the Contract for the duration of this Contract. The requirements of this paragraph may be satisfied by Contractor's provision of a written acknowledgement from a qualified disposal/recycling center or a contract with a qualified facility with sensitive information redacted.

3. Choice of disposal site and recycling facility is made by the Contractor who will assume all fees.

4. The Contractor shall be solely responsible for compliance with all Federal, State, County, and local laws, ordinances, and regulations, as amended from time to time, governing the disposal of refuse at said facility.

I. CONTRACTOR SUPPORT OF CITY'S PUBLIC EDUCATION PROGRAM

1. The Contractor shall provide to the City an annual sum of \$5,000 to be applied towards the development, printing, and distribution of public education materials including but not limited to brochures, print and radio advertisements and public displays. Any printed material will include both the Contractor's and City's name and logo.

a. In addition to the above sum, the Contractor will pay for all printing and mailing costs for one (1) initial mailing to all Residential Units explaining the details of the Services.

b. The Contractor is expected to provide the City a speaker who can address the Residents and answer questions regarding the Services at up to three (3) educational seminars or presentations to be given each year. This speaker will be at no cost and shall be knowledgeable about the Services and trash and recycling industry. These

seminars/presentations will be conducted at time(s) and location(s) to be determined by the City.

J. CONTRACTOR, RESIDENT AND CITY SERVICE REQUIREMENTS

1. Contractor's Office. The Contractor shall establish and maintain an office or other facility to which the public and City personnel may call or send inquiries or complaints and from which the general public and City personnel may receive instructions. Such office or facility shall be equipped with adequate telephone communications, local or toll-free phone numbers for Residents to call in missed pickups or complaints.

2. Contractor's Staffing. Contractor's office shall have at least one (1) responsible person in charge and present during all collections hours, including Saturday following an observed holiday.

a. The Contractor shall provide the City with at least one (1) separate telephone number which may be used by City personnel to communicate with the Contractor after regular business hours or during an emergency.

K. CONTRACTOR COMPLAINT PROCEDURE

1. The Contractor shall receive, investigate, and respond to all complaints of unsatisfactory Services within twenty-four (24) hours after the complaint is received. Any complaint initially received by the City will be directed to the Contractor's office.

a. Any item filed as a complaint, not properly tagged or reported to the City the following day of scheduled pick up, shall be the responsibility of the Contractor to correct.

b. In the event a complaint is not resolved within twenty-four (24) hours, and where no fault can be found on the Resident's part as determined by the City, the City shall have the right to demand an explanation and/or resolution to its satisfaction, which may include a special collection of the Solid Waste, Yard Waste, or Recycling.

i. Where the collection from a household is inadvertently missed on a day preceding a Holiday or weekend, the complaint shall be resolved and Service shall be provided on the next service day.

c. In the event the Contractor disputes a determination made by the City concerning the lack of fault of the Resident, the Contractor may appeal such determination to the City by notifying the City within twenty-four (24) hours after such determination is made. Such notification may initially be made by telephone, but must then be followed-up in writing.

d. In the event the Contractor unreasonably fails to resolve a complaint within twenty-four (24) hours after the complaint is received or the Contractor fails to resolve a complaint within twenty-four (24) hours after the City makes its final determination, the Contractor shall pay the City the sum of \$250.00 for the first complaint, and if not

resolved within an additional forty-eight (48) hours period, \$500.00 per day until the complaint is resolved.

e. The Contractor shall pay to the City reimbursement for all costs incurred pertaining to correcting a complaint due to negligence on the part of the Contractor, including administrative and attorneys' fees.

f. The Contractor shall maintain a daily log of complaints received in a format approved by the City. A copy of these complaints and their resolution shall be provided to the City at the end of each month with the invoice for Services provided to City Facilities.

L. **CONTRACTOR PROVISION OF CONTAINERS**

1. Contractor shall provide one (1) ninety (96) gallon (plus or minus five (5) gallons) or, where requested by a Resident, one (1) sixty-four (64) gallon (plus or minus five (5) gallons) wheeled Containers (rotational molded only) for trash collection to each Residential Unit. A second Container is available to each Residential Unit upon the Resident's request for such second Container. The Contractor is also to provide one (1) ninety-six (96) gallon or, where requested by a Resident, one (1) sixty-four (64) gallon (plus or minus five (5) gallons) wheeled Container for Recycling to each Residential Unit.

a. The Containers must conform to ANSI standards and must be approved by the City. The Containers must be a City approved color and will have the name of the Contractor displayed on the side. The Contractor needs to be prepared to offer a smaller sixty-four (64) gallon wheeled Container for both Solid Waste and Recycling upon individual requests. Contractor shall provide the proposed Container company and Container specifications with its Bid.

2. The Contractor shall be responsible for providing and delivering Containers to new Residents, replacing stolen containers, replacing and/or repairing damaged or unusable Containers at no extra cost (reasonably suitable for the Services) but limited to one (1) replacement Container for each Container issued to the Resident during the Contract period.

3. The Contractor shall exercise reasonable care not to damage a reusable Container, and to replace the same in an upright position on the sidewalk, curbside, driveway, or alley out of the traveled portion of the right-of-way. Full restitution shall be made for damages by the Contractor upon proof of negligence of its actions.

a. The Contractor shall handle all Containers with reasonable care to avoid damage and spills. Where collection crews break or spill any item of waste, the crews shall immediately clean up the debris.

b. The Contractor shall not be responsible for collecting or cleaning up refuse, recycling, or landscape litter that has blown, fallen, leaked or been scattered from bags, cans, bins or other Containers through no fault of the Contractor.

4. After the initial program is implemented, the Contractor shall provide for a one-time pick-up and disposal of unneeded Resident-owned trash containers from each Residential Unit. This pick-up will be on the same day as the weekly Service and would be in addition to any weekly Container limit.

5. The Contractor shall return all empty Containers at each stop to the general location at which they were found. Empty Containers shall not be placed in the middle of driveways, in driveway aprons, or near the curb in a manner that will increase the likelihood that an empty Container will block a sidewalk or fall or roll into the street.

M. CONTRACTOR'S COLLECTION AND REPORTING DATA

1. The Contractor shall collect and report to the City the following information computed on a quarterly basis. Such reporting shall be submitted to the City by the month following the end of the calendar quarter.

- a. Number of curbside recycling collection Residential Units setting out materials; and
- b. Summary of tonnages of all Recyclable collected by material type.
- c. Tonnage of trash disposed of (or collected) by month; and
- d. Other statistics that may be required by the State of Indiana.

2. The Contractor shall submit the following summary reports on an annual basis:

- a. Summary of participation rates of Recycling;
- b. Collected material amounts of both solid waste and Recyclables;
- c. Summary of Contractors participation in public awareness and education activities;
- d. Summary of successes and problems and measures taken to resolve problems; and
- e. Those reports that may be required by the State of Indiana.

3. The Contractor shall tag and identify any Containers/Container(s) or items exceeding the contracted limit. A list of violations shall be submitted to the City on a daily basis.

4. The Contractor shall notify the City of any changes before they are made regarding company policies or personnel that directly affect this Contract.

N. CITY RESPONSIBILITIES AND REQUIREMENTS

1. The City shall pay the Contractor monthly for Services provided to Residential Units for the preceding month. By the fifth (5th) day of the month, the Contractor shall submit a detailed

Application for Payment to the City for all Services rendered based on number of Residential Units receiving Services the preceding calendar month and as required by the Contract Documents. The City shall remit payment within forty-five (45) days following actual receipt of the Contractor's Application for Payment. If any dispute arises, the undisputed amount shall be paid by the City to Contractor.

- a. The total rate per Residential Unit shall be based on the Base Bid and/or Alternates as provided in Contractor's Bid in the Bid Form included in the Contract Documents.
- b. Contractor agrees that its payment from the City is contingent upon only the actual amounts received by the City from each Residential Unit for the Services; thus, the Contractor assumes the risk of nonpayment by the Residents, subject to City's good faith efforts to collect for those Services and enforce its collection rights against the Residents including termination of the Services as provided by statute. Actual receipt of payment from the Resident for Service provided to the Residential Unit shall be a condition precedent to the City's obligation to make payment to the Contractor.

2. The City shall supply the most current City geographical map possible to the Contractor for route designation and scheduling purposes.

3. The City and Contractor shall develop and mutually agree upon an initial schedule for the Services with designated daily routes indicated. This schedule shall either be a street/alley list or street/alley map indicating on which days a given location is to be collected. The map will indicate all private streets and alleys that are not to be used by the Contractor.

O. RESIDENT RIGHTS, RESPONSIBILITIES AND REQUIREMENTS

1. Location of Containers for Service. Residents shall place Containers close to the curb (or in those areas without curbs, close to the edge of the pavement), to facilitate collection by the Contractor.

2. Residents are responsible for placing Containers, and Overage Bags in the appropriate street or alley location before 7:00 a.m. on the designated collection day.

3. Resident Separate Disposal. Any Residents wanting to dispose of large quantities of non-containerized refuse, landscape waste, or construction debris shall be allowed to solicit competitive prices for such services from refuse collection contractors and select any contractor.

- a. The Resident shall be solely responsible for full payment for all such services. No such private collection contract shall affect the terms of these Services.

P. NON-DISCRIMINATION

1. The Contractor hereby assures that it will comply with all federal and Indiana civil rights laws, including, but not limited to Ind. Code § 22-9-1-10. The Contractor, by submitting a proposal, certifies and agrees that if it is the successful Offeror and is awarded the Contract, the Contractor or any subcontractors, or any other person acting on behalf of the Contractor shall

not discriminate against any employee or applicant for employment, to be employed in the performance of a contract with the City, with respect to said employee's hire, tenure, terms, conditions, and privileges of employment or any other matters directly or indirectly related to employment because of the employee's or applicant's race, color, religion, age, gender, gender-identity, sexual orientation, handicap, disability, national origin, ancestry, or veteran or disabled veteran status. Also, in this regard, the Contractor agrees that the provisions of Ind. Code § 5-16-6-1 are hereby incorporated by reference into these Specifications and Contract Documents as if they were fully set forth herein, and shall be binding upon the Contractor. Breach of this covenant may be regarded as a material breach of Contract.

Q. CONTRACTOR BID, PERFORMANCE AND PAYMENT BOND REQUIRED

1. The successful Offeror for the Services shall furnish the City with a corporate surety bond or an irrevocable letter of credit from an Indiana financial institution in the total amount of the Bid Price for one (1) year.
2. The corporate surety bond or irrevocable letter of credit shall be conditioned on the faithful performance of the Services in accordance with these Specifications and Contract Documents and the due payment of all lawful claims for all labor, materials, equipment, tools, fees and other items used in the performance of the Services.
3. As a condition of awarding the Contract, the successful Offeror must furnish the corporate surety bond or irrevocable letter of credit at the execution of the Contract. Failure to do so within this time may be interpreted, at the discretion of the City, as failure to perform the obligations set forth in the Contract Documents.
4. The form of the Bid Bond, Payment Bond and Performance Bond are attached hereto. The same conditions shall apply to an irrevocable letter of credit as indicated in the Performance and Payment Bonds.

R. REVISED FORM 96

1. Contractor shall submit with its Bid Indiana State Board of Accounts Revised Form 96 with a financial statement, a statement of experience, the Bidder's proposed plans for performing the Services and any equipment the Bidder has available for the performance of the Services.

EXHIBIT 1

CITY OF WESTFIELD MUNICIPAL BOUNDARIES

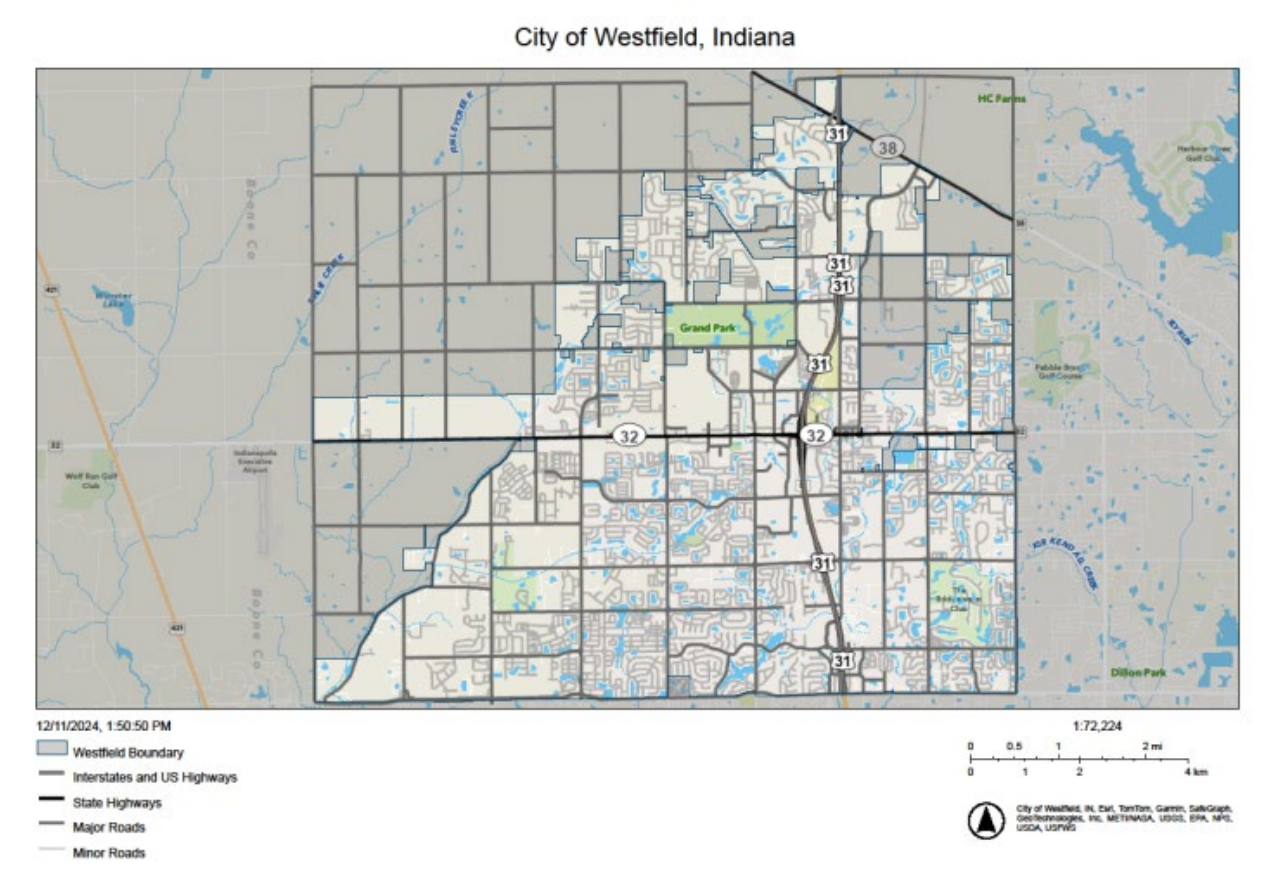


EXHIBIT 2

CITY FACILITY DISPOSAL NEEDS

Dumpsters and shredding services for all City properties, dumpsters emptied on a weekly schedule and shred boxes emptied on a monthly basis determined by the City and the Contractor.

City Hall – 130 Penn

- (2) trash polycart
- (1) recycling polycart
- (2) Shred box container

City Services – 2728 East 171st Street

- (5) 20-yard trash dumpster
- (1) 10-yard trash dumpster
- (1) 10-yard recycling dumpster
- (2) Shred box container

Grand Park – 19000 Grand Park Blvd

- (3) 40-yard trash dumpster
- (3) 40-yard recycle dumpster

Public Safety Bldg. – 17535 Dartown Road

- (1) 8-yard trash dumpster
- (2) Recycling polycart
- (2) Shred box container

Station 81 – 17001 Ditch Road

- (2) Trash polycart
- (1) Recycling polycart

Station 82 – 1920 East 151st Street

- (2) Trash polycart
- (1) Recycling polycart

Station 83 – 17944 Grassy Branch Road

- (2) Trash polycart
- (1) Recycling polycart

Township Office – 1549 Greyhound Pass

- (2) Trash polycart
- (3) Recycling polycart

Bulk Item Residential pickup separate from standard weekly service

Annual Christmas tree pick-up for Residential Customers

Bi-Annual City-wide bulk item collection at City Services in the Spring and Fall

Special Events----

Disposable trash collection containers (up to 40) and disposable Recycling collection containers (up to 40) annually for City events;

Independence Day celebration – Westfield Rocks the Fourth

Colts Camp

Culture Event – Cuisine & Connect

Christmas Holiday – Westfield in Lights

City of Westfield Residential Solid Waste, Yard Waste, Recycling Collection and Disposal Bid Form

Bid Package with \$2 City Administration Fee

Bidder Name: _____
Bid Date: _____
Time: _____

Telephone: _____
Address: _____
City/State/Zip: _____

Email: _____

Bid Checklist

Bid Bond	☐	Non-Collusion Affidavit	☐
Revised Form 96	☐	Non-Discrimination Affidavit	☐
Signature Affidavit	☐		

Prices shall include Contractor supplying Containers in all bids and alternates

Residential Unit Monthly Cost shall include \$2 City administrative fee per month

Solid Waste, Yard Waste, and Recycling must be picked up on the same day

Contractor shall provide 64 gallon container(s) in place of 96 gallon upon request

Base Bid

Prices to be based on 3 year contract with *biweekly* recycling

	Quantity	Size	Pick-Up Schedule	1st year Price	2nd year Price	3rd year Price	Total Bid Price
Solid / Yard Container(s)	Max. 2	96 gallon	Weekly				
Recycling Container	1	96 gallon	Biweekly				

Base Bid Calculation - Cost per year, per Residential Unit, multiplied by 26,600 estimated Residential Units

\$ _____ + \$ _____ + \$ _____ + \$ _____

Residential Unit Monthly - Cost per month, per Residential Unit (including \$2 City admin fee per Unit)

\$ _____ \$ _____ \$ _____

Base Alternate 1

Prices to be based on 3 year contract with *weekly* recycling

	Quantity	Size	Pick-Up Schedule	1st year Price	2nd year Price	3rd year Price	Total Bid Price
Solid/Yard Container(s)	Max. 2	96 Gallon	Weekly				
Recycling Container	1	96 Gallon	Weekly				

Alternate 1 Bid Calculation - Cost per year, per Residential Unit, multiplied by 26,600 estimated Residential Units

\$ _____ + \$ _____ + \$ _____ = \$ _____

Residential Unit Monthly - Cost per month, per Residential Unit (including \$2 City admin fee per Unit)

\$ _____ \$ _____ \$ _____

Alternate 2**Price add for Additional Yard Waste & Christmas Tree Collection Service**

1st year Price Add	2nd year Price Add	3rd year Price Add
-----------------------	-----------------------	-----------------------

Residential Unit Monthly Addition to Base (or Base Alternate)

All to be cost per month, per Residential Unit

3 Year Contract:

\$ _____	\$ _____	\$ _____
----------	----------	----------

Alternate 3**Collection and disposal from designated City Facilities**

1st year Price	2nd year Price	3rd year Price	Total Bid Price
-------------------	-------------------	-------------------	--------------------

3 Year Contract:

\$ _____	+	\$ _____	+	\$ _____	+	\$ _____
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Cost per year for collection and disposal from City Facilities

All bid prices shall include the cost of required containers as designated in (Exhibit 2) of the Specifications

Alternate 4**Bulky Waste**

Bulky Waste Pick Up upon Request

Cost per pick up

\$ _____

Alternate 5**Resident Drop-Off Program**

Attach a Proposed Schedule of Fees

Additional Items

Container Company _____

Cost per additional 96 gallon Container	\$ _____	Up to how many	_____
---	----------	----------------	-------

Cost per additional 64 gallon container	\$ _____	Up to how many	_____
---	----------	----------------	-------

Cost per Overage Bag (55 Gallon) \$ _____

Education/Transition Requirements

The above costs shall include education materials designed to inform the Residents of the Service program guidelines and rules. This will include an initial mailing to all Residents prior to starting Service. In addition, please provide a written description of how you will assist the City in transitioning Residents to their new Service. Examples of materials you have used in other communities are required to be submitted with your Bid. In addition, Contractor's Bid includes at least \$5,000.00 for development printing and distribution of public education materials as required by the Specifications.

City of Westfield Residential Solid Waste, Yard Waste, Recycling Collection and Disposal Bid Form

Bid Package #2

Bidder Name: _____
 Bid Date: _____
 Time: _____

Telephone: _____
 Address: _____
 City/State/Zip: _____

Email: _____

Bid Checklist

Bid Bond	☐	Non-Collusion Affidavit	☐
Revised Form 96	☐	Non-Discrimination Affidavit	☐
Signature Affidavit	☐		

Prices shall include Contractor supplying Containers in all bids and alternates

Direct billing and collection by the Contractor

Solid Waste, Yard Waste, and Recycling must be picked up on the same day

Contractor shall provide 64 gallon container(s) in place of 96 gallon upon request

Base Bid (Bid Package #2)

Prices to be based on 3 year contract with *biweekly* recycling

	Quantity	Size	Pick-Up Schedule	1st year Price	2nd year Price	3rd year Price	Total Bid Price
Solid / Yard Container(s)	Max. 2	96 gallon	Weekly				
Recycling Container	1	96 gallon	<i>Biweekly</i>				

Base Bid Calculation - Cost per year, per Residential Unit, multiplied by 26,600 estimated Residential Units

\$ _____ + \$ _____ + \$ _____ + \$ _____

Residential Unit Monthly - Cost per month, per Residential Unit (including \$2 City admin fee per Unit)

\$ _____ \$ _____ \$ _____

Base Alternate 1 (Bid Package #2)

Prices to be based on 3 year contract with *weekly* recycling

	Quantity	Size	Pick-Up Schedule	1st year Price	2nd year Price	3rd year Price	Total Bid Price
Solid/Yard Container(s)	Max. 2	96 Gallon	Weekly				
Recycling Container	1	96 Gallon	<i>Weekly</i>				

Alternate 1 Bid Calculation - Cost per year, per Residential Unit, multiplied by 26,600 estimated Residential Units

\$ _____ + \$ _____ + \$ _____ = \$ _____

Residential Unit Monthly - Cost per month, per Residential Unit (including \$2 City admin fee per Unit)

\$ _____ \$ _____ \$ _____

Alternate 2 (Bid Package #2)

Price add for Additional Yard Waste & Christmas Tree Collection Service

1st year Price Add	2nd year Price Add	3rd year Price Add
--------------------	--------------------	--------------------

Residential Unit Monthly Addition to Base (or Base Alternate)

All to be cost per month, per Residential Unit

3 Year Contract:

\$ _____ \$ _____ \$ _____

Alternate 3 (Bid Package #2)**Collection and disposal from designated City Facilities**

1st year Price	2nd year Price	3rd year Price	Total Bid Price
-------------------	-------------------	-------------------	--------------------

3 Year Contract:

\$ _____ + \$ _____ + \$ _____ + \$ _____

Cost per year for collection and disposal from City Facilities

All bid prices shall include the cost of required containers as designated in (Exhibit 2) of the Specifications

Alternate 4 (Bid Package #2)**Bulky Waste**

Bulky Waste Pick Up upon Request

Cost per pick up

\$ _____

Alternate 5 (Bid Package #2)**Resident Drop-Off Program**

Attach a Proposed Schedule of Fees

Additional Items (Bid Package #2)

Container Company _____

Cost per additional 96 gallon Container \$ _____

Up to how many _____

Cost per additional 64 gallon container \$ _____

Up to how many _____

Cost per Overage Bag (55 Gallon) \$ _____

Education/Transition Requirements

The above costs shall include education materials designed to inform the Residents of the Service program guidelines and rules. This will include an initial mailing to all Residents prior to starting Service. In addition, please provide a written description of how you will assist the City in transitioning Residents to their new Service. Examples of materials you have used in other communities are required to be submitted with your Bid. In addition, Contractor's Bid includes at least \$5,000.00 for development printing and distribution of public education materials as required by the Specifications.

RESOLUTION 25-122

A RESOLUTION OF THE CITY OF WESTFIELD BOARD OF PUBLIC WORKS AND SAFETY AWARDING A PUBLIC-PRIVATE AGREEMENT FOR FIBER INFRASTRUCTURE PROJECT

WHEREAS, the City of Westfield, Indiana (the “City”) is an Indiana municipal corporation; and

WHEREAS, in accordance with the Indiana Code 5-23, as amended (the “Public-Private Statute”), the City issued a request for proposals and qualifications for the design, construction, operation, and transfer of a fiber infrastructure project and related improvements for the City (the “Project”); and

WHEREAS, as provided in the Public-Private Statute, the City and the selected developer will enter into a “public-private agreement” addressing: (a) the construction, operation, and transfer of the Project; and (b) the acquisition of the completed Project by the City (the “Public-Private Agreement”); and

WHEREAS, the design, construction, and transfer of the Project by the selected developer, and the acquisition of the completed Project by the City, collectively constitute the “Public-Private Transaction”; and

WHEREAS, following its review of the submitted proposals, the committee formed by the City to review proposals submitted with respect to the Project recommended that the Board of Public Works and Safety (the “Board”) award the Public-Private Transaction to Westfield Fiber Network, LLC, a wholly owned subsidiary of Berry Communication, LLC (the “Developer”); and

WHEREAS, not fewer than seven days before the date of the public hearing held on the date of the adoption of this Resolution, and as required by the Public-Private Statute: (a) notice of such public hearing was published in accordance with Indiana Code 5-3-1, as amended; and (b) all proposals, together with the recommendation, were made available for inspection and copying in accordance with Indiana Code 5-14-3, as amended; and

WHEREAS, at the conclusion of the properly noticed and conducted public hearing, the Board elected to award the Public-Private Transaction to the Developer; and

WHEREAS, the Board now desires to: (a) award the Public-Private Transaction to the Developer; and (b) authorize the execution of the Public-Private Agreement in substantially the form attached hereto as Exhibit A and incorporated herein by reference, and all other documents and certificates necessary or reasonably appropriate to effectuate the Public-Private Transaction (collectively, the "Transaction Documents"), as each is negotiated, finalized, and approved by the Mayor or his designee (the "Authorized Individual").

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

1. Award. Pursuant to and in accordance with the Public-Private Statute, the Board hereby: (a) awards the Public-Private Transaction to the Developer; and (b) confirms that the Public-Private Agreement will constitute a "Public Private Agreement" under the Public-Private Statute.

2. Document Authorization. The Board hereby authorizes the execution of the Transaction Documents in the form to be negotiated, finalized, approved, and executed by the Authorized Individual, acting on behalf of the City. Execution of the Transaction Documents by the Authorized Individual shall evidence the Authorized Individual's approval thereof.

3. Other Actions. The Authorized Individual and such other officers, staff members, service providers and firms as he may direct, are hereby authorized to take any and all actions necessary or reasonably appropriate to affect the resolutions set forth herein. Any such actions taken, including any documents or certificates executed and delivered, hereby are ratified, confirmed, and approved.

4. No Conflict. All ordinances, resolutions, and orders (or parts thereof) that conflict with the provisions of this Resolution hereby are repealed to the extent of such conflict. After the execution of the Public-Private Agreement, and until all amounts contemplated under the Public-Private Agreement to be paid by the City have been paid in full: (a) this Resolution shall not be repealed or amended; and (b) the Board shall not adopt any ordinance or resolution that adversely affects this Resolution.

5. Severability. If any section, paragraph, or provision of this Resolution is held to be invalid or unenforceable for any reason, then the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this Resolution.

6. Effectiveness. This Resolution is effective upon passage.

ADOPTED and PASSED this 23rd day of April 2025.

BOARD OF PUBLIC WORKS AND SAFETY,
CITY OF WESTFIELD, INDIANA

President Nick Barbknecht

Mayor Scott A. Willis

Chuck Lehman

Attest: _____

EXHIBIT A

Form of Public-Private Agreement

BUILD-OPERATE-TRANSFER AGREEMENT

Fiber Infrastructure Project

This Build-Operate-Transfer Agreement (Fiber Infrastructure Project) (the “Agreement”) is executed this _____ day of _____, 2025, by and between Westfield Fiber Network, LLC, a wholly owned subsidiary of Berry Communication, LLC (the “Developer”), and the City of Westfield, Indiana (the “City”) to be effective as of the Closing Date.

1. Definitions.

Accepted shall mean the specific written finding by the City that the Project has been reviewed and certified as meeting all requirements contained in the final design plans and this Agreement.

Acquisition Price shall mean the purchase price for the acquisition of the Acquisition Property in the amount of \$2,094,351 which outstanding purchase price amount shall be reduced by BOT Payments as they are paid by City to Developer hereunder.

Acquisition Property shall mean the completed, inspected, and accepted Project.

Amendment shall mean an Amendment executed by Developer and City finalizing the inclusion into the Final Plans of a change proposed in an Amendment Request, which change has been approved in writing by authorized representatives of both parties.

Amendment Request shall mean a written request for a change to the Final Plans made by the City or Developer for purposes of changing the scope of the Agreement.

Books and Records shall mean all books and records pertaining to the acquisition of materials to construct, and the construction and operation of, the Project in accordance with this Agreement and the construction contract.

BOT Payments shall mean payments comprised of a portion of the outstanding Acquisition Price made by City to reimburse Developer for Project Costs as such Project Costs are incurred by Developer and to be paid in the following installments: \$500,000 on the Closing Date, \$500,000 on January 2, 2026, \$500,000 on July 1, 2026 and \$594,351 on the later of January 2, 2027 or the Conveyance Closing Date.

BOT Transaction shall mean the design, construction, and/or operation of the Project.

City shall mean the city of Westfield, Indiana.

Claims shall mean claims, judgments, damages, liabilities, injuries, losses, costs, and expenses (including, without limitation, attorneys’ fees).

Closing shall mean the closing of the BOT Transaction between the City and the Developer.

Closing Date shall mean the date of the Closing.

Construction Drawings shall mean final construction drawings consistent with the Design Development Documents and the Laws.

Construction Schedule shall mean a fully detailed schedule for construction of the Project.

Contractor shall mean the contractors and subcontractors performing work on the Project Site.

Conveyance Closing shall mean the closing with respect to the automatic conveyance of the completed Project to City.

Conveyance Closing Date shall mean the date of the Conveyance Closing, which shall take place within thirty (30) days after the Substantial Completion Date.

Design Costs shall mean all fees, costs, and expenses incurred by Developer for design and planning services in connection with the Project.

Design Development Documents shall mean fully completed and detailed design development documents that are consistent with the Schematic Design Drawings and the Laws which are warranted to be sufficient to support a public-private agreement under Indiana Code 5-23 and a guaranteed maximum price of the Project.

Documentation Costs shall mean all fees, costs, and expenses incurred by Developer in connection with drafting and negotiating this Agreement, and any other documents contemplated by the foregoing to be executed in connection with the Project.

Easement Agreement shall mean an agreement pursuant to which City grants to Developer a temporary construction easement to construct the Project on the Project Site in accordance with the terms and conditions of this Agreement.

Event of Default shall have the meaning set forth in Section 17.

Final Documents and Drawings shall mean final Schematic Design Drawings, final Design Development Documents, final Construction Drawings, and the final Construction Schedule, as each is finalized and delivered by City and approved and accepted by the Developer pursuant to the Plan Refinement Process.

Final Inspection shall mean an inspection of the Project by City after substantial completion thereof.

Final Plans shall mean the aggregated Final Documents and Drawings.

Force Majeure shall mean, with respect to a party: (a) an act or omission of the other party; or (b) any other cause that is not within the reasonable control of such party (including, without limitation: (i) unusually inclement weather; (ii) the unusual unavailability of materials, equipment, services, or labor; and (iii) utility or energy shortages or acts or omissions of public utility providers.

Inspection shall mean a Permitted Inspection or the Final Inspection, as applicable.

Latent Defect shall mean Material Defects that: (a) are not discovered; or (b) reasonably are not discoverable; by City during a Permitted Inspection or the Final Inspection.

Laws shall mean all applicable: (a) laws, statutes, and/or ordinances; (b) governmental rules, regulations, and/or guidelines; and (c) judicial orders, consents, and/or decrees.

Material Defect shall mean any item or component of the Project that: (a) contains a material defect in workmanship or materials; (b) deviates materially from the Final Plans; or (c) has not been constructed materially in accordance with the terms and conditions of this Agreement.

Non-Compliance Notice shall mean a written notice from City to Developer that identifies Material Defects discovered by City during a Permitted Inspection or the Final Inspection.

Operating Period shall mean the period: (a) commencing on the Substantial Completion Date; and (b) ending on the Conveyance Closing Date.

Payment Due Date shall mean the Closing Date, January 2, 2026, July 1, 2026 and upon the later of January 2, 2027 or the Conveyance Closing Date provided in each case the City shall have received an itemized invoice from Developer for reimbursement of Project Costs incurred by Developer.

Permitted Inspection shall mean an inspection by City of any item or component of the Project when deemed to be necessary or appropriate by City.

Plan Refinement Process shall mean the process set forth in Section 7 for completion of the Final Plans and the Project Budget.

Plan Schedule shall mean the schedule in accordance with which Developer shall prepare and provide to City the Construction Schedule, which schedule is attached hereto as Exhibit B.

Project shall mean the construction of a fiber network for the City as outlined in the scope of work attached hereto as Exhibit C, all in accordance with the Final Plans.

Project Budget shall mean the budget for the Project Costs.

Project Costs shall mean the fees, costs, and expenses to be incurred in connection with the Project, including: (a) the Documentation Costs; (b) the Design Costs; (c) the costs incurred in connection with determining that all of the conditions set forth in Section 6 have been satisfied and/or will be waived by Developer and/or City; (d) the cost to develop, design, and construct the Project in accordance with the terms and conditions of this Agreement; (e) a reasonable and customary amount for contingencies; and (f) development and construction fees and overhead. In any event the total Project Costs to the City shall not exceed \$2,094,348.00.

Project Site shall mean that certain real estate located in the City that is delineated on Exhibit A as the “Project Site” which depicts the location of the fiber network to be installed.

Required Permits shall mean all permits, licenses, approvals, and consents required by the Laws for the construction of the Project.

Schematic Design Drawings shall mean the detailed schematic design drawings for the Project, which drawings shall be consistent with the requirements of this Agreement and the Laws.

Substantial Completion Date shall mean the date, after the Final Inspection, on which: (a) all Material Defects noted in any properly given Non-Compliance Notice have been corrected; and (b) Developer delivers to City a copy of a certificate of substantial completion issued and executed by the architect or engineer for the Project indicating that the Project has been completed substantially in accordance with the Final Plans, subject to "punch-list" items identified in connection with the Final Inspection, which "punch-list" items do not materially affect the use of the Project for its intended use.

Transaction Documents shall mean this Agreement, the Easement Agreement, and any other documents ancillary to the BOT Transaction, including the Master Services Agreement and Order for Services attached hereto as Exhibit G.

Transfer shall mean: (a) any sale, transfer, conveyance, assignment, pledge, or other disposition of, or any encumbrance upon, the Project Site, the materials to construct the Project, or the Acquisition Property, or any interest in the foregoing; or (b) any granting of a security interest in the Project Site, the materials to construct the Project, or the Acquisition Property, other than to the Developer. Notwithstanding the foregoing, encumbrances created by the Transaction Documents or required by the terms and conditions of this Agreement shall not constitute Transfers.

Utility Services shall mean gas, electricity, telephone, water, broadband, storm and sanitary sewer, and other utility services.

2. General Obligations.

(a) BOT Transaction. Subject to the terms and conditions of this Agreement:

(i) Each of Developer and City shall execute the Transaction Documents to which it is a party and satisfy its obligations under such Transaction Documents;

(ii) City shall deliver to Developer an executed Easement Agreement at the Closing;

(iii) Developer shall construct the Project on the Project Site; and

(iv) The Acquisition Price shall be used solely for the City to acquire the Project and reimburse Developer for Project Costs.

(b) Conveyance. Subject to the terms and conditions of this Agreement:

(i) Developer shall convey to City; and (ii) City shall purchase from Developer;

title to the Acquisition Property for the Acquisition Price.

3. **Closing.** Subject to the terms and conditions of this Agreement, the Closing shall occur on or before _____, 2025. The Closing Date shall be established mutually by Developer and City, and the Closing shall take place at such location as Developer and City mutually agree.
4. **Closing Documents.** At the Closing, the documents and instruments set forth in this Section shall be executed and/or delivered.
 - (a) the Transaction Documents;
 - (b) copies of such resolutions, consents, authorizations, and other evidence as either party reasonably may request to establish that: (i) the persons executing and delivering the foregoing documents have been empowered and authorized by all necessary action of Developer or City, as the case may be; and (ii) the execution and delivery of such documents, and the performance by Developer or City of its obligations hereunder and under the foregoing documents, have been authorized by Developer or City, as the case may be; and
 - (c) such other customary documents and instruments as the City reasonably may request in connection with the Closing.
5. **Conditions.**
 - (a) Mutual. Except to the extent waived by proceeding to the Closing, the obligation of each of Developer and City to proceed to the Closing is subject to the satisfaction, as of the Closing Date, of the conditions set forth in this Subsection.
 - (i) Developer has obtained, or Developer and City are satisfied that Developer will be able to obtain, all Required Permits.
 - (ii) Developer has provided evidence to the City, to the City's satisfaction, that it has either obtained (i) a payment bond in an amount not less than one hundred percent (100%) of the cost to design and construct the Project or (ii) a performance bond in an amount not less than fifty percent (50%) of the cost to design and construct the Project.
 - (iii) Developer and City have agreed to the form and substance of the Transaction Documents, and each of Developer and City has determined, in the exercise of its reasonable discretion, that they are prepared to close the BOT Transaction on the Closing Date.
 - (iv) City has adopted all necessary resolutions, posted all public notices and conducted all public hearings necessary for authorization and the execution of, and the performance of its obligations under the

documents contemplated by this Agreement to be executed by it, which shall include, without limitation, a resolution awarding the Project to Developer.

- (v) City and Developer have made a finding that there are no conditions with respect to the Project Site that will interfere with, or prohibit, construction of the Project in accordance with its obligations or the terms and conditions of this Agreement.
- (b) Developer. In addition to the conditions set forth in Subsection 5(a), the obligation of Developer to proceed to the Closing is subject to the condition that: (i) there is no continuing breach by City of this Agreement; and (ii) all of the representations and warranties of City set forth in Section 6 are true and accurate in all respects.
- (c) City. In addition to the conditions set forth in Subsection 5(a), the obligation of City to proceed to the Closing is subject to the condition that: (i) there is no continuing breach by Developer of this Agreement; and (ii) all of the representations and warranties of Developer set forth in Section 6 are true and accurate in all respects.
- (d) Condition Failure. If one or more of the conditions set forth in this Section is not, or cannot be, timely and completely satisfied, then, as its sole and exclusive remedy, the applicable party either may elect to: (a) waive satisfaction of the conditions and proceed to Closing; or (b) terminate this Agreement by a written notice to the other party; provided that, with respect to breaches of this Agreement by a party, the other party shall have the rights and remedies set forth in Section 18. Notwithstanding anything to the contrary set forth herein, Developer and City shall work diligently and in good faith to satisfy the conditions set forth in this Section.

6. Representations. Each of City and Developer represents and warrants that:

- (a) it has: (i) the power and authority, and has been authorized by proper action, to enter into this Agreement and perform its obligations hereunder; (ii) the power and authority to carry out all transactions contemplated by this Agreement; and (iii) complied with the Laws in all matters relating to such transactions;
- (b) neither the execution and delivery of this Agreement by it, nor the performance by it of its obligations hereunder: (i) violates any Law or the terms and conditions of any indenture, material agreement, or other instrument to which it is a party, or by which it or any of its properties or assets is bound; (ii) conflicts with, results in a breach of, or constitutes a default under any such indenture, agreement, or other instrument; or (iii) results in the creation or imposition of any prohibited lien, charge, or encumbrance of any nature upon any of its properties or assets;
- (c) under this BOT Transaction, the Developer (i) is acting solely for its own account, and not as a municipal advisor, financial advisor, agent, or fiduciary to the City; (ii) is not acting as a municipal advisor, underwriter, or placement agent in

connection with this Agreement; and (iii) has not given “advice” within the meaning of Section 15B of the Securities and Exchange Act of 1934;

(d) this Agreement is a contractual Build-Operate-Transfer Agreement under Indiana Code 5-23 and is not a municipal or other securities offering;

(e) this Agreement, once executed, will be its legal, valid, and binding obligation;

(f) it shall not enter into any contracts or undertakings that would limit, conflict with, or constitute a breach of this Agreement; and

(g) it has discussed the representations contained herein with such legal, accounting, tax, financial, and other advisors as it has deemed appropriate.

In addition to the foregoing: (a) City represents and warrants that: (i) it is a public body organized and existing under the laws of the State of Indiana; and (ii) to the best of its knowledge, there is not now, and there has not been, any contamination or pollution of the Project Site or any groundwater thereunder by any hazardous waste, material, or substance in violation of any Laws, except as may be disclosed in any property information provided by City to Developer; and (b) Developer represents and warrants that it is a limited liability company duly formed, organized, and validly existing under the laws of the State of Indiana with sufficient financial resources at its disposal to complete and deliver the Project to the City in accordance with the Final Plans.

7. Plan Refinement Process.

(a) Design. Developer is responsible for producing and providing to the City the Schematic Design Drawings, Design Development Documents, and Final Documents and Drawings, including but not limited to the technical specifications of the Project, in accordance with the Plan Schedule.

(b) Approvals. In accordance with the Plan Schedule, Developer, at its cost and expense, shall submit to City for its approval the Schematic Design Drawings, the Design Development Documents, the Construction Drawings and the Construction Schedule along with a written detailed summary of any claimed adjustments to the Project Budget due to changes to the Project initiated by City. The time limits identified in the Plan Schedule are of the essence. Within thirty (30) days after City receives the Schematic Design Drawings, Design Development Documents, the Construction Drawings or Construction Schedule, City shall deliver to Developer written notice of approval or rejection; provided that, in the case of a rejection, such notice shall: (i) specify the part or parts that City is rejecting; and (ii) include the specific basis for such rejection. Any agreed upon adjustments to the then-current Project Budget as a result of proceeding through the Plan Refinement Process shall not be of effect until delivered to City and promptly documented by Amendment after which they shall be reflected in an updated Project Budget delivered to the City. Upon approval of the Schematic Design Drawings, the Design Development Documents, the Construction Drawings, and the Construction Schedule, such Schematic Design Drawings, Design Development Documents, Construction

Drawings and Construction Schedule, respectively, shall be final, subject to modifications only by Amendments.

(c) Construction Drawings. In accordance with the Plan Schedule, Developer, at its cost and expense, shall submit to City for its review and approval the Construction Drawings with respect to each trade or other discrete aspect of construction of the Project. Thereafter, such Construction Drawings shall be final construction drawings with respect to the applicable trade or other discrete aspect of construction, subject to modifications only by Amendments.

(d) Re-submissions. If, at any stage of the Plan Refinement Process, City rejects any drawings, documents, or schedules, then, within ten (10) days after Developer receives notice from City of such rejection, Developer shall revise, and submit to City, the applicable drawings, documents, or schedules. Within thirty (30) days after City receives the resubmitted drawings, documents, or schedules, City shall deliver to Developer written notice of approval or rejection; provided that, in the case of a rejection, such notice shall: (i) specify the part or parts that City is rejecting; and (ii) include the specific basis for such rejection. Upon approval of the resubmitted drawings, documents, or schedules, the resubmitted drawings, documents, or schedules shall become part of the Final Plans, subject to modifications only by Amendments.

(e) Final Plans. Upon completion of the Final Documents and Drawings through the Plan Refinement Process, the aggregated Final Documents and Drawings shall constitute the complete Final Plans, subject to modification only by Amendments. All references herein to the Final Plans shall be deemed to be references to the Final Documents and Drawings, until such time as all of the Final Documents and Drawings are completed; provided that, when all of the Final Documents and Drawings are completed, all references herein to the Final Plans shall be deemed to be references to the Final Plans, as modified only by Amendments.

(g) Budget/Costs. Developer has delivered the Project Budget to City for its review and approval, which Project Budget currently reflects total Project Costs in the amount of the Acquisition Price. Developer shall make such adjustments to the Project Budget as are determined by Developer and City to be necessary or appropriate in connection with the finalization of the drawings, documents, and schedules pursuant to the Plan Refinement Process or, after the Final Plans are complete, in connection with any change documented by an Amendment. If: (i) Developer and City agree that an adjustment to the Project Budget is necessary and appropriate; and (ii) the result of such adjustment is that the aggregated Project Costs will exceed the Acquisition Price; then City shall agree in writing that the Project Costs in excess of the Acquisition Price shall be added to the Acquisition Price.

(g) **Project.** Subject to the terms and conditions of this Agreement, Developer shall design and construct the Project on the Project Site; provided that, except to the extent that construction or installation of any of the following are part

of the Project, City, at its cost and expense, shall ensure that there are Utility Services in adjoining public rights-of-way or properly granted and recorded utility easements, all of which serve the Project Site at adequate pressures, and in sufficient quantities and volumes, for the construction and use of the Project in accordance with the terms and conditions of this Agreement. In connection with the satisfaction of the foregoing obligation, City, at its cost and expense, shall make any improvements outside or to the Project Site that are necessary or reasonably appropriate.

(h) Sales Tax.

- (i) Upon the reasonable request of the Developer, the City shall deliver to Developer Indiana Department of Revenue Form ST-105 (General Sales Tax Exemption Certificate), pursuant to which City shall represent that the acquisition of the materials to construct and to be incorporated into the Project is exempt from Indiana sales and use tax.
- (ii) Upon any assessment, or threatened assessment, of Indiana sales and/or use tax in connection with the purchase of any materials to construct, install, and incorporate into the Project, Developer (or the Contractor, pursuant to the terms and conditions of the construction contract) promptly shall notify City in writing. From and after receipt of the foregoing notice, City may provide such cooperation, information, and assistance as Developer and/or the Contractor reasonably may request.

8. City Changes.

- (a) If City desires to make any changes to the Final Plans, then City shall submit an Amendment Request to Developer for review and approval. Within five (5) business days after Developer receives the Amendment Request, Developer shall deliver to City written notice stating whether the change proposed in the Amendment Request would result in an increase in the Project Budget; provided that, if the proposed change would result in an increase, then such notice also shall include an estimate of the amount of the increase.
- (b) If the foregoing notice states that the change proposed in the Amendment Request would not result in an increase in the Project Budget, then, within five (5) business days after delivery of such notice, Developer shall deliver to City written notice that it approves or rejects the Amendment Request; provided that Developer shall not withhold its approval unreasonably.
- (c) If the foregoing notice states that the change proposed in the Amendment Request would result in an increase in the Project Budget, then:

(A) such notice also shall include an estimate of the amount of the increase; and (B) within ten (10) business days after receipt of such notice, City shall provide written notice to Developer as to whether City would like to withdraw the Amendment Request. If City does not elect to withdraw the Amendment Request, then, within five (5) additional business days, Developer shall deliver to City written notice that it approves or rejects the Amendment Request, provided that Developer shall not withhold its approval unreasonably.

(d) If Developer approves an Amendment Request from City, then Developer and City shall execute an Amendment. If the approved Amendment Request is for a change that will result in the Project Budget reflecting Project Costs in excess of the Acquisition Price, then, notwithstanding anything to the contrary set forth herein, the amount of such excess shall be included in the Acquisition Price.

(e) If Developer rejects all or any part of the Amendment Request, then such notice shall: (A) specify the part or parts that Developer is rejecting; and (B) include the specific basis for such rejection.

9. Construction.

(a) Permits. Prior to commencing construction of the Project, and consistent with the time limit identified in the Plan Schedule, Developer, , shall obtain and submit to City the Required Permits for the City's review. The City shall be responsible for payment to Developer for all permit fees for the Required Permits, provided that the City, in its sole discretion, agrees in writing that such fee is for a Required Permit. Developer shall promptly provide to the City any receipts, documentation, and applications reflecting such fee(s) that Developer is seeking for the City to pay pursuant to this Section.

(b) Construction. Developer shall construct the Project and warrants to City that such construction of the Project shall be: (i) in a good and workmanlike manner; (ii) in accordance with the Final Plans (as modified by any approved and executed Amendments) and the terms and conditions of this Agreement; and (iii) in compliance with the Laws and the Required Permits. Developer shall construct the Project in accordance with the Construction Schedule (as modified by any approved and executed Amendments), and such time limits identified in the Construction Schedule are of the essence.

(c) BOT Payments shall be disbursed to Developer in accordance with this Agreement to reimburse Developer for Project Costs on the following dates and in the following amounts: \$500,000 on the Closing Date, \$500,000 on January 2, 2026, \$500,000 on July 1, 2026 and \$594,351 on the later of January 2, 2027 or the Conveyance Closing Date.

(d) Operation. Developer shall operate the Acquisition Property during the Operating Period, and City shall maintain all commercially appropriate insurance. Developer shall defend and indemnify the City for any liabilities arising from Developers' operation of the Acquisition Property.

(e) Records. Developer shall keep and maintain true, correct, accurate and complete Books and Records. All Books and Records shall be kept and maintained in accordance with generally accepted accounting principles consistently applied. City and its attorneys, accountants, representatives, architects, engineers, and consultants at all reasonable times shall have: (i) free access to, and rights of inspection of, the Books and Records; and (ii) the right to audit, make extracts from, and receive from Developer originals or accurate copies of, the Books and Records.

(f) Safety. Developer shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of its obligations under the Agreement and shall be in full compliance with all Laws. Developer shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to: (i) employees constructing the Project and other persons who may be affected thereby; (ii) the work and materials and equipment to be incorporated into the Project, whether in storage on or off the Project Site, under care, custody or control of Developer or Developer's Contractor or subcontractors; and (iii) other property at the Project Site adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction. Developer shall comply with and give notices required by applicable Laws bearing on safety of persons or property or their protection from damage, injury, or loss. Developer shall erect and maintain, as required by existing conditions and performance of its obligations under this Agreement, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent sites and utilities. Developer shall promptly remedy damage and loss to the Project or adjacent property caused in whole or in part by Developer, the Contractor, a subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable, except damage or loss attributable to the gross negligence or intentional misconduct of City.

(g) One Year Correction Period. If a Material Defect is discovered in the Project within one year of the Substantial Completion Date, Developer shall correct or cause the correction of such Material Defect promptly after being provided notice thereof by City, without any cost to City. The period for correction of Material Defects as stated herein shall not establish a statute of limitation or otherwise limit or restrict the period in which City may enforce Developer's other obligations under this Agreement, including but not limited to Developer's warranties under Subsection 9(b).

(h) Developer must provide for the payment of all contractors and subcontractors for work performed under this agreement.

10. Inspection.

(a) Inspection. Upon reasonable written notice delivered to Developer, which notice shall specify the portion of the construction to be inspected, City may perform a Permitted Inspection. If applicable after a Permitted Inspection, City shall deliver a Non-Compliance Notice to Developer.

(b) Final Inspection. Developer shall deliver to City a written request for the Final Inspection of the Project at least fifteen (15) business days prior to the anticipated Substantial Completion Date. On or before the date that is fifteen (15) business days after receipt by City of such request; City shall: (i) conduct the Final Inspection; and (ii) deliver to Developer, if applicable, a Non-Compliance Notice. Upon: (i) correction of all Material Defects identified in the Non-Compliance Notice; or (ii) deemed acceptance pursuant to Subsection 10(c); City shall have no further inspection rights pursuant to this Agreement with respect to the Project. Within fifteen (15) business days after City conducts the Final Inspection, Developer and City shall identify the “punch-list” items. Developer shall complete all “punch-list” items within 30 days after the “punch-list” items are identified.

(c) Non-Compliance. If City delivers to Developer a Non-Compliance Notice following an Inspection in accordance with this Section, then Developer shall correct, as soon as is practicable, all Material Defects identified in the Non-Compliance Notice, except and to the extent that any such Material Defects have been accepted or deemed to have been accepted, by City. All items or components of the Project with respect to which: (i) an Inspection is conducted; and (ii) no Material Defects are identified in a Non-Compliance Notice within 30 days; shall be deemed to be accepted by City.

(d) Latent Defects. Notwithstanding anything to the contrary set forth herein, no acceptance, or deemed acceptance, by City pursuant to this Section shall be applicable with respect to any Latent Defects.

(e) General.

(i) In connection with any Inspection pursuant to this Section, City shall: (A) comply with all health and safety rules of which City has been informed that have been established for personnel present on the construction site; and (B) coordinate the inspections so that the inspections do not interfere with the performance of construction. Developer shall have the right to accompany, and/or have its construction manager accompany, City during any Inspection.

(ii) Notwithstanding anything to the contrary in this BOT Agreement, an acceptance, or deemed acceptance, by City pursuant to this Section shall not mean that City has accepted, or Developer has been relieved of, responsibility for: (A) compliance with the

Laws; (B) the proper application of construction means or methods; (C) correcting any portion of the Project if it is later determined that such portion is inconsistent with the proper completion of a subsequent portion of the Project; or (D) any Latent Defects.

(f) **Relocation of Broadband Infrastructure.** Upon transfer of the broadband infrastructure to the City, the City, as the Owner, shall be solely responsible for all costs and expenses associated with any required relocation of the infrastructure, including but not limited to relocations due to public works projects, utility conflicts, or any other unforeseen circumstances, provided that the relocation is not required due to Developer's failure to complete the Project in compliance with the terms and conditions of this Agreement, Developer's faulty work, and/or Developer's faulty workmanship under this Agreement. Subject to the foregoing conditions and other warranties required by this Agreement, the Developer shall have no obligation, financial or otherwise, to facilitate, fund, or conduct any relocation of the infrastructure after the transfer unless explicitly agreed in writing.

11. **Bonds and Insurance.** During construction of the Project, Developer shall maintain the policies of insurance reflected on the certificate attached hereto as Exhibit D. Each such policy shall be written by a company acceptable to City, and Developer shall provide notice of any intended modification to, or cancellation of, such policy to City at least 30 days in advance. The policy of general liability insurance required by this Section to be maintained by Developer shall name City as an additional insured and such coverage shall be primary and non-contributory. Developer shall deliver to City certificates of the insurance policies required by this Section, executed by the insurance company or the general agency writing such policies. Developer shall procure and maintain a builder's risk insurance policy covering the Project in the amount of the Acquisition Price. Upon the conclusion of the Operating Period, Developer shall have no obligation to maintain any policies of insurance with respect to the Project.

12. **Operation/Conveyance.**

(a) **Completion.** On the Conveyance Closing Date, Developer shall: (i) provide as-built record drawings to City and grant the City a perpetual license to use such drawings in the use, occupancy, operation, maintenance, repair, alteration and additions to the Project; (ii) provide to City the warranties for the Project issued by the Contractor and its subcontractors, suppliers and manufacturers in favor of City; (iii) provide to City operating manuals, if any, for the Project; and (iv) execute a certificate substantially in the form attached hereto as Exhibit E, which certificate, by specifying the Substantial Completion Date, shall establish the commencement date of the Operating Period.

(b) **Operation.** Developer shall operate the Acquisition Property during the Operating Period.

(c) **Conveyance.** Upon the expiration of the Operating Period, the Acquisition Property shall automatically transfer to the City and the Easement Agreement shall

automatically terminate. After the Conveyance Closing, this Agreement, all the rights of the parties hereunder, shall remain in full force and effect. The Conveyance Closing shall not have any effect on the obligation of City to make the BOT Payments pursuant to the terms and conditions of this Agreement (stated alternatively, such conveyance shall not accelerate payment of the total Acquisition Price). City shall be responsible for all costs and expenses incurred in connection with the acquisition of the Acquisition Property, including, without limitation: (i) costs to obtain all surveys, title searches, abstracts, and/or title policies deemed by City to be necessary or appropriate; and (ii) City attorneys' fees and closing costs. Upon the receipt of a written request from City, Developer shall execute any and all documents that are reasonably necessary to effectuate the Conveyance Closing on the Conveyance Closing Date, including but not limited to a recordable memorandum of termination of the Easement Agreement that is acceptable to Developer.

13. Acquisition Property-Payments.

(a) Reserved.

(b) Payment.

(iii) On or prior to each of the Closing Date, January 2, 2026, July 1, 2026 and the later of January 2, 2027 or the Conveyance Closing Date, Developer shall deliver to City an itemized invoice setting forth: (A) the amount of money incurred by Developer for Project Costs to date and the total amount required to be paid as the BOT Payment and (B) the remaining balance of the Acquisition Price;

and

(iv) On the Payment Due Date, City shall pay the BOT Payment directly to Developer.

If City fails to pay the BOT Payments in full on the applicable Payment Due Dates, then City shall remain obligated to pay the full amount of the BOT Payments and Conveyance of the Project will not occur until said BOT Payments are fully completed.

(c) Payment Conditions. The obligation of City to pay the BOT Payments shall not be subject to reduction, whether by offset or otherwise, except in the Event of Default as hereinafter providing. The foregoing shall not be deemed to affect the right of City, during the continuance of an Event of Default, to assert a claim against, and recover any resulting damages from, Developer. In no event shall payment by City of any BOT Payments be construed as a waiver of any rights or claims that City may have against Developer under this Agreement or the Laws.

(d) Payment Source. The Acquisition Price is payable from such funds of City

that legally may be used to pay the Acquisition Price.

(e) The Parties acknowledge that City is a governmental entity whose funds are subject to appropriation by its fiscal body. Therefore, if at any time during the initial term or subsequent term of this Agreement, City's fiscal body should fail to appropriate sufficient funds to continue this Agreement, it will become null and void. City shall not be obligated to perform unless and until sufficient funds are appropriated. City agrees to seek funding for the continuation of this Agreement during each budget cycle during the initial term or subsequent term of this Agreement. City agrees to inform Developer in writing of any such non-allocation of funds at the earliest possible date, and shall pay for all conforming services provided prior to exhaustion of the appropriated funds. In the event that this Agreement becomes null and void because the City's fiscal body failed to appropriate sufficient funds to continue this Agreement, the City shall be entitled to an equitable interest of a portion of the Project to the extent that the City has already made payments under this Agreement, and the City's equitable interest shall be proportional to the City's payments that were made at the time of such non-appropriation. Following the division and conveyance of the City's equitable interest of the Project to the City, Developer shall retain the right to utilize the remainder of the Project for its own purposes.

- 14. City Covenants.** The covenants set forth in this Section shall apply at all times during the term of this Agreement, including that, for purposes of clarity and notwithstanding the fact that Developer will be operating the Acquisition Property, such covenants shall apply during the Operating Period.

(a) Agreement Compliance. City: (i) shall pay the BOT Payments in conformity with the terms of this Agreement; and (ii) faithfully shall observe and perform all of its obligations under this Agreement.

(b) Other Contract Compliance. City shall: (i) not take, or fail to take, any action under any contract, if the effect of such act or failure to act would materially impair or adversely affect the ability of City to pay the BOT Payments; and (ii) observe and perform all of its obligations under all other contracts affecting or involving the Project to which City is a party.

(c) Property/BOT Expenses. Upon the initiation of the Operating Period, the City: (A) shall pay all costs and expenses incurred in connection with the ownership, occupancy, possession, use operation, maintenance, and/or repair of the Acquisition Property during the Operating Period ("Operating Costs"), including, without limitation: (1) pay and discharge when due all taxes, assessments, and other governmental charges that lawfully are imposed upon all or any portion of the Project Site or the Acquisition Property; (2) pay all usage and other charges for utility services furnished to the Acquisition Property; and (3) pay all premiums of insurance policies required to be maintained (or otherwise maintained) with respect to the Project Site and/or the Acquisition Property. For purposes of clarity, the foregoing shall not be deemed to nullify any obligations of Developer with respect

to the construction of the Project.

(d) Title. Upon request by Developer, City shall take such actions as may be necessary or appropriate to remedy or cure any defect in, or cloud upon, the title to all or any portion of the Project Site or, after acquisition thereof by City, the Acquisition Property.

(e) Protection. City shall: (i) preserve and protect the security hereof, and the rights of Developer, with respect to receipt of the BOT Payments; and (ii) warrant and defend such rights against all claims and demands of all persons during such time.

(f) Assurances. City shall adopt such resolutions, execute and deliver such instruments, and make any and all further assurances as reasonably may be necessary or proper: (i) to carry out the intention of this Agreement; (ii) to facilitate the performance of this Agreement; and/or (iii) in connection with assuring and confirming the rights and benefits provided to Developer.

15. Developer Covenants.

(a) Filings. Developer shall keep in full force and effect, without any violations by Developer, any and all filings or registrations required by the Laws in connection with: (i) the performance by Developer of its obligations under the Transaction Documents; (ii) the acquisition of the materials to construct, and/or the construction of, the Project in accordance with this Agreement; or (iii) the sale of the Acquisition Property to City in accordance with this Agreement.

(b) No Liens. At all times prior to conveyance of the Acquisition Property to City, Developer shall: (i) keep the materials to construct the Project free from any and all liens, claims, security interests, encumbrances, and restrictions, excepting only: (A) those existing on the Closing Date or resulting from compliance with this Agreement and/or the Transaction Documents; and (B) the lien of current real estate taxes not delinquent; and (ii) defend such materials against the claims and demands of others. If any mechanic's, supplier's, or similar lien is filed against the Project Site, the Acquisition Property, or the materials to construct the Project, for work claimed to have been done for, or materials claimed to have been furnished to, Developer, then Developer shall cause such mechanic's, supplier's, or similar lien to be discharged of record within thirty (30) days after notice of the filing by bonding or providing other adequate security therefor, or as provided or required by the Laws.

(c) Laws. Developer shall comply with all Laws in the performance of its obligations under this Agreement and the Transaction Documents.

(d) No Transfer. Except as permitted by the Transaction Documents, Developer shall not undertake, permit, or cause a Transfer.

(e) Developer Interests. Prior to conveyance of the Acquisition Property to

City, Developer: (i) shall not change its name; (ii) shall not: (A) merge into, or consolidate with, any other entity, or otherwise reorganize; (B) sell, convey, or transfer to any person any interest in Developer; and/or (C) otherwise permit any change in the members of Developer or the percentage of ownership in Developer; (iii) shall notify City in writing of any change of the nature specified in the foregoing clause (ii); and (iv) shall not grant any security interest in any interest in Developer or any member thereof.

(f) No Amendments. Prior to conveyance of the Acquisition Property to City, Developer shall not: (i) amend, modify, or restate the articles of organization or operating agreement of Developer; (ii) cause or permit any such amendment, modification, or restatement; or (iii) be dissolved, wound up, or converted to another type of entity, or have its existence as a limited liability company terminated.

(g) Business. Prior to conveyance of the Acquisition Property to City, Developer shall not make or permit to be made any material change in the character of its business as currently conducted.

(h) Performance. Developer is able to fully perform all of its obligations under this Agreement and complete the Project pursuant to the Final Plans.

(i) Non-Discrimination. Developer agrees that it will not discriminate against any employee or applicant for employment to be employed in the performance this Agreement, with respect to the employee's hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of the employee's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement.

16. Events of Default. Each of the following shall be deemed to be an "Event of Default" by Developer or City, as applicable:

(a) the failure to pay any amount when due hereunder, including, without limitation, the failure by City to pay the BOT Payment on the applicable Payment Due Date;

(b) the failure to observe or perform any term or condition of this Agreement to be observed or performed by it (other than the payment of any amount due hereunder), which failure is not cured within thirty (30) days after receipt by the defaulting party of written notice specifying the nature of the failure; provided that, if the failure is of such a nature that it cannot be remedied within thirty (30) days, despite the exercise of reasonably diligent efforts, then the 30-day period shall be extended as reasonably may be necessary for the defaulting party to remedy the failure, so long as the defaulting party: (i) commences to remedy the failure within the 30-day period; and (ii) diligently pursues such remedy to completion;

(c) the filing or commencement of any bankruptcy or similar proceeding by or

against including, without limitation: (i) the filing of a petition for arrangement or reorganization; (ii) the appointment of a receiver for all or a substantial portion of the party's property; or (iii) the assumption of custody or control of a party or any of its property by a court of competent jurisdiction pursuant to any Law for the relief or aid of debtors; provided that, if any of the foregoing are filed, appointed, assumed, or otherwise commenced against a party without its consent, then there shall not be an Event of Default unless and until such filing, appointment, assumption, or other commencement remains in effect and/or active in excess of 45 days;

(d) becoming insolvent or generally unable to pay its debts as they become due; and

(e) the occurrence of any of the circumstances set forth in Subsection 16(c) or 16(d) with respect to Developer if such occurrence is prior to the expiration of the Operating Period and the conveyance of the Acquisition Property to City.

17. Remedies.

(a) Remedies.

(i) During the continuance of an Event of Default, the non-defaulting party may take such actions at law or in equity as are necessary or appropriate to: (A) collect any payments due under this Agreement; (B) protect the rights granted to the non-defaulting party under this Agreement; (C) enforce the performance or observance by the defaulting party of any term or condition of this Agreement (including, without limitation, through the exercise of the equitable remedies of injunction and/or specific performance); or (D) cure, for the account of the defaulting party, any failure of the defaulting party to perform or observe a material term or condition of this Agreement to be performed or observed by it; provided that no cure undertaken by the non-defaulting party shall be construed to be a waiver of the Event of Default.

(ii) Except to the extent provided to the contrary in this Section or by the Laws, the non-defaulting party is not required to give notice to the defaulting party prior to exercising its remedies during the continuance of an Event of Default.

(iii) To the extent that Developer has committed an Event of Default as defined in Section 16 herein, City shall have the right to suspend payments to Developer for ongoing or future Project Costs until Developer remedies its failure without City being deemed to be in breach of this Agreement.

(b) No Remedy Exclusive. No right or remedy herein conferred upon, or

reserved to, a non-defaulting party is intended to be exclusive of any other available right or remedy, unless otherwise expressly stated; instead, each and every such right or remedy shall be cumulative and in addition to every other right or remedy given under this Agreement or now or hereafter existing at law or in equity.

(c) **No Waiver.** No delay or omission by a non-defaulting party to exercise any right or remedy upon any Event of Default shall impair any such right or remedy, or be construed to be a waiver thereof, and any such right or remedy may be exercised from time to time, and as often as may be deemed to be expedient. None of: (i) a waiver by the non-defaulting party of an Event of Default; (ii) a delay in the exercise by the non-defaulting party of any right or remedy with respect to an Event of Default; or (iii) the acceptance by Developer of all or any portion of the Acquisition Price during the continuance of an Event of Default by City; shall be deemed to: (i) constitute a waiver of the current or any subsequent Event of Default; (ii) release or relieve the defaulting party from performing any of its obligations under this Agreement; or (iii) constitute an amendment or modification of this Agreement.

(d) **Damages.** The non-defaulting party may recover from the defaulting party all costs and expenses (including, without limitation, reasonable attorneys' fees and court costs) that the non-defaulting party incurs: (i) by reason of any Event of Default by the defaulting party; and/or (ii) in connection with exercising its rights and remedies with respect to any Event of Default. All such amounts shall be due and payable by the defaulting party immediately upon receipt of written demand from the other party, and the obligation of the defaulting party to pay such amounts shall survive the acquisition by City of the Acquisition Property.

18. **Notice.** Any notice required or permitted to be given by either party to this Agreement shall be in writing, and shall be deemed to have been given when: (a) delivered in person to the other party; (b) emailed to Developer at cchilds@berrycomm.org; and to City at clarsen@westfield.in.gov; or (c) sent by national overnight delivery service, with confirmation of receipt, addressed as follows: to Developer at 4292 N 00 EW, Kokomo, IN 46901, Attn: Cory Childs, President; and to City at 2728 East 171st Street, Westfield, IN 46074, Attn: Christopher Larsen, Director of Informatics. Either party may change its address for notice from time to time by delivering notice to the other party as provided in this Section.
19. **Assignment.** Neither Developer nor City shall: (a) assign this Agreement or any interest herein; or (b) delegate any duty or obligation hereunder. Notwithstanding any assignment or delegation: (a) the assigning or delegating party shall remain fully liable to perform all its obligations under this Agreement; and (b) a consent by a party to any assignment or delegation shall not release the assigning or delegating party from such performance. Any transfer of this Agreement by operation of law (including, without limitation, a transfer resulting from merger, consolidation, or liquidation of Developer or City) shall constitute an assignment for purposes of this Agreement.

20. **Indemnification**

(a) Developer. Developer shall indemnify and hold City and each of its officers, agents, employees, and consultants harmless from and against any and all Claims arising from or connected with: (i) mechanics' liens filed against the Project or the Project Site for work performed by Developer or any party acting by, under, through, or on behalf of Developer; (ii) breaches by Developer under contracts to which Developer is a party, to the extent that such contracts relate to the performance of any work on the Project Site by Developer or any party acting by, under, through, or on behalf of Developer; (iii) injury to, or death of, persons or loss of, or damage to, property, suffered in connection with performance of any work on the Project Site by Developer or any party acting by, under, through, or on behalf of Developer; (iv) the negligence or willful misconduct of Developer or any party acting by, under, through, or on behalf of Developer; or (v) the breach by Developer of any term or condition of this Agreement.

(b) City. City shall indemnify and hold Developer harmless from and against any and all Claims arising from or connected with: (i) the negligence or willful misconduct of City or any party acting by, under, through, or on behalf of City; or (ii) the breach by City of any term or condition of this Agreement.

Notwithstanding anything to the contrary set forth herein, the obligations of the parties under this Section shall survive the termination of this Agreement.

Notwithstanding the foregoing, Developer's and the City's individual total liability under this Section (a) shall not exceed, in aggregate, the total amount paid by City to Developer under this Agreement.

21. Force Majeure. Notwithstanding anything to the contrary set forth in this Agreement, if either party is delayed in, or prevented from, observing or performing any of its obligations (other than the obligation to pay money) under, or satisfying any term or condition of, this Agreement as a result of Force Majeure; then: (a) the party asserting Force Majeure shall deliver written notice to the other party within seven (7) days after the occurrence of the event that is the basis of the Force Majeure assertion; (b) such observation, performance, or satisfaction shall be excused for the period of days that such observation, performance, or satisfaction is delayed or prevented; and (c) the deadlines for observation, performance, and satisfaction, as applicable, shall be extended for the same period.

22. BOT Statute/Term. This Agreement is intended to be a public-private agreement authorized by Indiana Code 5-23. If and to the extent this Agreement is not such a public-private agreement, then this Agreement shall be deemed to: (a) include such terms not otherwise included; and (b) exclude such terms not otherwise excluded; as is necessary to cause this Agreement to be a public-private agreement. Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise, any such provision is not inserted, or is not correctly inserted, then upon the application of either party at any time, the Agreement shall forthwith be amended to make such insertion or correction. The term of this Agreement shall commence on the Closing Date and shall be in effect until the later of the Conveyance

Closing Date or the date the City shall have made its final BOT Payment but in any event no later than five (5) years from the Closing Date.

- 23. Master Services Agreement and Order for Services.** The City and Developer agree to execute and deliver the Master Services Agreement and Order for Services attached to this Agreement as Exhibit G. If and to the extent any terms, conditions or provisions of either or both of the Mater Services Agreement or the Order for Service should conflict with this Agreement, the terms of this Agreement shall control.
- 24. Miscellaneous.** Subject to Section 19, this Agreement shall inure to the benefit of, and be binding upon, Developer and City, and their respective successors and assigns. This Agreement: (a) constitutes the entire agreement between Developer and City with respect to the subject matter hereof, and may be modified only by a written agreement executed by authorized representatives of both Developer and City; (b) shall be governed by, and construed in accordance with, the laws of the State of Indiana; and (c) may be executed in separate counterparts, each of which shall be an original, but all of which together shall constitute a single instrument. The invalidity, illegality, or unenforceability of any one or more of the terms and conditions of this Agreement shall not affect the validity, legality, or enforceability of the remaining terms and conditions hereof. All Exhibits to this Agreement are attached hereto and incorporated herein by reference.

[Signature Pages Follow]

IN WITNESS WHEREOF, Developer and City have executed this Agreement as of the date set forth above to be effective as of the Closing Date.

WESTFIELD FIBER NETWORK, A WHOLLY
OWNED SUBSIDIARY OF BERRY
COMMUNICATION, LLC

By: _____

Printed: _____

Title: _____

CITY OF WESTFIELD, INDIANA

By: _____

Printed: _____

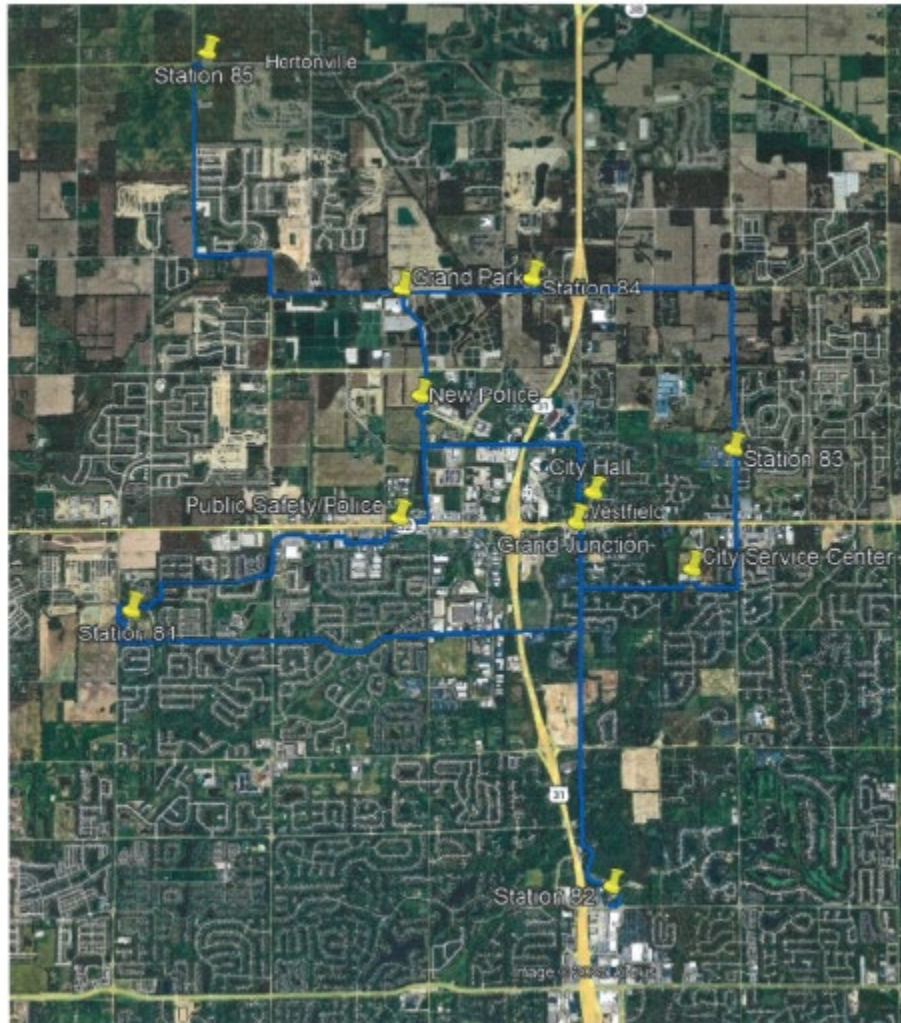
Title: _____

INDEX TO EXHIBITS

Exhibit A	Project Site Depiction
Exhibit B	Plan Schedule
Exhibit C	Project Description
Exhibit D	Certificates of Insurance (Developer) (City)
Exhibit E	Form Completion Certificate
Exhibit F	Temporary Easement Agreement

EXHIBIT A

Depiction of Project Site



**EXHIBIT B -
PLAN SCHEDULE**

_____, 2025 – Schematic Design
_____, 2025 – Design Development
_____, 2025– Construction Drawings
_____, 2025 – Permitting
_____, 2025 - Construction Commences
_____, 2025- Construction Complete

EXHIBIT C

Project Description

Project Title: Design, Construction, and Management of the Fiber Network for the City of Westfield

Agreement Type: Build-Operate-Transfer (BOT)

1. Project Overview

BerryComm has been awarded a contract to design, construct, and manage a fiber network for the City of Westfield under a Build-Operate-Transfer (BOT) agreement. The network will interconnect ten (10) city buildings and provide high-speed, reliable connectivity, incorporating state-of-the-art technology to support the city's current and future communication needs.

2. Objectives

1. Connect 10 city buildings using a 144-count fiber network.
2. Establish a robust 100G ring routed through three core locations.
3. Provide redundant 10G connectivity to seven additional city sites.
4. Install and configure all required electronics to light the network.
5. Deliver ongoing network maintenance and management services for a period of 10 years.

3. Key Deliverables

3.1 Fiber Infrastructure

-Fiber Installation:

- Deploy a 144-count fiber backbone across a 20-mile route.
- Install drop fiber to each of the 10 designated city buildings.
- Dual entrance drops at Public Safety, City Service Center, and Station 84
- Conduct thorough testing to ensure optimal performance and compliance with project specifications.
- Submit OTDR passed test results
- Perform locates of the city's fiber as needed.
- Provide emergency restoration services as required.

- Core Network Design:

- Build a 100G ring architecture connecting three core city locations.
- Provide redundant 10G connectivity from core sites to the remaining seven sites.

3.2 Electronics

- Supply and install network equipment to light the fiber:
 - Equipment to support 100G core ring and 10G site connectivity.
 - Configure and test all electronics for seamless network integration.
 - Submit OTDR passed test results as part of project deliverables.

3.3 Network Management

- Manage and maintain the network for a period of 10 years:
 - Proactive monitoring of network performance and uptime.
 - Timely resolution of any network issues or outages.
 - Firmware updates and hardware upgrades as required.

3.4 Fiber Maintenance

- Routine and emergency fiber maintenance for the 20-mile network:
 - Perform inspections and repairs as needed to ensure uninterrupted service.
 - Maintain clear documentation of all maintenance activities.

4. Cost Structure

4.1 Non-Recurring Charges (NRC)

- Fiber Installation: \$1,935,300
- Network Electronics: \$159,052

4.2 Monthly Recurring Charges (MRC)

- Network Management: \$750 per node, totaling \$7,500/month
- Fiber Maintenance: \$125 per mile for 20 miles, totaling \$2,500/month

5. Responsibilities

BerryComm Responsibilities

- Design, construct, and install the fiber network and associated equipment.
- Provide electronics and ensure proper network configuration.
- Manage the entire network for 10 years, ensuring performance aligns with service level agreements (SLAs).
- Conduct routine and emergency fiber maintenance.
- Perform locates of the city's fiber infrastructure.
- Provide emergency restoration services as needed.
- Submit OTDR passed test results as part of project completion documentation.
- Provide the City of Westfield with detailed reporting and documentation on network performance, maintenance, and management activities.

City of Westfield Responsibilities

- Provide access and permissions to designated buildings and sites for fiber installation.
- Facilitate coordination with relevant city departments and third-party stakeholders.
- Ensure timely payments for both non-recurring and recurring charges.
- Waive all fees for permitting and traffic control associated with the project.

6. Timeline

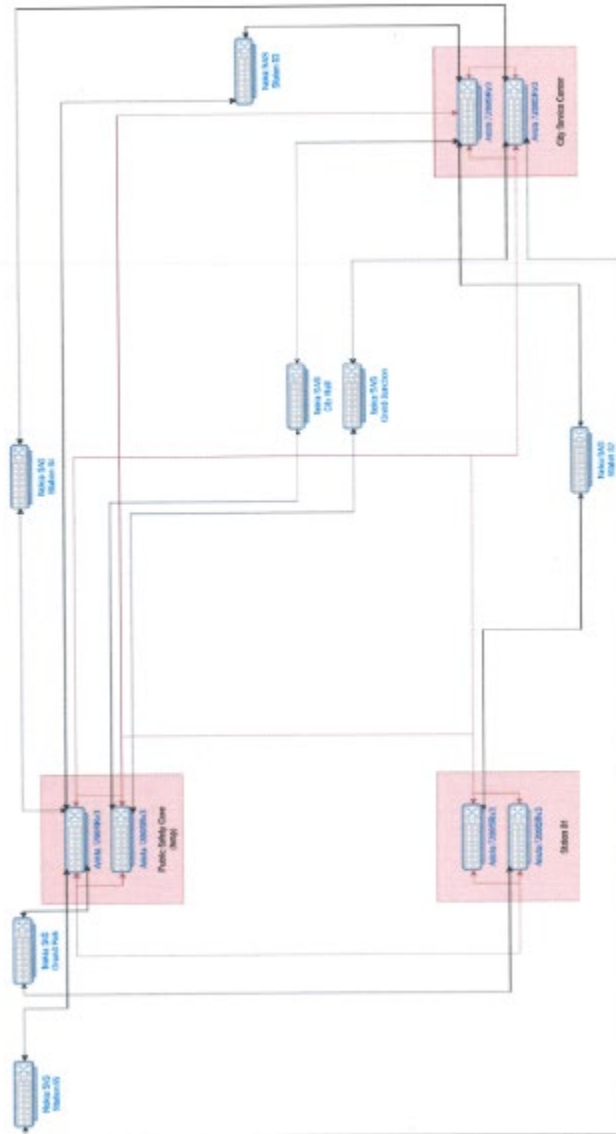
- Planning and Engineering: 30 days
- Permitting: 30 days
- Locates: 10 days
- Fiber Deployment: 205 days
- Electronics Installation and Testing: 14 days

7. Reporting and Documentation

- BerryComm will provide regular updates during the design and construction phases.
- Monthly performance and maintenance reports will be shared during the management period.

8. Acceptance Criteria

- Completion of the fiber installation and electronics setup.
- Successful testing of the 100G ring and 10G site connectivity.
- Submission of OTDR passed test results.
- Full operational handover of the network to the City of Westfield.
- Ongoing compliance with SLAs during the 10-year management period.



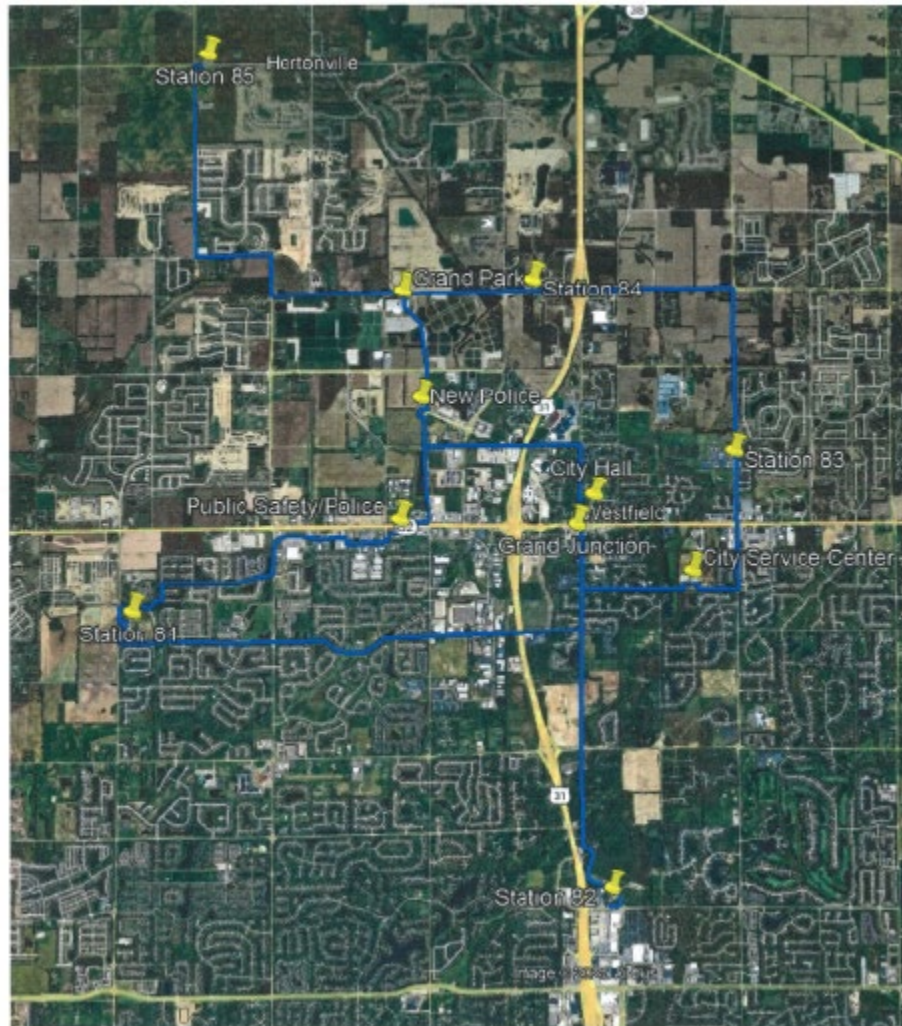


EXHIBIT D

Certificate of Insurance (Developer)

EXHIBIT E

Completion Addendum

This Completion Addendum (the “Addendum”) is entered into this _____ day of _____, 2025, by and between Westfield Fiber Network, LLC, a wholly owned subsidiary of Berry Communication, LLC (the “Developer”), and the City of Westfield, Indiana (the “City”).

Recitals

WHEREAS, Developer and City have executed that certain Build-Operate-Transfer Agreement (Utility and Infrastructure Project) (the “Agreement”) dated _____, 2025 (collectively, the “Agreement”);

WHEREAS, all capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Agreement;

WHEREAS, the Agreement provides for the execution of this Addendum following the Substantial Completion Date; and

WHEREAS, the Substantial Completion Date has occurred.

Agreement

ACCORDINGLY, for good and valuable consideration, the receipt and sufficiency of which are acknowledged hereby, the parties agree that the Substantial Completion Date occurred on this _____ day of _____, 2025.

The parties further agree that the Project was completed in accordance with the Agreement and that neither party is in default of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date set forth above to be effective as of the date set forth above.

WESTFIELD FIBER NETWORK, A WHOLLY
OWNED SUBSIDIARY OF BERRY
COMMUNICATION, LLC

By: _____

CITY OF WESTFIELD, INDIANA

By: _____

EXHIBIT F

Temporary Easement Agreement

This Easement Agreement (the "Agreement") is executed as of this ____ day of _____, 2025, by and between the City of Westfield, Indiana (the "Grantor") and Westfield Fiber Network, LLC, a wholly owned subsidiary of Berry Communication, LLC (the "Grantee").

Recitals

WHEREAS, Grantor owns fee simple title to that certain real estate more particularly described on Exhibit A, attached hereto and incorporated herein by reference (the "Grantor Property");

WHEREAS, Grantor and Grantee have executed that certain Build-Operate-Transfer Agreement (Utility and Infrastructure Project) of even date herewith (the "BOT Agreement");

WHEREAS, pursuant to the BOT Agreement, Grantee is obligated to construct on the Grantor Property the project described in the BOT Agreement (the "Project");

WHEREAS, Grantor has agreed to grant to Grantee a temporary construction easement on, over, above, across, and through the Grantor Property for the purpose of constructing the Project in accordance with the terms and conditions of the BOT Agreement; and

WHEREAS, the parties wish to execute this Agreement.

Agreement

ACCORDINGLY, for good and valuable consideration, the receipt and sufficiency of which are acknowledged hereby, Grantor and Grantee agree to the terms and conditions of this Agreement.

Construction Easement.

(h) Easement Grant. Grantor hereby grants, for the benefit of Grantee and its successors and assigns, a temporary construction easement on, over, above, across, and through the Grantor Property for the purposes of constructing the Project in accordance with the terms and conditions of the BOT Agreement (the "Construction Easement")

(i) Termination. The Construction Easement shall terminate automatically, without any action of, or instrument signed by, Grantor or Grantee, on the date that is ten (10) business days after the date on which the Project is completed. Notwithstanding that no instrument is necessary to terminate the Construction Easement, upon receipt of written request from Grantor, accompanied by a memorandum of termination that reasonably is acceptable to Grantee, Grantee shall execute such memorandum of termination.

Binding Effect. Until terminated in accordance with Subsection 1(b), the Construction Easement shall: (a) inure to the benefit of Grantee and its successors and assigns, as the "Developer" under the BOT Agreement; (b) run with and bind the Grantor Property; and (c) bind Grantor and its successors and assigns, as owners of the Grantor Property.

Miscellaneous. The invalidity, illegality, or unenforceability of any one or more of the terms and conditions of this Agreement shall not affect the validity, legality, or enforceability of the remaining terms and conditions hereof. This Agreement may be executed in separate counterparts, each of which shall be an original, but all of which together shall constitute a single instrument. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Indiana.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth in the introductory paragraph hereof.

CITY OF WESTFIELD, INDIANA

By: _____

Printed: _____

Title: _____

WESTFIELD FIBER NETWORK, LLC, A
WHOLLY OWNED SUBSIDIARY OF
BERRY COMMUNICATION, LLC

By: _____

Printed: _____

Title: _____

EXHIBIT A
Grantor Property Depiction

EXHIBIT G

Master Services Agreement and Order for Services

CITY OF WESTFIELD, INDIANA
NEIGHBORHOOD VIBRANCY GRANT AGREEMENT

This Neighborhood Vibrancy Grant Agreement (“Agreement”) is entered into by and between the City of Westfield, Indiana (“City”) and Bent Creek Home Owners Association (“HOA”) (each a “Party” and collectively “the Parties”) on this ____ day of _____, 2025.

WHEREAS, the City is a municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council;

WHEREAS, the HOA is a Indiana nonprofit corporation organized to manage and maintain common areas and enforce rules within a community, such as a condominium or subdivision, and ensure the upkeep of shared spaces and adherence to community standards, which operates within the City;

WHEREAS, the City administers a Neighborhood Vibrancy Grant Program (“NVGP”) whereby the City provides funding for unique and innovative ideas that make the community a more vibrant place to live and positively impact the quality of life in the City;

WHEREAS, Ind. Code § 36-10-2-2, Ind. Code § 36-10-2-4, Ind. Code § 36-10-2-5, and State Board of Accounts guidance provide that the City may provide aid to recreation facilities and programs, community service facilities and programs, neighborhood

centers, community centers, and civic centers, and that a written contract should document the services provided; and

WHEREAS, the City and the HOA desire to enter into this Agreement to formalize the City's grant of funds to the HOA, and responsibilities and commitments related thereto.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, the City and the HOA hereby agree as follows:

Section 1. Recitals. The above Recitals are an integral part of this Agreement and are specifically incorporated herein by reference.

Section 2. Grant Agreement. The City, after review and recommendation by the NVGP Committee and approval by the Board of Public Works and Safety, agrees to a one-time grant of a total of TEN THOUSAND DOLLARS AND ZERO CENTS (\$10,000.00) ("Grant Funds") to the HOA to assist with payments and costs related to the project described in the attached NVGP application ("Project"). The Grant Funds shall be used only in accordance with the terms of this Agreement.

Section 3. Obligations of the HOA. The HOA agrees that the Project must be completed within one (1) year of receipt of the Grant Funds. The HOA agrees to use any and all Grant Funds from the City only towards the cost of the Project and for no other purpose. The HOA agrees to provide the City with the following information and documentation:

- (a) A budget for the Project;
- (b) Certified copies of incorporation as a nonprofit corporation under Indiana state law;
- (c) Appropriate documentation identifying the HOA as an Indiana nonprofit corporation in good standing;
- (d) Any audits, reviews, financial statements, or compilations available describing the financial condition of the HOA;
- (e) A Project end report describing how the Grant Funds were used and the impact of the dollars had on completing the Project; and
- (f) Other relevant documentation that the City requests.

Section 4. Non-profit Status. By executing this Agreement, the HOA hereby represents and warrants that it is a nonprofit entity in good standing.

Section 5. Use of Funds by the HOA. The Grant Funds received by the HOA pursuant to this Agreement shall be used only to assist with costs for the Project, and for no other purpose. If it is determined by the City that the Grant Funds have been misappropriated, or the HOA violates any term of this Agreement, this Agreement shall immediately be terminated and the HOA agrees to return all funds received from the City.

Section 6. Non-Exclusivity. The City and the HOA agree that the City may enter into other Grant Agreements or similar agreements, and the HOA shall not be the exclusive recipient of grants or donations from the City.

Section 7. Good Faith Cooperation. The City and the HOA agree to cooperate fully and in good faith, take additional actions, and execute additional documents as may be needed to fulfill the terms and intent of this Agreement.

Section 8. Effective Date and Term. This Agreement shall be effective upon the signing of both parties hereto, and shall be in effect until Project completion or one (1) year after the Grant Funds are awarded, which ever comes first, subject to termination pursuant to Section 5 of this Agreement. This Agreement may otherwise be terminated or extended only by a written agreement signed by authorized representatives of both the City and the HOA.

Section 9. Notices. Any notice or documentation required to be submitted pursuant to this Agreement shall be submitted in writing to the following addresses:

City of Westfield
Attn: Community Development
2728 E 171st Street
Westfield, Indiana 46074

Bent Creek HOA
Attn: Teresa Evans
2577 Maple Creek Drive Street
Westfield, Indiana 46074

Section 10. Non-Discrimination. The HOA agrees that it will not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement or the Project, with respect to the employee's hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of the employee's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement.

Section 11. Indemnification. The HOA shall defend, indemnify, and hold harmless the City and each and every past, present, and future official, representative, subsidiary, parent, division, affiliate, officer, director, employee, attorney, predecessor, and successor, both individually and in their representative capacities from and against all third party claims, demands, litigation and losses arising out of or concerning (1) the failure of the HOA to observe and perform any of its obligations under this Agreement and/or (2) any intentional or negligent act or omission by the HOA.

Section 12. Governing Law. This Agreement is governed by the laws of the State of Indiana. The Parties submit to the jurisdiction of Hamilton County, Indiana courts and waive any objection to venue.

Section 13. 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 provision(s) shall continue in full force and effect.

Section 14. Relationship of the Parties. The employees and/or agents of the City are not employees of the HOA by virtue of this Agreement, and vice versa. The HOA has no authority to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of the City, except as expressly so stated in this Agreement or a duly authorized amendment hereto.

Section 15. Counsel and Understanding. Each Party warrants that: (a) it is represented by competent counsel with respect to this Agreement and all matters covered by it, or has waived the right to be so represented; (b) it has been fully advised by said counsel with respect to its rights and obligations and with respect to the execution of this Agreement or has waived the right to be so advised; and (c) it fully understands this Agreement and the effect of signing and executing it.

Section 16. Amendment. This Agreement may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a writing duly executed by an authorized representative of each of the Parties.

Section 17. Entire Agreement. This Agreement shall constitute the entire agreement between the parties with respect to the subject matter herein, and there are no other terms, statements, obligations, or representations, oral or otherwise, of any nature whatsoever. This Agreement, along with all exhibits, attachments, or other documents

incorporated herein by reference, constitutes the entire agreement by and between the Parties and supersedes and replaces all prior negotiations, proposed agreement or agreements, written or oral, related to this Agreement or the matters addressed herein.

Section 18. Assignment. No Party hereto may assign or otherwise transfer this Agreement or any of its rights and obligations hereunder to any third party.

Section 19. Waiver. The failure of a Party to require performance of any provision shall not affect that Party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

Section 20. Construction. The language of this Agreement shall be construed as a whole, according to its fair meaning and intentment, and not strictly for or against any Party, regardless of who drafted or was principally responsible for drafting this Agreement or any specific term, provision, or condition. This Agreement is hereby deemed to have been drafted by all the Parties, and no Party shall urge otherwise.

Section 21. Warranty. Each Party represents and warrants that it has the full power and authority to enter into this Agreement and to perform all transactions, duties and obligations contained herein. Each signatory to this Agreement who signs on behalf of a Party represents and warrants that he or she has the authority to sign on behalf of that Party.

Section 22. Non-Appropriation. The Parties acknowledge that the City is a governmental entity whose funds are subject to appropriation by its fiscal body. Therefore, if the City's fiscal body should fail to appropriate the Grant Funds, this Agreement will become null and void. The City shall not be obligated to perform unless and until sufficient funds are appropriated.

Section 23. Counterparts. This Agreement may be executed in counterparts.

CITY OF WESTFIELD, INDIANA

Date

BENT CREEK HOA.

Date

Neighborhood Vibrancy Grant Application

Organization/Neighborhood Name	Bent Creek
Point of Contact Name (first and last)	Teresa Evans
Point of Contact Email Address	tcicconievans@gmail.com
Point of Contact Phone Number	951-205-8259
Applicant Address	2577 Maple Creek Drive
Subdivision Address (if different)	161st St./Towne Road
Zip Code	46074
Number of Families/Households	152
Age of Subdivision	6 years
How did you hear about the Neighborhood Vibrancy Grant Program?	City Website
If you selected other, please let us know!	<i>Field not completed.</i>

(Section Break)

Project Overview

Brief description of the proposed project	We are converting 12 acres of invasive plants into a native shortgrass prairie with native wildflowers.
Has the project been approved by the HOA?	Yes
Date of HOA Approval	11/2024
Amount Requested	10,000
Total Cost of Project	\$22,444
Project Timeline	We anticipate completion of work in late Fall 2025.

(Section Break)

Project Submission

Full Project Description	Our native prairie restoration will replace 15 acres of common area comprised mostly of Canada thistle (<i>Cirsium arvense</i>) with shortgrass prairie and native forbs. Prairie grass species include little bluestem (<i>Schizachyrium scoparium</i>), virginia wild rye (<i>Elymus virginicus</i>), and side-oats gamma (<i>Bouteloua curtipendula</i>). Forbs include Purple Coneflower (<i>Echinacea purpurea</i>), Wild Bergamot (<i>Monarda fistulosa</i>), Black-eyed susan (<i>Rudbeckia hirta</i>), and New England Aster (<i>Symphyotrichum novae-angliae</i>). Supplemental material including project scope and cost are attached to this application.
Explain the impact the project will have on your neighborhood and the surrounding community	This open space is valued by both our residents and the wider community. The trail that runs through the open space connects to Raymond Worth Park, which borders the western edge of our neighborhood. In addition, the 12 acres border Little Eagle Creek. This project aims to enhance the local ecosystem by removing invasive species, which currently dominate the 12-acre area, and replacing them with native shortgrass and forbs. In partnership with the Hamilton Invasive Partnership and the Indiana Invasives Initiative, we conducted a site visit to identify invasive species, including Canada thistle, ragweed, and golden parsnip. By establishing a native prairie composed of native grasses and wildflowers, we'll not only improve the environment but also offer multiple benefits to the community, such as providing a habitat for beneficial wildlife and insects, reducing the presence of nuisance species like Canadian geese, improving flood

management, enhancing pond water quality, and reducing the need for ongoing bushhogging and mowing.

How does the project align with the Westfield Comprehensive Plan?	The Westfield Comprehensive Plan emphasizes the importance of open space and conservation, particularly within residential developments. Under the subdivision regulations, the plan outlines the concept of "Conservation Subdivisions," which should feature key characteristics such as substantial open space (at least 60% of the total acreage), interconnected areas, preserved primary conservation zones, and homes clustered to border these open spaces. Unfortunately, the open space in our neighborhood—left to the residents after the developer's involvement—was not designed with these conservation principles in mind. As a community, we are committed to improving both our quality of life and the local environment. We aim to realign this open space with the standards set forth in the Comprehensive Plan by transforming it into a native prairie, ensuring that it not only enhances our neighborhood but also contributes to the broader environmental goals of Westfield.
How do you plan to evaluate the success of the project?	We intend to monitor the growth of the native prairie with our contractor to ensure the correct species are thriving every year. By year three beyond install, the prairie should be sufficiently established.
If your project is not approved, what will you do to accomplish the project?	We are already in the beginning stages of this project and have had one herbicide applied already in the area. Our neighborhood is committed to finishing this project and finding ways to accomplish a beneficial result. If we need to eliminate forbs to reduce cost, we are prepared to do so.
Who will be involved in the implementation of the project?	Heartland Restoration, Bent Creek HOA
Is there any additional information that is important to include about the project?	We have been in touch with many professional organizations that serve Hamilton County, including the Hamilton County Soil and Water District. We have attempted to get funding through their grant system but are not eligible because the area contains a mandated noxious weed (Canada thistle), and their grants cannot cover mandated noxious weeds. Supplemental material attached to this application include the Invasive Management Plan from Hamilton Invasives Partnership as well as the quote from Heartland, which does not include an additional herbicide spray that we need for site prep (but is included in total cost listed above in the application - \$22,444). The

impact from transforming this large of an area cannot be understated, and we are excited to be a part of a larger effort in Westfield to improve the community we live in by being good stewards of the open space in our neighborhood.

Project Plans

[Bent Creek Prairie Restoration Proposal 051324.pdf](#),
[Prairie Restoration.pdf](#), [Invasive Management Plan 7.9.20 Hamilton Co Survey Bent Creek HOA.pdf](#)

Email not displaying correctly? [View it in your browser.](#)

CITY OF WESTFIELD, INDIANA
NEIGHBORHOOD VIBRANCY GRANT AGREEMENT

This Neighborhood Vibrancy Grant Agreement (“Agreement”) is entered into by and between the City of Westfield, Indiana (“City”) and Brookside Creek Home Owners Association (“HOA”) (each a “Party” and collectively “the Parties”) on this ____ day of _____, 2025.

WHEREAS, the City is a municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council;

WHEREAS, the HOA is a Indiana nonprofit corporation organized to manage and maintain common areas and enforce rules within a community, such as a condominium or subdivision, and ensure the upkeep of shared spaces and adherence to community standards, which operates within the City;

WHEREAS, the City administers a Neighborhood Vibrancy Grant Program (“NVGP”) whereby the City provides funding for unique and innovative ideas that make the community a more vibrant place to live and positively impact the quality of life in the City;

WHEREAS, Ind. Code § 36-10-2-2, Ind. Code § 36-10-2-4, Ind. Code § 36-10-2-5, and State Board of Accounts guidance provide that the City may provide aid to recreation facilities and programs, community service facilities and programs, neighborhood

centers, community centers, and civic centers, and that a written contract should document the services provided; and

WHEREAS, the City and the HOA desire to enter into this Agreement to formalize the City's grant of funds to the HOA, and responsibilities and commitments related thereto.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, the City and the HOA hereby agree as follows:

Section 1. Recitals. The above Recitals are an integral part of this Agreement and are specifically incorporated herein by reference.

Section 2. Grant Agreement. The City, after review and recommendation by the NVGP Committee and approval by the Board of Public Works and Safety, agrees to a one-time grant of a total of TEN THOUSAND DOLLARS AND ZERO CENTS (\$10,000.00) ("Grant Funds") to the HOA to assist with payments and costs related to the project described in the attached NVGP application ("Project"). The Grant Funds shall be used only in accordance with the terms of this Agreement.

Section 3. Obligations of the HOA. The HOA agrees that the Project must be completed within one (1) year of receipt of the Grant Funds. The HOA agrees to use any and all Grant Funds from the City only towards the cost of the Project and for no other purpose. The HOA agrees to provide the City with the following information and documentation:

- (a) A budget for the Project;
- (b) Certified copies of incorporation as a nonprofit corporation under Indiana state law;
- (c) Appropriate documentation identifying the HOA as an Indiana nonprofit corporation in good standing;
- (d) Any audits, reviews, financial statements, or compilations available describing the financial condition of the HOA;
- (e) A Project end report describing how the Grant Funds were used and the impact of the dollars had on completing the Project; and
- (f) Other relevant documentation that the City requests.

Section 4. Non-profit Status. By executing this Agreement, the HOA hereby represents and warrants that it is a nonprofit entity in good standing.

Section 5. Use of Funds by the HOA. The Grant Funds received by the HOA pursuant to this Agreement shall be used only to assist with costs for the Project, and for no other purpose. If it is determined by the City that the Grant Funds have been misappropriated, or the HOA violates any term of this Agreement, this Agreement shall immediately be terminated and the HOA agrees to return all funds received from the City.

Section 6. Non-Exclusivity. The City and the HOA agree that the City may enter into other Grant Agreements or similar agreements, and the HOA shall not be the exclusive recipient of grants or donations from the City.

Section 7. Good Faith Cooperation. The City and the HOA agree to cooperate fully and in good faith, take additional actions, and execute additional documents as may be needed to fulfill the terms and intent of this Agreement.

Section 8. Effective Date and Term. This Agreement shall be effective upon the signing of both parties hereto, and shall be in effect until Project completion or one (1) year after the Grant Funds are awarded, which ever comes first, subject to termination pursuant to Section 5 of this Agreement. This Agreement may otherwise be terminated or extended only by a written agreement signed by authorized representatives of both the City and the HOA.

Section 9. Notices. Any notice or documentation required to be submitted pursuant to this Agreement shall be submitted in writing to the following addresses:

City of Westfield
Attn: Community Development
2728 E 171st Street
Westfield, Indiana 46074

Brookside HOA
Attn: Kevin Nicolini
16450 Brookside Dr.
Westfield, Indiana 46074

Section 10. Non-Discrimination. The HOA agrees that it will not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement or the Project, with respect to the employee's hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of the employee's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement.

Section 11. Indemnification. The HOA shall defend, indemnify, and hold harmless the City and each and every past, present, and future official, representative, subsidiary, parent, division, affiliate, officer, director, employee, attorney, predecessor, and successor, both individually and in their representative capacities from and against all third party claims, demands, litigation and losses arising out of or concerning (1) the failure of the HOA to observe and perform any of its obligations under this Agreement and/or (2) any intentional or negligent act or omission by the HOA.

Section 12. Governing Law. This Agreement is governed by the laws of the State of Indiana. The Parties submit to the jurisdiction of Hamilton County, Indiana courts and waive any objection to venue.

Section 13. 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 provision(s) shall continue in full force and effect.

Section 14. Relationship of the Parties. The employees and/or agents of the City are not employees of the HOA by virtue of this Agreement, and vice versa. The HOA has no authority to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of the City, except as expressly so stated in this Agreement or a duly authorized amendment hereto.

Section 15. Counsel and Understanding. Each Party warrants that: (a) it is represented by competent counsel with respect to this Agreement and all matters covered by it, or has waived the right to be so represented; (b) it has been fully advised by said counsel with respect to its rights and obligations and with respect to the execution of this Agreement or has waived the right to be so advised; and (c) it fully understands this Agreement and the effect of signing and executing it.

Section 16. Amendment. This Agreement may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a writing duly executed by an authorized representative of each of the Parties.

Section 17. Entire Agreement. This Agreement shall constitute the entire agreement between the parties with respect to the subject matter herein, and there are no other terms, statements, obligations, or representations, oral or otherwise, of any nature whatsoever. This Agreement, along with all exhibits, attachments, or other documents

incorporated herein by reference, constitutes the entire agreement by and between the Parties and supersedes and replaces all prior negotiations, proposed agreement or agreements, written or oral, related to this Agreement or the matters addressed herein.

Section 18. Assignment. No Party hereto may assign or otherwise transfer this Agreement or any of its rights and obligations hereunder to any third party.

Section 19. Waiver. The failure of a Party to require performance of any provision shall not affect that Party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

Section 20. Construction. The language of this Agreement shall be construed as a whole, according to its fair meaning and intendment, and not strictly for or against any Party, regardless of who drafted or was principally responsible for drafting this Agreement or any specific term, provision, or condition. This Agreement is hereby deemed to have been drafted by all the Parties, and no Party shall urge otherwise.

Section 21. Warranty. Each Party represents and warrants that it has the full power and authority to enter into this Agreement and to perform all transactions, duties and obligations contained herein. Each signatory to this Agreement who signs on behalf of a Party represents and warrants that he or she has the authority to sign on behalf of that Party.

Section 22. Non-Appropriation. The Parties acknowledge that the City is a governmental entity whose funds are subject to appropriation by its fiscal body. Therefore, if the City's fiscal body should fail to appropriate the Grant Funds, this Agreement will become null and void. The City shall not be obligated to perform unless and until sufficient funds are appropriated.

Section 23. Counterparts. This Agreement may be executed in counterparts.

CITY OF WESTFIELD, INDIANA

Date

BROOKSIDE HOA.

Date

Neighborhood Vibrancy Grant Application

Organization/Neighborhood Name	Brookside Homeowners Association
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Point of Contact Name (first and last)	Kevin Nicolini
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Point of Contact Email Address	kevin.brooksideHOA@gmail.com
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Point of Contact Phone Number	317-313-1662
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Applicant Address	16450 Brookhollow Dr.
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Subdivision Address (if different)	<i>Field not completed.</i>
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Zip Code	46062
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Number of Families/Households	273
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Age of Subdivision	23 years
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How did you hear about the Neighborhood Vibrancy Grant Program?	City Website
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If you selected other,
please let us know!

Field not completed.

(Section Break)

Project Overview

Brief description of the proposed project	The large deck connected to the clubhouse and
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Has the project been approved by the HOA?	No
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Date of HOA Approval	pending grant request
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Amount Requested	\$10,000
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Total Cost of Project	\$85,000
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Project Timeline	4-6 weeks
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(Section Break)

Project Submission

Full Project Description	The Clubhouse Deck Restoration Project aims to rebuild the aging deck, addressing safety concerns due to rotting wood and splintering materials. This includes replacing the deck surface, and adding new railings, stairs, and structural supports to ensure safety and long-term durability. The renovation will enhance the overall aesthetics and functionality of the space, providing a safer, more inviting environment for residents and visitors. This project is essential for maintaining a central gathering space and fostering community engagement, but its completion depends on securing the Neighborhood Vibrancy Grant.
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Explain the impact the project will have on your neighborhood and the surrounding community	The expansive deck behind the clubhouse, overlooking the pool, has become increasingly unsafe due to age-related deterioration, including rotting wood and splintering materials. This highly utilized space serves as a central gathering area for our community, but its current condition limits both safety and enjoyment. Given the many competing needs within our aging community, the board has struggled to allocate funding for this critical renovation. This vibrancy grant would allow us to restore the deck, ensuring a safe, welcoming environment where thousands of residents and guests can connect, enjoy the outdoors, and strengthen community bonds.
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How does the project align with the Westfield Comprehensive Plan?	The deck restoration project at the clubhouse directly supports the Vibrancy Program’s mission by enhancing a highly visible and well-used recreational and neighborhood amenity that fosters community connection and outdoor engagement.
	Recreation & Neighborhood Amenities:
	The clubhouse deck serves as a primary gathering space for residents and visitors, offering a central location for social engagement, relaxation, and community events. Restoring the deck aligns with the program’s goal of improving shared outdoor spaces, much like park shelters or trail improvements.
	Improved Alternative Transportation & Connectivity:
	The deck enhances walkability and accessibility for the many residents who use the clubhouse and pool area as a central hub in the neighborhood. A well-maintained, structurally sound deck promotes safe movement between indoor and outdoor spaces, much like trail improvements supported by the grant.
	Aesthetic & Environmental Enhancement:
	The project will replace deteriorating materials with sustainable, low-maintenance decking, reducing future repair needs and enhancing long-term durability. A refreshed deck enhances the overall visual appeal of the community, making it more inviting for residents and visitors alike.
	Grant Utilization & Impact:
	This grant would provide crucial funding to complete a project that the HOA has struggled to budget for, ensuring that thousands of community members can safely enjoy this space for years to come. With improved aesthetics, safety, and functionality, the restored deck will serve as a cornerstone of neighborhood vibrancy, aligning with the grant’s mission to create engaging, well-maintained public spaces.
How do you plan to evaluate the success of the project?	We will assess the project’s success through community engagement, safety, aesthetics, and sustainability: Increased Usage – Track event attendance and overall

	community use of the deck. Safety Improvements – Ensure compliance with safety standards and monitor reductions in maintenance issues or complaints. Aesthetic Impact – Document visual enhancements with before-and-after photos and resident testimonials. Sustainability & Cost Efficiency – Track maintenance needs and compare long-term upkeep costs. These measures will demonstrate the project's positive impact on community connection, safety, and neighborhood vibrancy.
If your project is not approved, what will you do to accomplish the project?	If we do not receive approval, the board will explore alternative funding options, such as reallocating budget resources, seeking community donations, or phasing the project over time. However, given the many competing priorities within our aging community, it is uncertain whether we could complete the project without grant support.
Who will be involved in the implementation of the project?	HOA Board of Directors and Armour Property Management in cooperation with our contractor.
Is there any additional information that is important to include about the project?	The project enhances a high-traffic, central gathering space that serves thousands of residents and visitors annually. Restoring the deck will improve safety, aesthetics, and usability, supporting community engagement and outdoor recreation. Additionally, using durable, low-maintenance materials will reduce long-term upkeep costs, ensuring sustainability. Without grant support, funding challenges may delay or limit the project's completion. **THIS FORM ONLY ALLOWS ME TO UPLOAD ONE FILE - I CHOSE THE ESTIMATE, BUT WOULD LIKE TO ALSO SUBMIT THE PICTURES IF NECESSARY**
Project Plans	Deck rebuild estimate.pdf

Email not displaying correctly? [View it in your browser.](#)

CITY OF WESTFIELD, INDIANA
NEIGHBORHOOD VIBRANCY GRANT AGREEMENT

This Neighborhood Vibrancy Grant Agreement (“Agreement”) is entered into by and between the City of Westfield, Indiana (“City”) and Countryside Home Owners Association (“HOA”) (each a “Party” and collectively “the Parties”) on this ____ day of _____, 2025.

WHEREAS, the City is a municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council;

WHEREAS, the HOA is a Indiana nonprofit corporation organized to manage and maintain common areas and enforce rules within a community, such as a condominium or subdivision, and ensure the upkeep of shared spaces and adherence to community standards, which operates within the City;

WHEREAS, the City administers a Neighborhood Vibrancy Grant Program (“NVGP”) whereby the City provides funding for unique and innovative ideas that make the community a more vibrant place to live and positively impact the quality of life in the City;

WHEREAS, Ind. Code § 36-10-2-2, Ind. Code § 36-10-2-4, Ind. Code § 36-10-2-5, and State Board of Accounts guidance provide that the City may provide aid to recreation facilities and programs, community service facilities and programs, neighborhood

centers, community centers, and civic centers, and that a written contract should document the services provided; and

WHEREAS, the City and the HOA desire to enter into this Agreement to formalize the City's grant of funds to the HOA, and responsibilities and commitments related thereto.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, the City and the HOA hereby agree as follows:

Section 1. Recitals. The above Recitals are an integral part of this Agreement and are specifically incorporated herein by reference.

Section 2. Grant Agreement. The City, after review and recommendation by the NVGP Committee and approval by the Board of Public Works and Safety, agrees to a one-time grant of a total of TEN THOUSAND DOLLARS AND ZERO CENTS (\$10,000.00) ("Grant Funds") to the HOA to assist with payments and costs related to the project described in the attached NVGP application ("Project"). The Grant Funds shall be used only in accordance with the terms of this Agreement.

Section 3. Obligations of the HOA. The HOA agrees that the Project must be completed within one (1) year of receipt of the Grant Funds. The HOA agrees to use any and all Grant Funds from the City only towards the cost of the Project and for no other purpose. The HOA agrees to provide the City with the following information and documentation:

- (a) A budget for the Project;
- (b) Certified copies of incorporation as a nonprofit corporation under Indiana state law;
- (c) Appropriate documentation identifying the HOA as an Indiana nonprofit corporation in good standing;
- (d) Any audits, reviews, financial statements, or compilations available describing the financial condition of the HOA;
- (e) A Project end report describing how the Grant Funds were used and the impact of the dollars had on completing the Project; and
- (f) Other relevant documentation that the City requests.

Section 4. Non-profit Status. By executing this Agreement, the HOA hereby represents and warrants that it is a nonprofit entity in good standing.

Section 5. Use of Funds by the HOA. The Grant Funds received by the HOA pursuant to this Agreement shall be used only to assist with costs for the Project, and for no other purpose. If it is determined by the City that the Grant Funds have been misappropriated, or the HOA violates any term of this Agreement, this Agreement shall immediately be terminated and the HOA agrees to return all funds received from the City.

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Section 7. Good Faith Cooperation. The City and the HOA agree to cooperate fully and in good faith, take additional actions, and execute additional documents as may be needed to fulfill the terms and intent of this Agreement.

Section 8. Effective Date and Term. This Agreement shall be effective upon the signing of both parties hereto, and shall be in effect until Project completion or one (1) year after the Grant Funds are awarded, which ever comes first, subject to termination pursuant to Section 5 of this Agreement. This Agreement may otherwise be terminated or extended only by a written agreement signed by authorized representatives of both the City and the HOA.

Section 9. Notices. Any notice or documentation required to be submitted pursuant to this Agreement shall be submitted in writing to the following addresses:

City of Westfield
Attn: Community Development
2728 E 171st Street
Westfield, Indiana 46074

Countryside HOA
Attn: Jolene Dailey
632 Palmyra Drive.
Westfield, Indiana 46074

Section 10. Non-Discrimination. The HOA agrees that it will not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement or the Project, with respect to the employee's hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of the employee's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement.

Section 11. Indemnification. The HOA shall defend, indemnify, and hold harmless the City and each and every past, present, and future official, representative, subsidiary, parent, division, affiliate, officer, director, employee, attorney, predecessor, and successor, both individually and in their representative capacities from and against all third party claims, demands, litigation and losses arising out of or concerning (1) the failure of the HOA to observe and perform any of its obligations under this Agreement and/or (2) any intentional or negligent act or omission by the HOA.

Section 12. Governing Law. This Agreement is governed by the laws of the State of Indiana. The Parties submit to the jurisdiction of Hamilton County, Indiana courts and waive any objection to venue.

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stricken, and all other provisions of this Agreement which can operate independently of such stricken provision(s) shall continue in full force and effect.

Section 14. Relationship of the Parties. The employees and/or agents of the City are not employees of the HOA by virtue of this Agreement, and vice versa. The HOA has no authority to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of the City, except as expressly so stated in this Agreement or a duly authorized amendment hereto.

Section 15. Counsel and Understanding. Each Party warrants that: (a) it is represented by competent counsel with respect to this Agreement and all matters covered by it, or has waived the right to be so represented; (b) it has been fully advised by said counsel with respect to its rights and obligations and with respect to the execution of this Agreement or has waived the right to be so advised; and (c) it fully understands this Agreement and the effect of signing and executing it.

Section 16. Amendment. This Agreement may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a writing duly executed by an authorized representative of each of the Parties.

Section 17. Entire Agreement. This Agreement shall constitute the entire agreement between the parties with respect to the subject matter herein, and there are no other terms, statements, obligations, or representations, oral or otherwise, of any nature whatsoever. This Agreement, along with all exhibits, attachments, or other documents

incorporated herein by reference, constitutes the entire agreement by and between the Parties and supersedes and replaces all prior negotiations, proposed agreement or agreements, written or oral, related to this Agreement or the matters addressed herein.

Section 18. Assignment. No Party hereto may assign or otherwise transfer this Agreement or any of its rights and obligations hereunder to any third party.

Section 19. Waiver. The failure of a Party to require performance of any provision shall not affect that Party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

Section 20. Construction. The language of this Agreement shall be construed as a whole, according to its fair meaning and intentment, and not strictly for or against any Party, regardless of who drafted or was principally responsible for drafting this Agreement or any specific term, provision, or condition. This Agreement is hereby deemed to have been drafted by all the Parties, and no Party shall urge otherwise.

Section 21. Warranty. Each Party represents and warrants that it has the full power and authority to enter into this Agreement and to perform all transactions, duties and obligations contained herein. Each signatory to this Agreement who signs on behalf of a Party represents and warrants that he or she has the authority to sign on behalf of that Party.

Section 22. Non-Appropriation. The Parties acknowledge that the City is a governmental entity whose funds are subject to appropriation by its fiscal body. Therefore, if the City's fiscal body should fail to appropriate the Grant Funds, this Agreement will become null and void. The City shall not be obligated to perform unless and until sufficient funds are appropriated.

Section 23. Counterparts. This Agreement may be executed in counterparts.

CITY OF WESTFIELD, INDIANA

Date

COUNTRYSIDE HOA.

Date

Neighborhood Vibrancy Grant Application

Organization/Neighborhood Name	Countryside
Point of Contact Name (first and last)	Jolene Dailey
Point of Contact Email Address	jdcarper@gmail.com
Point of Contact Phone Number	3174028900
Applicant Address	632 Palmyra Drive
Subdivision Address (if different)	250 E. 169th Street
Zip Code	46074
Number of Families/Households	1143
Age of Subdivision	26
How did you hear about the Neighborhood Vibrancy Grant Program?	WeCAN
If you selected other, please let us know!	<i>Field not completed.</i>

(Section Break)

Project Overview

Brief description of the proposed project	We would love to update and add to our existing landscape lighting throughout the neighborhood. This project would include changing all the existing lights to one color (warm white) and making sure everything is in working order. For the clubhouse we would add 9 up lights to accent the pillars of the clubhouse and 3 trees to the left of the pool entrance. We would add an additional 48 light fixtures to the 4 parking lot islands to improve lighting, and 4 well lights at the clubhouse entrance. We would also add/replace the lighting around the "Monuments" that label each section of Countryside of which there are 12. Currently there are one, sometimes 2 but we would increase this to 3 per monument. All entrances would have uplighting along each fence line (5 on each side) as well as increase the lighting of the Countryside/Richter's Corner signs from two lights to 6 total on each. We have also made sure that the installation of the lighting at 169th and Oak Ridge can be removed when the round-a-bout goes in and can be reinstalled accordingly.
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Has the project been approved by the HOA?

Yes

Date of HOA Approval

2/20/25

Amount Requested

\$10,000

Total Cost of Project

\$33,150

Project Timeline

To be completed no later than July

(Section Break)

Project Submission

Full Project Description

Please see attached quote.

Explain the impact the project will have on your neighborhood and the surrounding community

Countryside, being one of the largest neighborhoods in Westfield, at 26 years old is at a point where things need updated or replaced. As our city grows it is important that we maintain our property values, and keep up with the growth. While our current lighting may have been sufficient at a time where the surrounding area was more rural, we now stand out more for how dark it is at our entrances. This project would have a significant impact on the appearance of our neighborhood, the feeling of safety, and connectivity to the growing area. Putting up white lights over the

	holidays for the first time gave us an idea of the light we were lacking and the outpouring of positive feedback from the neighborhood as well as surrounding neighborhoods was overwhelming. When people see things like this being invested in, their pride in their homes and their city increases and we know that this will accomplish that.
How does the project align with the Westfield Comprehensive Plan?	This project aligns with Westfield's Comprehensive Plan as well as Mayor Willis' commitment to safety by providing increased lighting at our entrances. This will create a sense of continuity with our neighbor Viking Meadows. Our proximity to Urban Vines, and Springmill Station, many trails, along with Oak Trace, creates situations in which many people that frequent these places either by foot, bike, or golf cart have difficulty seeing or being seen on the paths by our entrances. This can be dangerous. The same can be said for our clubhouse. We frequently rent it out and the parking lot is darker than we would like it to be. With 88 acres of land and being the heart of South Central Westfield we feel like taking these steps toward providing more lighting would help us revitalize our aging neighborhood at a time when downtown is doing the same. Countryside is an integral part of the city with Armstrong Park and 169th street being a main thoroughfare, and we would love to have it look the part.
How do you plan to evaluate the success of the project?	We would assess feedback through the use of surveys, and comments from the neighborhood whether through email, social media, or board meetings.
If your project is not approved, what will you do to accomplish the project?	We would likely still move forward with the project though do it in stages as our budget allows. We feel it is very important to get this done.
Who will be involved in the implementation of the project?	The project would be done by Lightscapes, a local vendor. We would also likely have him work with Brightview to ensure that the electrical lines are buried where they won't interfere with the landscaping. We have checked with our Brightview supervisor and he is happy to help in any way he can.
Is there any additional information that is important to include about the project?	This would be a giant first step toward providing more lighting, and this grant would allow us to do more lighting in the future at other places along 169th and Countryside Blvd, that would need electrical more easily accessible in order to do it, It is however part of our comprehensive plan as a neighborhood.
Project Plans	Lighting - Neighborhood Grant.pdf

Email not displaying correctly? [View it in your browser.](#)

CITY OF WESTFIELD, INDIANA
NEIGHBORHOOD VIBRANCY GRANT AGREEMENT

This Neighborhood Vibrancy Grant Agreement (“Agreement”) is entered into by and between the City of Westfield, Indiana (“City”) and Crosswind Commons Home Owners Association (“HOA”) (each a “Party” and collectively “the Parties”) on this ____ day of _____, 2025.

WHEREAS, the City is a municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council;

WHEREAS, the HOA is a Indiana nonprofit corporation organized to manage and maintain common areas and enforce rules within a community, such as a condominium or subdivision, and ensure the upkeep of shared spaces and adherence to community standards, which operates within the City;

WHEREAS, the City administers a Neighborhood Vibrancy Grant Program (“NVGP”) whereby the City provides funding for unique and innovative ideas that make the community a more vibrant place to live and positively impact the quality of life in the City;

WHEREAS, Ind. Code § 36-10-2-2, Ind. Code § 36-10-2-4, Ind. Code § 36-10-2-5, and State Board of Accounts guidance provide that the City may provide aid to recreation facilities and programs, community service facilities and programs, neighborhood

centers, community centers, and civic centers, and that a written contract should document the services provided; and

WHEREAS, the City and the HOA desire to enter into this Agreement to formalize the City's grant of funds to the HOA, and responsibilities and commitments related thereto.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, the City and the HOA hereby agree as follows:

Section 1. Recitals. The above Recitals are an integral part of this Agreement and are specifically incorporated herein by reference.

Section 2. Grant Agreement. The City, after review and recommendation by the NVGP Committee and approval by the Board of Public Works and Safety, agrees to a one-time grant of a total of TEN THOUSAND DOLLARS AND ZERO CENTS (\$10,000.00) ("Grant Funds") to the HOA to assist with payments and costs related to the project described in the attached NVGP application ("Project"). The Grant Funds shall be used only in accordance with the terms of this Agreement.

Section 3. Obligations of the HOA. The HOA agrees that the Project must be completed within one (1) year of receipt of the Grant Funds. The HOA agrees to use any and all Grant Funds from the City only towards the cost of the Project and for no other purpose. The HOA agrees to provide the City with the following information and documentation:

- (a) A budget for the Project;
- (b) Certified copies of incorporation as a nonprofit corporation under Indiana state law;
- (c) Appropriate documentation identifying the HOA as an Indiana nonprofit corporation in good standing;
- (d) Any audits, reviews, financial statements, or compilations available describing the financial condition of the HOA;
- (e) A Project end report describing how the Grant Funds were used and the impact of the dollars had on completing the Project; and
- (f) Other relevant documentation that the City requests.

Section 4. Non-profit Status. By executing this Agreement, the HOA hereby represents and warrants that it is a nonprofit entity in good standing.

Section 5. Use of Funds by the HOA. The Grant Funds received by the HOA pursuant to this Agreement shall be used only to assist with costs for the Project, and for no other purpose. If it is determined by the City that the Grant Funds have been misappropriated, or the HOA violates any term of this Agreement, this Agreement shall immediately be terminated and the HOA agrees to return all funds received from the City.

Section 6. Non-Exclusivity. The City and the HOA agree that the City may enter into other Grant Agreements or similar agreements, and the HOA shall not be the exclusive recipient of grants or donations from the City.

Section 7. Good Faith Cooperation. The City and the HOA agree to cooperate fully and in good faith, take additional actions, and execute additional documents as may be needed to fulfill the terms and intent of this Agreement.

Section 8. Effective Date and Term. This Agreement shall be effective upon the signing of both parties hereto, and shall be in effect until Project completion or one (1) year after the Grant Funds are awarded, which ever comes first, subject to termination pursuant to Section 5 of this Agreement. This Agreement may otherwise be terminated or extended only by a written agreement signed by authorized representatives of both the City and the HOA.

Section 9. Notices. Any notice or documentation required to be submitted pursuant to this Agreement shall be submitted in writing to the following addresses:

City of Westfield
Attn: Community Development
2728 E 171st Street
Westfield, Indiana 46074

Crosswind Commons HOA
Attn: Aimee Rawlings
614 Zephyr Way.
Westfield, Indiana 46074

Section 10. Non-Discrimination. The HOA agrees that it will not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement or the Project, with respect to the employee's hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of the employee's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement.

Section 11. Indemnification. The HOA shall defend, indemnify, and hold harmless the City and each and every past, present, and future official, representative, subsidiary, parent, division, affiliate, officer, director, employee, attorney, predecessor, and successor, both individually and in their representative capacities from and against all third party claims, demands, litigation and losses arising out of or concerning (1) the failure of the HOA to observe and perform any of its obligations under this Agreement and/or (2) any intentional or negligent act or omission by the HOA.

Section 12. Governing Law. This Agreement is governed by the laws of the State of Indiana. The Parties submit to the jurisdiction of Hamilton County, Indiana courts and waive any objection to venue.

Section 13. 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 provision(s) shall continue in full force and effect.

Section 14. Relationship of the Parties. The employees and/or agents of the City are not employees of the HOA by virtue of this Agreement, and vice versa. The HOA has no authority to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of the City, except as expressly so stated in this Agreement or a duly authorized amendment hereto.

Section 15. Counsel and Understanding. Each Party warrants that: (a) it is represented by competent counsel with respect to this Agreement and all matters covered by it, or has waived the right to be so represented; (b) it has been fully advised by said counsel with respect to its rights and obligations and with respect to the execution of this Agreement or has waived the right to be so advised; and (c) it fully understands this Agreement and the effect of signing and executing it.

Section 16. Amendment. This Agreement may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a writing duly executed by an authorized representative of each of the Parties.

Section 17. Entire Agreement. This Agreement shall constitute the entire agreement between the parties with respect to the subject matter herein, and there are no other terms, statements, obligations, or representations, oral or otherwise, of any nature whatsoever. This Agreement, along with all exhibits, attachments, or other documents

incorporated herein by reference, constitutes the entire agreement by and between the Parties and supersedes and replaces all prior negotiations, proposed agreement or agreements, written or oral, related to this Agreement or the matters addressed herein.

Section 18. Assignment. No Party hereto may assign or otherwise transfer this Agreement or any of its rights and obligations hereunder to any third party.

Section 19. Waiver. The failure of a Party to require performance of any provision shall not affect that Party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

Section 20. Construction. The language of this Agreement shall be construed as a whole, according to its fair meaning and intentment, and not strictly for or against any Party, regardless of who drafted or was principally responsible for drafting this Agreement or any specific term, provision, or condition. This Agreement is hereby deemed to have been drafted by all the Parties, and no Party shall urge otherwise.

Section 21. Warranty. Each Party represents and warrants that it has the full power and authority to enter into this Agreement and to perform all transactions, duties and obligations contained herein. Each signatory to this Agreement who signs on behalf of a Party represents and warrants that he or she has the authority to sign on behalf of that Party.

Section 22. Non-Appropriation. The Parties acknowledge that the City is a governmental entity whose funds are subject to appropriation by its fiscal body. Therefore, if the City's fiscal body should fail to appropriate the Grant Funds, this Agreement will become null and void. The City shall not be obligated to perform unless and until sufficient funds are appropriated.

Section 23. Counterparts. This Agreement may be executed in counterparts.

CITY OF WESTFIELD, INDIANA

Date

CROSSWIND COMMONS HOA.

Date

Neighborhood Vibrancy Grant Application

Organization/Neighborhood Name Crosswind Commons

Point of Contact Name (first and last) Aimee Rawlings

Point of Contact Email Address aimeerawlings@yahoo.com

Point of Contact Phone Number 3174143919

Applicant Address 614 Zephyr Way Westfield

Subdivision Address (if different) P.O. Box 167 Wesfield, IN 46074

Zip Code 46074

Number of Families/Households 63

Age of Subdivision 27 years old

How did you hear about the Neighborhood Vibrancy Grant Program? WeCAN

If you selected other,
please let us know!

Field not completed.

(Section Break)

Project Overview

Brief description of the proposed project	We would like to build a butterfly garden between our park and pond.
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Has the project been approved by the HOA?	Yes
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Date of HOA Approval	2.1.25
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Amount Requested	\$10,000
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Total Cost of Project	\$23,080
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Project Timeline	3 to 6 months
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(Section Break)

Project Submission

Full Project Description	Build a butterfly garden with seating for residents. The following is a list of plants that we would plan to use:
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Summary of Plants and Their Benefits for a Butterfly Garden in Indiana

Below are some native plants ideal for a butterfly garden in Indiana, along with their specific benefits:

1. Milkweed (*Asclepias* spp.) Benefits: Milkweed is essential for monarch butterflies, as it serves as the primary food source for their larvae. It also provides nectar for adult butterflies. As a native plant, it supports biodiversity and offers habitat for other pollinators.

2. Purple Coneflower (*Echinacea purpurea*) Benefits: This popular perennial attracts various butterfly species, such as painted ladies and tiger swallowtails. The flowers provide nectar, and the seeds are favored by birds like goldfinches. Its long bloom period ensures a steady food supply for pollinators.

3. Black-eyed Susan (*Rudbeckia hirta*) Benefits: This vibrant flower attracts butterflies like fritillaries and

swallowtails. It also supports bees and other pollinators. Black-eyed Susan is drought-tolerant, making it a hardy addition to the garden, and its seeds provide food for birds.

4. Butterfly Bush (*Buddleia davidii*) Benefits: Known for its fragrant flowers, butterfly bush is a favorite nectar source for butterflies, including monarchs, swallowtails, and painted ladies. It blooms from mid-summer to fall, offering a long-lasting food source for butterflies.

5. Joe Pye Weed (*Eutrochium purpureum*) Benefits: This tall perennial produces clusters of pink to purple flowers, attracting butterflies like the red-spotted purple and swallowtails. It thrives in moist soils and is especially beneficial to late-season pollinators, as it blooms in late summer and fall.

6. Liatris (*Liatris spicata*) Benefits: Liatris, or blazing star, is a vibrant purple plant that attracts butterflies and bees. Its tall, spiky flowers provide nectar for a variety of pollinators, especially during late summer when other nectar sources may be limited.

7. Purple Milkweed (*Asclepias purpurascens*) Benefits: Similar to common milkweed, purple milkweed attracts monarch butterflies and provides food for their larvae. It offers nectar for other butterfly species and provides a habitat for pollinators.

8. Bee Balm (*Monarda fistulosa*) Benefits: Bee balm is a nectar-rich plant that attracts a wide variety of butterflies, including swallowtails and skippers. Its aromatic flowers also draw hummingbirds and bees. This plant thrives in sunny, moist conditions and supports pollinator health.

9. New England Aster (*Symphyotrichum novae-angliae*) Benefits: This late-blooming aster attracts butterflies and pollinators well into the fall. Its bright purple flowers provide nectar for monarchs, painted ladies, and other late-season butterflies, making it a valuable addition to extend the butterfly season.

10. Goldenrod (*Solidago* spp.) Benefits: Goldenrod is an important late-season nectar source for butterflies, including the common yellow swallowtail and monarchs. Its bright yellow flowers provide an abundant food source for pollinators as other flowers begin to fade in autumn.

11. Prairie Verbena (*Glandularia bipinnatifida*) Benefits: This low-growing perennial attracts butterflies with its clusters of purple-pink flowers. It's also drought-tolerant, making it a great addition to more arid areas of a butterfly garden, while providing nectar for a variety of butterfly species.

Explain the impact the project will have on your neighborhood and the surrounding community	This proposal is to establish a butterfly garden near the existing park and pond in The Crosswind Commons Neighborhood, with goals to enhance the local ecosystem, increase biodiversity, and improve the overall resident experience. This plan outlines the potential positive impacts of such a garden on the environment, wildlife, and the community.
How does the project align with the Westfield Comprehensive Plan?	Introducing a butterfly garden in the Crosswind Commons Neighborhood aligns with the 2025 Westfield Comprehensive Plan by promoting environmental sustainability, community engagement, and the improvement of public spaces. These gardens not only enhance the area's beauty but also offer educational opportunities and support local wildlife, contributing to a vibrant and sustainable community.
How do you plan to evaluate the success of the project?	We will assess the success of the neighborhood butterfly garden by monitoring biodiversity, plant health, pollinator activity, and community involvement. We will seek feedback from residents during our board and annual meetings.
If your project is not approved, what will you do to accomplish the project?	If our project is not approved, we will continue to raise funds to complete the project in the future.
Who will be involved in the implementation of the project?	The HOA Board of Directors and the residents of Crosswind Commons
Is there any additional information that is important to include about the project?	N/A
Project Plans	CWC NVG 2025.pdf

Email not displaying correctly? [View it in your browser.](#)

CITY OF WESTFIELD, INDIANA
NEIGHBORHOOD VIBRANCY GRANT AGREEMENT

This Neighborhood Vibrancy Grant Agreement (“Agreement”) is entered into by and between the City of Westfield, Indiana (“City”) and Derby Ridge Home Owners Association (“HOA”) (each a “Party” and collectively “the Parties”) on this ____ day of _____, 2025.

WHEREAS, the City is a municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council;

WHEREAS, the HOA is a Indiana nonprofit corporation organized to manage and maintain common areas and enforce rules within a community, such as a condominium or subdivision, and ensure the upkeep of shared spaces and adherence to community standards, which operates within the City;

WHEREAS, the City administers a Neighborhood Vibrancy Grant Program (“NVGP”) whereby the City provides funding for unique and innovative ideas that make the community a more vibrant place to live and positively impact the quality of life in the City;

WHEREAS, Ind. Code § 36-10-2-2, Ind. Code § 36-10-2-4, Ind. Code § 36-10-2-5, and State Board of Accounts guidance provide that the City may provide aid to recreation facilities and programs, community service facilities and programs, neighborhood

centers, community centers, and civic centers, and that a written contract should document the services provided; and

WHEREAS, the City and the HOA desire to enter into this Agreement to formalize the City's grant of funds to the HOA, and responsibilities and commitments related thereto.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, the City and the HOA hereby agree as follows:

Section 1. Recitals. The above Recitals are an integral part of this Agreement and are specifically incorporated herein by reference.

Section 2. Grant Agreement. The City, after review and recommendation by the NVGP Committee and approval by the Board of Public Works and Safety, agrees to a one-time grant of a total of TEN THOUSAND DOLLARS AND ZERO CENTS (\$10,000.00) ("Grant Funds") to the HOA to assist with payments and costs related to the project described in the attached NVGP application ("Project"). The Grant Funds shall be used only in accordance with the terms of this Agreement.

Section 3. Obligations of the HOA. The HOA agrees that the Project must be completed within one (1) year of receipt of the Grant Funds. The HOA agrees to use any and all Grant Funds from the City only towards the cost of the Project and for no other purpose. The HOA agrees to provide the City with the following information and documentation:

- (a) A budget for the Project;
- (b) Certified copies of incorporation as a nonprofit corporation under Indiana state law;
- (c) Appropriate documentation identifying the HOA as an Indiana nonprofit corporation in good standing;
- (d) Any audits, reviews, financial statements, or compilations available describing the financial condition of the HOA;
- (e) A Project end report describing how the Grant Funds were used and the impact of the dollars had on completing the Project; and
- (f) Other relevant documentation that the City requests.

Section 4. Non-profit Status. By executing this Agreement, the HOA hereby represents and warrants that it is a nonprofit entity in good standing.

Section 5. Use of Funds by the HOA. The Grant Funds received by the HOA pursuant to this Agreement shall be used only to assist with costs for the Project, and for no other purpose. If it is determined by the City that the Grant Funds have been misappropriated, or the HOA violates any term of this Agreement, this Agreement shall immediately be terminated and the HOA agrees to return all funds received from the City.

Section 6. Non-Exclusivity. The City and the HOA agree that the City may enter into other Grant Agreements or similar agreements, and the HOA shall not be the exclusive recipient of grants or donations from the City.

Section 7. Good Faith Cooperation. The City and the HOA agree to cooperate fully and in good faith, take additional actions, and execute additional documents as may be needed to fulfill the terms and intent of this Agreement.

Section 8. Effective Date and Term. This Agreement shall be effective upon the signing of both parties hereto, and shall be in effect until Project completion or one (1) year after the Grant Funds are awarded, which ever comes first, subject to termination pursuant to Section 5 of this Agreement. This Agreement may otherwise be terminated or extended only by a written agreement signed by authorized representatives of both the City and the HOA.

Section 9. Notices. Any notice or documentation required to be submitted pursuant to this Agreement shall be submitted in writing to the following addresses:

City of Westfield
Attn: Community Development
2728 E 171st Street
Westfield, Indiana 46074

Derby Ridge HOA
Attn: John Mercho
5136 E. Stop 11 Suite 30 .
Indianapolis, Indiana 46237

Section 10. Non-Discrimination. The HOA agrees that it will not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement or the Project, with respect to the employee's hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of the employee's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement.

Section 11. Indemnification. The HOA shall defend, indemnify, and hold harmless the City and each and every past, present, and future official, representative, subsidiary, parent, division, affiliate, officer, director, employee, attorney, predecessor, and successor, both individually and in their representative capacities from and against all third party claims, demands, litigation and losses arising out of or concerning (1) the failure of the HOA to observe and perform any of its obligations under this Agreement and/or (2) any intentional or negligent act or omission by the HOA.

Section 12. Governing Law. This Agreement is governed by the laws of the State of Indiana. The Parties submit to the jurisdiction of Hamilton County, Indiana courts and waive any objection to venue.

Section 13. 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 provision(s) shall continue in full force and effect.

Section 14. Relationship of the Parties. The employees and/or agents of the City are not employees of the HOA by virtue of this Agreement, and vice versa. The HOA has no authority to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of the City, except as expressly so stated in this Agreement or a duly authorized amendment hereto.

Section 15. Counsel and Understanding. Each Party warrants that: (a) it is represented by competent counsel with respect to this Agreement and all matters covered by it, or has waived the right to be so represented; (b) it has been fully advised by said counsel with respect to its rights and obligations and with respect to the execution of this Agreement or has waived the right to be so advised; and (c) it fully understands this Agreement and the effect of signing and executing it.

Section 16. Amendment. This Agreement may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a writing duly executed by an authorized representative of each of the Parties.

Section 17. Entire Agreement. This Agreement shall constitute the entire agreement between the parties with respect to the subject matter herein, and there are no other terms, statements, obligations, or representations, oral or otherwise, of any nature whatsoever. This Agreement, along with all exhibits, attachments, or other documents

incorporated herein by reference, constitutes the entire agreement by and between the Parties and supersedes and replaces all prior negotiations, proposed agreement or agreements, written or oral, related to this Agreement or the matters addressed herein.

Section 18. Assignment. No Party hereto may assign or otherwise transfer this Agreement or any of its rights and obligations hereunder to any third party.

Section 19. Waiver. The failure of a Party to require performance of any provision shall not affect that Party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

Section 20. Construction. The language of this Agreement shall be construed as a whole, according to its fair meaning and intendment, and not strictly for or against any Party, regardless of who drafted or was principally responsible for drafting this Agreement or any specific term, provision, or condition. This Agreement is hereby deemed to have been drafted by all the Parties, and no Party shall urge otherwise.

Section 21. Warranty. Each Party represents and warrants that it has the full power and authority to enter into this Agreement and to perform all transactions, duties and obligations contained herein. Each signatory to this Agreement who signs on behalf of a Party represents and warrants that he or she has the authority to sign on behalf of that Party.

Section 22. Non-Appropriation. The Parties acknowledge that the City is a governmental entity whose funds are subject to appropriation by its fiscal body. Therefore, if the City's fiscal body should fail to appropriate the Grant Funds, this Agreement will become null and void. The City shall not be obligated to perform unless and until sufficient funds are appropriated.

Section 23. Counterparts. This Agreement may be executed in counterparts.

CITY OF WESTFIELD, INDIANA

Date

DERBY RIDGE HOA.

Date

Neighborhood Vibrancy Grant Application

Organization/Neighborhood Name Derby Ridge HOA

Point of Contact Name (first and last) John Mercho

Point of Contact Email Address john@pmimeridian.com

Point of Contact Phone Number 317-695-2592

Applicant Address 5136 E. Stop 11 Rd. Suite 30 Indianapolis, IN.

Subdivision Address (if different) 1372 Burgess Hill Pass Westfield IN. 46074

Zip Code 46237

Number of Families/Households 82

Age of Subdivision Approximately 10 Years Old

How did you hear about the Neighborhood Vibrancy Grant Program? City Website

If you selected other, please let us know! N/A

(Section Break)

Project Overview

Brief description of the proposed project	We are seeking to remove up to 11 dead trees and replace them in the front of our subdivision and get electrical power hooked up to both of our entrance signs / monuments on Ditch Road.
Has the project been approved by the HOA?	Yes
Date of HOA Approval	2-25-2025
Amount Requested	\$10,000 (the maximum amount)
Total Cost of Project	\$27,987
Project Timeline	2 to 4 weeks

(Section Break)

Project Submission

Full Project Description	We are seeking to remove up to 11 dead trees along Ditch Road and then replace them with 11 new trees. The trees include Norway Spruce, Royal Raindrops Crab Apple and Red Sunset Maples. We are also seeking to get electrical power installed on both of our front entrance "monuments" off of Ditch Road.
Explain the impact the project will have on your neighborhood and the surrounding community	The impact will create an aesthetic beauty for the neighbors and the surrounding community in Westfield. The new trees and lit up signs will be pleasing to the eye.
How does the project align with the Westfield Comprehensive Plan?	The project aligns with the Westfield Comprehensive Plan since the proposals create a vibrant intention for the residents and visitors of Westfield Indiana.
How do you plan to evaluate the success of the project?	We will keep track of the timeline regarding all three projects and make sure all conditions to the contracts are met.
If your project is not approved, what will you do to accomplish the project?	We will attempt to finish the projects over a three year period.
Who will be involved in the implementation of the project?	Derby Ridge HOA, PMI Meridian Management, Edwards Electrical & Acres Group.

Is there any additional information that is important to include about the project?

None At This Time.

Project Plans

[Derby Ridge Proposals Vibrancy Grant 2025.pdf](#)

Email not displaying correctly? [View it in your browser.](#)

CITY OF WESTFIELD, INDIANA
NEIGHBORHOOD VIBRANCY GRANT AGREEMENT

This Neighborhood Vibrancy Grant Agreement (“Agreement”) is entered into by and between the City of Westfield, Indiana (“City”) and The Lakes of Westfield Home Owners Association (“HOA”) (each a “Party” and collectively “the Parties”) on this ____ day of _____, 2025.

WHEREAS, the City is a municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council;

WHEREAS, the HOA is a Indiana nonprofit corporation organized to manage and maintain common areas and enforce rules within a community, such as a condominium or subdivision, and ensure the upkeep of shared spaces and adherence to community standards, which operates within the City;

WHEREAS, the City administers a Neighborhood Vibrancy Grant Program (“NVGP”) whereby the City provides funding for unique and innovative ideas that make the community a more vibrant place to live and positively impact the quality of life in the City;

WHEREAS, Ind. Code § 36-10-2-2, Ind. Code § 36-10-2-4, Ind. Code § 36-10-2-5, and State Board of Accounts guidance provide that the City may provide aid to recreation facilities and programs, community service facilities and programs, neighborhood

centers, community centers, and civic centers, and that a written contract should document the services provided; and

WHEREAS, the City and the HOA desire to enter into this Agreement to formalize the City's grant of funds to the HOA, and responsibilities and commitments related thereto.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, the City and the HOA hereby agree as follows:

Section 1. Recitals. The above Recitals are an integral part of this Agreement and are specifically incorporated herein by reference.

Section 2. Grant Agreement. The City, after review and recommendation by the NVGP Committee and approval by the Board of Public Works and Safety, agrees to a one-time grant of a total of NINE THOUSAND THREE HUNDRED TWENTY TWO DOLLARS AND ZERO CENTS (\$9,322.00) ("Grant Funds") to the HOA to assist with payments and costs related to the project described in the attached NVGP application ("Project"). The Grant Funds shall be used only in accordance with the terms of this Agreement.

Section 3. Obligations of the HOA. The HOA agrees that the Project must be completed within one (1) year of receipt of the Grant Funds. The HOA agrees to use any and all Grant Funds from the City only towards the cost of the Project and for no other

purpose. The HOA agrees to provide the City with the following information and documentation:

- (a) A budget for the Project;
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City of Westfield
Attn: Community Development
2728 E 171st Street
Westfield, Indiana 46074

The Lakes of Westfield HOA
Attn: Tim List
18101 Lake Winds Drive .
Westfield, Indiana 46074

Section 10. Non-Discrimination. The HOA agrees that it will not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement or the Project, with respect to the employee's hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of the employee's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement.

Section 11. Indemnification. The HOA shall defend, indemnify, and hold harmless the City and each and every past, present, and future official, representative, subsidiary, parent, division, affiliate, officer, director, employee, attorney, predecessor, and successor, both individually and in their representative capacities from and against all third party claims, demands, litigation and losses arising out of or concerning (1) the failure of the HOA to observe and perform any of its obligations under this Agreement and/or (2) any intentional or negligent act or omission by the HOA.

Section 12. Governing Law. This Agreement is governed by the laws of the State of Indiana. The Parties submit to the jurisdiction of Hamilton County, Indiana courts and waive any objection to venue.

Section 13. 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 provision(s) shall continue in full force and effect.

Section 14. Relationship of the Parties. The employees and/or agents of the City are not employees of the HOA by virtue of this Agreement, and vice versa. The HOA has no authority to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of the City, except as expressly so stated in this Agreement or a duly authorized amendment hereto.

Section 15. Counsel and Understanding. Each Party warrants that: (a) it is represented by competent counsel with respect to this Agreement and all matters covered by it, or has waived the right to be so represented; (b) it has been fully advised by said counsel with respect to its rights and obligations and with respect to the execution of this Agreement or has waived the right to be so advised; and (c) it fully understands this Agreement and the effect of signing and executing it.

Section 16. Amendment. This Agreement may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a writing duly executed by an authorized representative of each of the Parties.

Section 17. Entire Agreement. This Agreement shall constitute the entire agreement between the parties with respect to the subject matter herein, and there are no other terms, statements, obligations, or representations, oral or otherwise, of any nature whatsoever. This Agreement, along with all exhibits, attachments, or other documents

incorporated herein by reference, constitutes the entire agreement by and between the Parties and supersedes and replaces all prior negotiations, proposed agreement or agreements, written or oral, related to this Agreement or the matters addressed herein.

Section 18. Assignment. No Party hereto may assign or otherwise transfer this Agreement or any of its rights and obligations hereunder to any third party.

Section 19. Waiver. The failure of a Party to require performance of any provision shall not affect that Party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

Section 20. Construction. The language of this Agreement shall be construed as a whole, according to its fair meaning and intendment, and not strictly for or against any Party, regardless of who drafted or was principally responsible for drafting this Agreement or any specific term, provision, or condition. This Agreement is hereby deemed to have been drafted by all the Parties, and no Party shall urge otherwise.

Section 21. Warranty. Each Party represents and warrants that it has the full power and authority to enter into this Agreement and to perform all transactions, duties and obligations contained herein. Each signatory to this Agreement who signs on behalf of a Party represents and warrants that he or she has the authority to sign on behalf of that Party.

Section 22. Non-Appropriation. The Parties acknowledge that the City is a governmental entity whose funds are subject to appropriation by its fiscal body. Therefore, if the City's fiscal body should fail to appropriate the Grant Funds, this Agreement will become null and void. The City shall not be obligated to perform unless and until sufficient funds are appropriated.

Section 23. Counterparts. This Agreement may be executed in counterparts.

CITY OF WESTFIELD, INDIANA

Date

THE LAKES OF WESTFIELD HOA.

Date

Neighborhood Vibrancy Grant Application

Organization/Neighborhood Name	The Lakes of Westfield
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Point of Contact Name (first and last)	Tim List
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Point of Contact Email Address	Treasurer.lakesofwestfield@gmail.com
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Point of Contact Phone Number	(937)231-2087
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Applicant Address	18101 Lake Winds Drive, Westfield, IN 46074
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Subdivision Address (if different)	Entrances on Grassy Branch Rd/Shady Nook Rd.
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Zip Code	46074
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Number of Families/Households	239
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Age of Subdivision	11 years. 3 years under homeowner control
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How did you hear about the Neighborhood Vibrancy Grant Program?	WeCAN
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If you selected other,
please let us know!

Field not completed.

(Section Break)

Project Overview

Brief description of the proposed project	Enhancement of the south berm bordering The Lakes of Westfield neighborhood on Shady Nook Rd.
Has the project been approved by the HOA?	Yes
Date of HOA Approval	27/02/2025
Amount Requested	\$9,322.00
Total Cost of Project	Phase 1: \$13,983.77
Project Timeline	Completion of Phase 1 in Q2 of 2025

(Section Break)

Project Submission

Full Project Description	The Lakes of Westfield HOA is happy to propose a Neighborhood Vibrancy Grant (NVG) project that will significantly enhance the streetscape on Shady Nook Road and that aligns well with the overall objectives of Westfield's NVG program. THE NEIGHBORHOOD The Lakes of Westfield is a neighborhood consisting of 239 homes that is located between Grassy Branch Road and Shady Nook Road approximately one mile north of SR32. The neighborhood was developed beginning in approximately 2014 by the Langston Development Group. It is now substantially complete, and responsibility for its management was transferred to the current HOA in 2022. The Lakes of Westfield is unique in that it encompasses seven small "lakes." The total common area of the HOA is 71 acres. Thus the common areas of The Lakes of Westfield offer an opportunity to create a uniquely attractive landscape environment that enhance the attractiveness of Westfield as a growing community. The neighborhood is bordered by three major berms: One on Grassy Branch Road and two on Shady Nook Road. The Grassy Branch Road and the northern berm on Shady Nook Road are fully and completely landscaped with spruce trees, mulched areas, and various shrubs and
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bushes (see photos 1-7 and 14-21).

THE ISSUE

However, the southern berm on Shady Nook Road is only partially and sparsely landscaped (see photos 8-12 and 13). The only plantings on this third berm are deciduous trees. Its appearance is only marginally attractive and quite dissimilar to the other two major berms. This disconnect detracts from the overall appearance and ambience of the section of Shady Nook Road that borders The Lakes.

THE HOA'S LANDSCAPE DESIGN APPROACH

The Lakes HOA board is committed to enhancing the landscape along Shady Nook Road and also prioritizing an environmentally friendly approach to managing the HOA's common areas.

The board's President has recently appointed a new Landscape Committee to oversee landscape initiatives. The members of the committee include a Master Gardener who is a Master Gardener Committee Co-Chair and who is actively involved in the activities of the Hamilton County Master Gardener program and the maintenance and enhancement of the Heirloom Gardens that surround the Westfield City Hall.

The Committee will involve the Hamilton County Soil and Water Conservation District as it formulates its plan for future landscape projects. The HOA's board has recently realigned a portion of its budget to support these initiatives. The Landscape Committee has also recently consulted a practicing professional landscape architect who has a MS degree in Sustainable Systems.

Future planning efforts for The Lakes of Westfield will address how we can naturalize the

THE PROPOSED PLAN

The Lakes of Westfield HOA board is proposing a three-phase plan for enhancing the southern berm on the neighborhood's eastern border in a way that will make it consistent with the other two berms that border that neighborhood and enhance the overall ambience of Shady Nook Road.

The plan will utilize Norway Spruce trees as a base to bring consistency to all three berms that border The Lakes. Fragrant Viburnum and Limelight Hydrangea will be utilized to complete the project in a manner similar to what exists in the current berms. These native shrubs and plants will aid in creating a "butterfly" corridor that is consistent with the City of Westfield's objectives for fostering sustainable and native environments. Overall, the plan will add substantially to the attractiveness of the portion of Shady Nook Road that will be upgraded.

REQUESTED GRANT SUPPORT

The board is requesting an NVG to support Phase 1 of the three phase project for enhancing the south berm along Shady Nook Road. The total cost of Phase 1 would be \$13,983.77. A detailed project description and plan is included in this application. The HOA would contribute \$4,661 to this project. We request an NVG of \$9,322. Phases 2 and 3 of this initiative will hopefully receive future NVG support to supplement funding that the HOA will need to vote on in 2026-2027. We are optimistic that some combination of NVG and HOA funding will become available in the 2026-2027 timeframe.

The HOA board of The Lakes of Westfield thanks the City Council of Westfield for initiating the NVG program. If there are any questions or concerns about our proposal, please contact us at the email address included in our application.

Explain the impact the project will have on your neighborhood and the surrounding community	1)This project will enhance the appearance and ambience of a section of Shady Nook Rd. 2) This project will provide consistency in the landscape design for all three berms that border The Lakes of Westfield neighborhood.
How does the project align with the Westfield Comprehensive Plan?	This project is aligned with the city's overall objectives to foster environmentally sound development and attract new businesses to the community by providing well-designed residential housing in attractive neighborhoods.
How do you plan to evaluate the success of the project?	Success will be measured by the viability and longevity of the proposed plantings. The HOA will also conduct a quantitative survey to determine HOA member satisfaction with the improved appearance of the berms in question.
If your project is not approved, what will you do to accomplish the project?	If the project is not approved, we will seek input from the NVG committee to determine how the project could be changed to better align with Westfield's priorities and the program's guidelines. We will also seek incremental funding from the HOA's members via a member vote in 2026.
Who will be involved in the implementation of the project?	1) The Lakes of Westfield HOA board, 2) The Lakes of Westfield Landscape Committee, 3) Sundown Gardens.
Is there any additional information that is important to include about the project?	The project plan documents that we are submitting are important. Please contact us if they are not clear or haven't been transmitted to the committee.

Project Plans

[1 The Lakes NE Entrance.jpg](#), [2 The Lakes NE Berm.jpg](#), [3 The Lakes NE Berm Long View.jpg](#), [4 The Lakes NE Berm Detail.jpg](#), [5 The Lakes NE Berm Close Up.jpg](#), [6 The Lakes NE Berm Misc..jpg](#), [7 The Lakes NE Berm Close Up 2.jpg](#), [8 The Lakes SE Entrance View.jpg](#), [9 The Lakes SE Berm.jpg](#), [10 The Lakes SE Berm Longer View.jpg](#), [11 The Lakes SE Berm Southern Portion.jpg](#), [12 The Lakes SE Berm and Entrance.jpg](#), [13 The Lakes SE Berm Long View 2.jpg](#), [14 The Lakes Grassy Branch NW Entrance.jpg](#), [15 The Lakes Grassy Branch NW Berm Long View.jpg](#), [16 The Lakes Grassy Branch NW Berm Long View 2.jpg](#), [17 The Lakes Grassy Branch Sw Entrance.jpg](#), [18 The Lakes Grassy Branch SW Berm Detail.jpg](#), [19 The Lakes Grassy Branch West Side Overview.jpg](#), [20 The Lakes Grassy Branch NW View.jpg](#), [21 The Lakes Grassy Branch NW Berm Long View 2.jpg](#), [Lakes of Westfield NVG Proposal Pt. 1.pdf](#), [Lakes of Westfield NVG Proposal Pt. 2.pdf](#), [Lakes of Westfield NVG Proposal Pt. 3.pdf](#), [Lakes of Westfield NVG Proposal Pt. 4.pdf](#), [NVG Proposal 28022025.docx](#), [The Lakes Map 1.pdf](#), [The Lakes Map 2.jpg](#)

Email not displaying correctly? [View it in your browser.](#)

CITY OF WESTFIELD, INDIANA
NEIGHBORHOOD VIBRANCY GRANT AGREEMENT

This Neighborhood Vibrancy Grant Agreement (“Agreement”) is entered into by and between the City of Westfield, Indiana (“City”) and Maple Knoll Home Owners Association (“HOA”) (each a “Party” and collectively “the Parties”) on this ____ day of _____, 2025.

WHEREAS, the City is a municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council;

WHEREAS, the HOA is a Indiana nonprofit corporation organized to manage and maintain common areas and enforce rules within a community, such as a condominium or subdivision, and ensure the upkeep of shared spaces and adherence to community standards, which operates within the City;

WHEREAS, the City administers a Neighborhood Vibrancy Grant Program (“NVGP”) whereby the City provides funding for unique and innovative ideas that make the community a more vibrant place to live and positively impact the quality of life in the City;

WHEREAS, Ind. Code § 36-10-2-2, Ind. Code § 36-10-2-4, Ind. Code § 36-10-2-5, and State Board of Accounts guidance provide that the City may provide aid to recreation facilities and programs, community service facilities and programs, neighborhood

centers, community centers, and civic centers, and that a written contract should document the services provided; and

WHEREAS, the City and the HOA desire to enter into this Agreement to formalize the City's grant of funds to the HOA, and responsibilities and commitments related thereto.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, the City and the HOA hereby agree as follows:

Section 1. Recitals. The above Recitals are an integral part of this Agreement and are specifically incorporated herein by reference.

Section 2. Grant Agreement. The City, after review and recommendation by the NVGP Committee and approval by the Board of Public Works and Safety, agrees to a one-time grant of a total of TEN THOUSAND DOLLARS AND ZERO CENTS (\$10,000.00) ("Grant Funds") to the HOA to assist with payments and costs related to the project described in the attached NVGP application ("Project"). The Grant Funds shall be used only in accordance with the terms of this Agreement.

Section 3. Obligations of the HOA. The HOA agrees that the Project must be completed within one (1) year of receipt of the Grant Funds. The HOA agrees to use any and all Grant Funds from the City only towards the cost of the Project and for no other purpose. The HOA agrees to provide the City with the following information and documentation:

- (a) A budget for the Project;
- (b) Certified copies of incorporation as a nonprofit corporation under Indiana state law;
- (c) Appropriate documentation identifying the HOA as an Indiana nonprofit corporation in good standing;
- (d) Any audits, reviews, financial statements, or compilations available describing the financial condition of the HOA;
- (e) A Project end report describing how the Grant Funds were used and the impact of the dollars had on completing the Project; and
- (f) Other relevant documentation that the City requests.

Section 4. Non-profit Status. By executing this Agreement, the HOA hereby represents and warrants that it is a nonprofit entity in good standing.

Section 5. Use of Funds by the HOA. The Grant Funds received by the HOA pursuant to this Agreement shall be used only to assist with costs for the Project, and for no other purpose. If it is determined by the City that the Grant Funds have been misappropriated, or the HOA violates any term of this Agreement, this Agreement shall immediately be terminated and the HOA agrees to return all funds received from the City.

Section 6. Non-Exclusivity. The City and the HOA agree that the City may enter into other Grant Agreements or similar agreements, and the HOA shall not be the exclusive recipient of grants or donations from the City.

Section 7. Good Faith Cooperation. The City and the HOA agree to cooperate fully and in good faith, take additional actions, and execute additional documents as may be needed to fulfill the terms and intent of this Agreement.

Section 8. Effective Date and Term. This Agreement shall be effective upon the signing of both parties hereto, and shall be in effect until Project completion or one (1) year after the Grant Funds are awarded, which ever comes first, subject to termination pursuant to Section 5 of this Agreement. This Agreement may otherwise be terminated or extended only by a written agreement signed by authorized representatives of both the City and the HOA.

Section 9. Notices. Any notice or documentation required to be submitted pursuant to this Agreement shall be submitted in writing to the following addresses:

City of Westfield
Attn: Community Development
2728 E 171st Street
Westfield, Indiana 46074

Maple Knoll HOA
Attn: Adam Goodnight
955 W. Edenbridge Way .
Westfield, Indiana 46074

Section 10. Non-Discrimination. The HOA agrees that it will not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement or the Project, with respect to the employee's hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of the employee's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement.

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Section 16. Amendment. This Agreement may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a writing duly executed by an authorized representative of each of the Parties.

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Section 23. Counterparts. This Agreement may be executed in counterparts.

CITY OF WESTFIELD, INDIANA

Date

MAPLE KNOLL HOA.

Date

Neighborhood Vibrancy Grant Application

Organization/Neighborhood Name	Maple Knoll
Point of Contact Name (first and last)	Adam Goodnight
Point of Contact Email Address	agoodnig24@gmail.com
Point of Contact Phone Number	317-650-0288
Applicant Address	955 W. Edenbridge Way
Subdivision Address (if different)	<i>Field not completed.</i>
Zip Code	46074
Number of Families/Households	500 Homes
Age of Subdivision	Mid 2000's
How did you hear about the Neighborhood Vibrancy Grant Program?	WeCAN
If you selected other, please let us know!	<i>Field not completed.</i>

(Section Break)

Project Overview

Brief description of the proposed project	We are in the process of updating our springmill road entrance which is our largest of the four we have. We will be removing some brick pillars and doing masonry work on the remaining. We will also be removing all plant material at this entrance and putting in all new landscaping north/south of redhill as well as the center island.
Has the project been approved by the HOA?	Yes
Date of HOA Approval	January 2025
Amount Requested	\$10,000
Total Cost of Project	\$45,000
Project Timeline	We plan to start masonry and landscape work sometime in March with completion by Memorial Day at the latest.

(Section Break)

Project Submission

Full Project Description	Please see the attachments. They show the plant names and the pictures show what the renovated entrance will look like when completed.
Explain the impact the project will have on your neighborhood and the surrounding community	This entrance faces Springmill road and is one of the more dated entrances north of 161st street. It is also the main entrance to our neighborhood. The current masonry is crumbling and the plants are overgrown and mismatched. These improvements will bring a fresh look and beautiful this stretch of road enhancing our neighborhood and giving visual interest to those traveling to and from on Springmill.
How does the project align with the Westfield Comprehensive Plan?	Keeping our neighborhood looking great and consistent with the original entrance design. I believe the new comprehensive plan is still in the development/revision stages so not sure how to compare it to the original 2007 plan.
How do you plan to evaluate the success of the project?	Coming in on budget, quality installation, feedback from community members and others.
If your project is not approved, what will you do to accomplish the project?	We will proceed as planned.

Who will be involved in the implementation of the project?	Our management company (Centerpoint in Carmel), our landscape contractor (Komplete), and our masonry contractor (Shackleford)
Is there any additional information that is important to include about the project?	Our neighborhood is fairly unusual in that it took about 15 years to build out starting in the mid 2000s and finally being turned over to residents around 2018ish. During that time the developer ran the HOA and left us with no reserve funding available after the turnover. We had absolutely nothing in reserves to start with and our masonry, clubhouse, pool, etc. were all in need of repairs due to age. We diligently started putting money aside to our reserves over the subsequent years and have been slowly trying to get our neighborhood repairs in order since then. We have 4 entrances, 2 miles of paved paths, 9 ponds, basketball, tennis, a pool/clubhouse, playground, and several private eyebrows and a private street we will need to repair at some point so any grant money would help us greatly.
Project Plans	Entrance Overview.png , Entry Side View.png , Island Detail.png , Island High View.png , MK - Springmill - Redesign Proposal.pdf , MKSpringmill HIREZ-Overview.jpg , Shackelford entrance renovation SIGNED.pdf , Springmill View.png

Email not displaying correctly? [View it in your browser.](#)

CITY OF WESTFIELD, INDIANA
NEIGHBORHOOD VIBRANCY GRANT AGREEMENT

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WHEREAS, the HOA is a Indiana nonprofit corporation organized to manage and maintain common areas and enforce rules within a community, such as a condominium or subdivision, and ensure the upkeep of shared spaces and adherence to community standards, which operates within the City;

WHEREAS, the City administers a Neighborhood Vibrancy Grant Program (“NVGP”) whereby the City provides funding for unique and innovative ideas that make the community a more vibrant place to live and positively impact the quality of life in the City;

WHEREAS, Ind. Code § 36-10-2-2, Ind. Code § 36-10-2-4, Ind. Code § 36-10-2-5, and State Board of Accounts guidance provide that the City may provide aid to recreation facilities and programs, community service facilities and programs, neighborhood

centers, community centers, and civic centers, and that a written contract should document the services provided; and

WHEREAS, the City and the HOA desire to enter into this Agreement to formalize the City's grant of funds to the HOA, and responsibilities and commitments related thereto.

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Westfield, Indiana 46074

Maple Ridge HOA
Attn: Jim Leach
15410 Spring Winds Dr.
Westfield, Indiana 46033

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stricken, and all other provisions of this Agreement which can operate independently of such stricken provision(s) shall continue in full force and effect.

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Section 18. Assignment. No Party hereto may assign or otherwise transfer this Agreement or any of its rights and obligations hereunder to any third party.

Section 19. Waiver. The failure of a Party to require performance of any provision shall not affect that Party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

Section 20. Construction. The language of this Agreement shall be construed as a whole, according to its fair meaning and intendment, and not strictly for or against any Party, regardless of who drafted or was principally responsible for drafting this Agreement or any specific term, provision, or condition. This Agreement is hereby deemed to have been drafted by all the Parties, and no Party shall urge otherwise.

Section 21. Warranty. Each Party represents and warrants that it has the full power and authority to enter into this Agreement and to perform all transactions, duties and obligations contained herein. Each signatory to this Agreement who signs on behalf of a Party represents and warrants that he or she has the authority to sign on behalf of that Party.

Section 22. Non-Appropriation. The Parties acknowledge that the City is a governmental entity whose funds are subject to appropriation by its fiscal body. Therefore, if the City's fiscal body should fail to appropriate the Grant Funds, this Agreement will become null and void. The City shall not be obligated to perform unless and until sufficient funds are appropriated.

Section 23. Counterparts. This Agreement may be executed in counterparts.

CITY OF WESTFIELD, INDIANA

Date

MAPLE RIDGE HOA.

Date

Neighborhood Vibrancy Grant Application

Organization/Neighborhood Name Maple Ridge

Point of Contact Name (first and last) Jim Leach

Point of Contact Email Address jimleach@gmail.com

Point of Contact Phone Number 3177757771

Applicant Address 15410 Spring Winds Dr

Subdivision Address (if different) *Field not completed.*

Zip Code 46033

Number of Families/Households 64

Age of Subdivision 7-8 years

How did you hear about the Neighborhood Vibrancy Grant Program? Media (TV, newspaper)

If you selected other,
please let us know!

Field not completed.

(Section Break)

Project Overview

Brief description of the proposed project	Remove invasive plants (honeysuckle, Callery Pear) as well as dead and fallen trees. This is on the south side of drainage creek from Oak Bluffs Dr from the bridge, all along the walking path, to the walking path bridge.
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Has the project been approved by the HOA?	Yes
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Date of HOA Approval	12/1/24
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Amount Requested	\$7,000
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Total Cost of Project	\$10,500
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Project Timeline	Spring
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(Section Break)

Project Submission

Full Project Description	We have a walking path that runs through our HOA from Oak Rd and connects with the paved walking path in Grassy Branch (Bridgewater). We have recently paved a portion of this path, but there is still a large portion that is cross country style that runs from Oak Rd all along a city creek/drainage ditch and connects to a bridge at Oak Bluffs Rd. We would like to be able to pave this at some point, but we would need to clean up the area along the creek as a first step. If paved, this would ultimately give a paved walking path from Oak Rd all the way to Bridgewater, out to Carey Rd and beyond. The creek bed is adorned with many beautiful trees of various types. However, invasive honeysuckle and Pear trees along with aggressive vines have overtaken this area causing many trees to fall/die, and existing ones to struggle to survive. This project would be to clear out as much of the invasive growth and vines to beautify the area, allow the existing trees to thrive, and allow new trees to grow/be planted (potentially). A side benefit is this would benefit the city drainage as it would help prevent trees and branches from blocking the creek when they fall or deteriorate from the invasive plants killing and weakening them. Overall, this would create a very scenic view along a walking path that goes from Oak Rd to
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	Grassy Branch (Bridgewater) while saving many beautiful old trees from the damage caused by the significant overgrowth of Japanese Honeysuckle and Pear trees. It would also be beneficial for the drainage ditch, keeping it clear of tree debris.
Explain the impact the project will have on your neighborhood and the surrounding community	The impact would to beautify the long walking path along the drainage creek, saving beautiful old growth trees that are struggling to survive from the overgrowth of invasive plants and vines. It would also create a beautiful view for all the houses in the HOA that back up to this common area. In addition, the walking path that goes from Oak Rd, along this creek and connects into the path system in Bridgewater would be a beautiful path for people to enjoy. We have been able to pave part of our path, but this part of the path along the creek remains a cross country style path. Having this creek area cleaned of the invasive plants and vines, dead trees and fallen trees removed, would make the path safer to walk and provide more space to eventually pave in the future. Ultimately, this path would nicely tie into the paved path system of Westfield, benefiting the community.
How does the project align with the Westfield Comprehensive Plan?	Beautifying this area and eliminating invasive species is 100% aligned with the objectives of Westfield as well as Hamilton County. In addition, this area is adjacent to our existing walking path that connects Oak Rd to Bridgewater's paved paths that then connect into Carey Rd and beyond, a major objective of Westfield. We would like to pave this portion of the path at some point, but cleaning out the adjacent area would be the first step in achieving that goal.
How do you plan to evaluate the success of the project?	The removal of invasive species and vines, the cleaning up of the existing trees and their improving health over time.
If your project is not approved, what will you do to accomplish the project?	Our HOA has around 20 acres of common area, with every home connected to common area. Up to this point, volunteers from our neighborhood, with some help from contractors, have worked to clear out invasive species and vines to the best of our ability. But it is an enormous job and one we need professionals to begin working on. This project is just the first of many that are needed to clear invasive species and protect the existing trees that is needed in our HOA.

Who will be involved in the implementation of the project?	The HOA board will oversee the contractor who would complete the work.
Is there any additional information that is important to include about the project?	Once again, we have an unusually large amount of common space in our HOA. We are blessed with many old trees, but unfortunately they are all in areas with extensive overgrowth of invasive Japanese Honeysuckle, Pear, vines, etc. We have worked hard over the years trying to save these trees from this overgrowth, but if we do not begin to be more aggressive with professional contractors, we are going to lose a lot more trees and the overgrowth will continue. This project would add tremendous beauty to the HOA and also along the walking path that runs along this creek area.
Project Plans	IMG_7833.jpg , IMG_7836.jpg , IMG_7828.jpg , IMG_7829.jpg , Aerial view.jpg , estimate_2018033135.pdf

Email not displaying correctly? [View it in your browser.](#)

CITY OF WESTFIELD, INDIANA
NEIGHBORHOOD VIBRANCY GRANT AGREEMENT

This Neighborhood Vibrancy Grant Agreement (“Agreement”) is entered into by and between the City of Westfield, Indiana (“City”) and Oak Manor Home Owners Association (“HOA”) (each a “Party” and collectively “the Parties”) on this ____ day of _____, 2025.

WHEREAS, the City is a municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council;

WHEREAS, the HOA is a Indiana nonprofit corporation organized to manage and maintain common areas and enforce rules within a community, such as a condominium or subdivision, and ensure the upkeep of shared spaces and adherence to community standards, which operates within the City;

WHEREAS, the City administers a Neighborhood Vibrancy Grant Program (“NVGP”) whereby the City provides funding for unique and innovative ideas that make the community a more vibrant place to live and positively impact the quality of life in the City;

WHEREAS, Ind. Code § 36-10-2-2, Ind. Code § 36-10-2-4, Ind. Code § 36-10-2-5, and State Board of Accounts guidance provide that the City may provide aid to recreation facilities and programs, community service facilities and programs, neighborhood

centers, community centers, and civic centers, and that a written contract should document the services provided; and

WHEREAS, the City and the HOA desire to enter into this Agreement to formalize the City's grant of funds to the HOA, and responsibilities and commitments related thereto.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, the City and the HOA hereby agree as follows:

Section 1. Recitals. The above Recitals are an integral part of this Agreement and are specifically incorporated herein by reference.

Section 2. Grant Agreement. The City, after review and recommendation by the NVGP Committee and approval by the Board of Public Works and Safety, agrees to a one-time grant of a total of NINE THOUSAND SEVEN HUNDRED FOUR DOLLARS AND SIXTY CENTS (\$9,704.60) ("Grant Funds") to the HOA to assist with payments and costs related to the project described in the attached NVGP application ("Project"). The Grant Funds shall be used only in accordance with the terms of this Agreement.

Section 3. Obligations of the HOA. The HOA agrees that the Project must be completed within one (1) year of receipt of the Grant Funds. The HOA agrees to use any and all Grant Funds from the City only towards the cost of the Project and for no other purpose. The HOA agrees to provide the City with the following information and documentation:

- (a) A budget for the Project;
- (b) Certified copies of incorporation as a nonprofit corporation under Indiana state law;
- (c) Appropriate documentation identifying the HOA as an Indiana nonprofit corporation in good standing;
- (d) Any audits, reviews, financial statements, or compilations available describing the financial condition of the HOA;
- (e) A Project end report describing how the Grant Funds were used and the impact of the dollars had on completing the Project; and
- (f) Other relevant documentation that the City requests.

Section 4. Non-profit Status. By executing this Agreement, the HOA hereby represents and warrants that it is a nonprofit entity in good standing.

Section 5. Use of Funds by the HOA. The Grant Funds received by the HOA pursuant to this Agreement shall be used only to assist with costs for the Project, and for no other purpose. If it is determined by the City that the Grant Funds have been misappropriated, or the HOA violates any term of this Agreement, this Agreement shall immediately be terminated and the HOA agrees to return all funds received from the City.

Section 6. Non-Exclusivity. The City and the HOA agree that the City may enter into other Grant Agreements or similar agreements, and the HOA shall not be the exclusive recipient of grants or donations from the City.

Section 7. Good Faith Cooperation. The City and the HOA agree to cooperate fully and in good faith, take additional actions, and execute additional documents as may be needed to fulfill the terms and intent of this Agreement.

Section 8. Effective Date and Term. This Agreement shall be effective upon the signing of both parties hereto, and shall be in effect until Project completion or one (1) year after the Grant Funds are awarded, which ever comes first, subject to termination pursuant to Section 5 of this Agreement. This Agreement may otherwise be terminated or extended only by a written agreement signed by authorized representatives of both the City and the HOA.

Section 9. Notices. Any notice or documentation required to be submitted pursuant to this Agreement shall be submitted in writing to the following addresses:

City of Westfield
Attn: Community Development
2728 E 171st Street
Westfield, Indiana 46074

Oak Manor HOA
Attn: Al Nelson
2697 Diamant Dr..
Westfield, Indiana 46074

Section 10. Non-Discrimination. The HOA agrees that it will not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement or the Project, with respect to the employee's hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of the employee's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement.

Section 11. Indemnification. The HOA shall defend, indemnify, and hold harmless the City and each and every past, present, and future official, representative, subsidiary, parent, division, affiliate, officer, director, employee, attorney, predecessor, and successor, both individually and in their representative capacities from and against all third party claims, demands, litigation and losses arising out of or concerning (1) the failure of the HOA to observe and perform any of its obligations under this Agreement and/or (2) any intentional or negligent act or omission by the HOA.

Section 12. Governing Law. This Agreement is governed by the laws of the State of Indiana. The Parties submit to the jurisdiction of Hamilton County, Indiana courts and waive any objection to venue.

Section 13. 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 provision(s) shall continue in full force and effect.

Section 14. Relationship of the Parties. The employees and/or agents of the City are not employees of the HOA by virtue of this Agreement, and vice versa. The HOA has no authority to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of the City, except as expressly so stated in this Agreement or a duly authorized amendment hereto.

Section 15. Counsel and Understanding. Each Party warrants that: (a) it is represented by competent counsel with respect to this Agreement and all matters covered by it, or has waived the right to be so represented; (b) it has been fully advised by said counsel with respect to its rights and obligations and with respect to the execution of this Agreement or has waived the right to be so advised; and (c) it fully understands this Agreement and the effect of signing and executing it.

Section 16. Amendment. This Agreement may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a writing duly executed by an authorized representative of each of the Parties.

Section 17. Entire Agreement. This Agreement shall constitute the entire agreement between the parties with respect to the subject matter herein, and there are no other terms, statements, obligations, or representations, oral or otherwise, of any nature whatsoever. This Agreement, along with all exhibits, attachments, or other documents

incorporated herein by reference, constitutes the entire agreement by and between the Parties and supersedes and replaces all prior negotiations, proposed agreement or agreements, written or oral, related to this Agreement or the matters addressed herein.

Section 18. Assignment. No Party hereto may assign or otherwise transfer this Agreement or any of its rights and obligations hereunder to any third party.

Section 19. Waiver. The failure of a Party to require performance of any provision shall not affect that Party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

Section 20. Construction. The language of this Agreement shall be construed as a whole, according to its fair meaning and intentment, and not strictly for or against any Party, regardless of who drafted or was principally responsible for drafting this Agreement or any specific term, provision, or condition. This Agreement is hereby deemed to have been drafted by all the Parties, and no Party shall urge otherwise.

Section 21. Warranty. Each Party represents and warrants that it has the full power and authority to enter into this Agreement and to perform all transactions, duties and obligations contained herein. Each signatory to this Agreement who signs on behalf of a Party represents and warrants that he or she has the authority to sign on behalf of that Party.

Section 22. Non-Appropriation. The Parties acknowledge that the City is a governmental entity whose funds are subject to appropriation by its fiscal body. Therefore, if the City's fiscal body should fail to appropriate the Grant Funds, this Agreement will become null and void. The City shall not be obligated to perform unless and until sufficient funds are appropriated.

Section 23. Counterparts. This Agreement may be executed in counterparts.

CITY OF WESTFIELD, INDIANA

Date

OAK MANOR HOA.

Date

Neighborhood Vibrancy Grant Application

Organization/Neighborhood Name	Oak Manor HOA
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Point of Contact Name (first and last)	al nelson
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Point of Contact Email Address	acn
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Point of Contact Phone Number	3177301716
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Applicant Address	2697 Diamant Dr
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Subdivision Address (if different)	16830 Oak Manor Dr.
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Zip Code	46074
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Number of Families/Households	269
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Age of Subdivision	20 yrs - 3 phases
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How did you hear about the Neighborhood Vibrancy Grant Program?	Other
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If you selected other,
please let us know!

Initially we heard from the Mayor then Wecan

(Section Break)

Project Overview

Brief description of the proposed project	5 separate areas of improvements thru-out the neighborhood from the entrances off Carey Rd to the common areas along Oak Rd. with quotes for each area
Has the project been approved by the HOA?	Yes
Date of HOA Approval	2/18/25
Amount Requested	9,704.60
Total Cost of Project	19,409.20
Project Timeline	Mid April early May 2025

(Section Break)

Project Submission

Full Project Description	See attachments
Explain the impact the project will have on your neighborhood and the surrounding community	Our Carey Rd entrances have needed improvements and beautification for a long time. This would help us with that goal. We have budgeted \$10,000 for 2025 common area improvements so if we do not receive this grant we will need to scale back.
How does the project align with the Westfield Comprehensive Plan?	Improving overall appearances for the community and neighborhood.
How do you plan to evaluate the success of the project?	Feedback from the HOA and community on our facebook and Nextdoor
If your project is not approved, what will you do to accomplish the project?	As mentioned above we would need to scale back and budget for the remainder next year. Most likely we would only be able to do one of the Carey Rd entrance improvements.
Who will be involved in the implementation of the project?	Traditional Concepts, Bam and Hittle. The work will be overseen by Tom LInnen, our President and landscape expert.

Is there any additional information that is important to include about the project?

We really appreciate the opportunity to apply for this grant money and would help our overall appearance along Carey Rd tremendously and is fully supported by our Mayor and resident Scott Willis.

Project Plans

[Oak Manor Crabapple Spray.pdf](#), [Oak Manor- Carey North Entrance.pdf](#), [oakmanorvibrancy25A.pdf](#)

Email not displaying correctly? [View it in your browser.](#)

CITY OF WESTFIELD, INDIANA
NEIGHBORHOOD VIBRANCY GRANT AGREEMENT

This Neighborhood Vibrancy Grant Agreement (“Agreement”) is entered into by and between the City of Westfield, Indiana (“City”) and Oak Preserve Home Owners Association (“HOA”) (each a “Party” and collectively “the Parties”) on this ____ day of _____, 2025.

WHEREAS, the City is a municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council;

WHEREAS, the HOA is a Indiana nonprofit corporation organized to manage and maintain common areas and enforce rules within a community, such as a condominium or subdivision, and ensure the upkeep of shared spaces and adherence to community standards, which operates within the City;

WHEREAS, the City administers a Neighborhood Vibrancy Grant Program (“NVGP”) whereby the City provides funding for unique and innovative ideas that make the community a more vibrant place to live and positively impact the quality of life in the City;

WHEREAS, Ind. Code § 36-10-2-2, Ind. Code § 36-10-2-4, Ind. Code § 36-10-2-5, and State Board of Accounts guidance provide that the City may provide aid to recreation facilities and programs, community service facilities and programs, neighborhood

centers, community centers, and civic centers, and that a written contract should document the services provided; and

WHEREAS, the City and the HOA desire to enter into this Agreement to formalize the City's grant of funds to the HOA, and responsibilities and commitments related thereto.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, the City and the HOA hereby agree as follows:

Section 1. Recitals. The above Recitals are an integral part of this Agreement and are specifically incorporated herein by reference.

Section 2. Grant Agreement. The City, after review and recommendation by the NVGP Committee and approval by the Board of Public Works and Safety, agrees to a one-time grant of a total of TEN THOUSAND DOLLARS AND ZERO CENTS (\$10,000.00) ("Grant Funds") to the HOA to assist with payments and costs related to the project described in the attached NVGP application ("Project"). The Grant Funds shall be used only in accordance with the terms of this Agreement.

Section 3. Obligations of the HOA. The HOA agrees that the Project must be completed within one (1) year of receipt of the Grant Funds. The HOA agrees to use any and all Grant Funds from the City only towards the cost of the Project and for no other purpose. The HOA agrees to provide the City with the following information and documentation:

- (a) A budget for the Project;
- (b) Certified copies of incorporation as a nonprofit corporation under Indiana state law;
- (c) Appropriate documentation identifying the HOA as an Indiana nonprofit corporation in good standing;
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- (e) A Project end report describing how the Grant Funds were used and the impact of the dollars had on completing the Project; and
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City of Westfield
Attn: Community Development
2728 E 171st Street
Westfield, Indiana 46074

Oak Preserve HOA
Attn: Eddie Santiago
5702 Kirkpatrick Way
Indianapolis, Indiana 46220

Section 10. Non-Discrimination. The HOA agrees that it will not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement or the Project, with respect to the employee's hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of the employee's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement.

Section 11. Indemnification. The HOA shall defend, indemnify, and hold harmless the City and each and every past, present, and future official, representative, subsidiary, parent, division, affiliate, officer, director, employee, attorney, predecessor, and successor, both individually and in their representative capacities from and against all third party claims, demands, litigation and losses arising out of or concerning (1) the failure of the HOA to observe and perform any of its obligations under this Agreement and/or (2) any intentional or negligent act or omission by the HOA.

Section 12. Governing Law. This Agreement is governed by the laws of the State of Indiana. The Parties submit to the jurisdiction of Hamilton County, Indiana courts and waive any objection to venue.

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stricken, and all other provisions of this Agreement which can operate independently of such stricken provision(s) shall continue in full force and effect.

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Section 15. Counsel and Understanding. Each Party warrants that: (a) it is represented by competent counsel with respect to this Agreement and all matters covered by it, or has waived the right to be so represented; (b) it has been fully advised by said counsel with respect to its rights and obligations and with respect to the execution of this Agreement or has waived the right to be so advised; and (c) it fully understands this Agreement and the effect of signing and executing it.

Section 16. Amendment. This Agreement may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a writing duly executed by an authorized representative of each of the Parties.

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Section 23. Counterparts. This Agreement may be executed in counterparts.

CITY OF WESTFIELD, INDIANA

Date

OAK PRESERVE HOA.

Date

Neighborhood Vibrancy Grant Application

Organization/Neighborhood Name The Oaks Preserve Condominium Association

Point of Contact Name (first and last) Eddie Santiago

Point of Contact Email Address esantiago@ekirkpatrick.com

Point of Contact Phone Number 317-558-5338

Applicant Address 5702 Kirkpatrick Way

Subdivision Address (if different) 530 Nuttall St, Westfield, IN 46074

Zip Code 46220

Number of Families/Households 69

Age of Subdivision 20

How did you hear about the Neighborhood Vibrancy Grant Program? Media (TV, newspaper)

If you selected other, please let us know! *Field not completed.*

(Section Break)

Project Overview

Brief description of the proposed project	We are looking to update the front entrance area off of Oak Ridge Rd, which still has the developer's original plantings, and install an aeration system in our North pond to improve circulation. To install the aeration system, we need to run power to the pond, so we also want to provide power to the Association pavilion, which is used for community events in warmer months.
Has the project been approved by the HOA?	Yes
Date of HOA Approval	2/19/25
Amount Requested	10,000
Total Cost of Project	22,147.54
Project Timeline	The goal would be to have everything completed before June of 2025

(Section Break)

Project Submission

Full Project Description	Front Entrance Plantings: Remove all existing material - plants, soil, compost, mulch, etc, Haul and dispose off-site. Install 1" organic compost to all planting beds. Till into existing soil and level grade. Install 6" organic compost to recreate annual beds. Where beds are being converted to turf, till to create a suitable seed bed and level grade with surrounding turf. Install Turf Type Tall Fescue and straw blanket upon completion of grade work. Install plants per design. Install Black-dyed mulch upon completion of planting. Install includes initial watering after planting. Plant Types (see attached estimate): 4 Cornus sericea subsp. sericea 'Farrow' (Arctic Fire Red) - Arctic Fire Redtwig Dogwood 3G Shrub Installed; 10 Fothergilla x intermedia 'NCF11' (Legend Of The Small) - Legend of the Small Bottlebrush 3G Shrub Installed; 12 Schizachyrium scoparium 'Standing Ovation' - Standing Ovation Little Bluestem 1G Perennial Installed; 80 rubeckia fulgida var. sullivantii 'Little Goldstar' - Little Goldstar Black-eyed Susan 1G Perennial Installed; 60 Penstemon digitalis 'Husker Red' - Husker Red Beardtongue 1G Perennial Installed Aeration System in North Pond: A Robustaire 2 will be
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	installed in North Pond to better circulate the water and help aquatic life. The vendor will coordinate with the utility company and pull proper permits to install a meter and provide power to the pond area. The trench needed goes around the pavilion, so we are also looking to provide power to the pavilion since it would be more cost-effective to do this all at the same time.
Explain the impact the project will have on your neighborhood and the surrounding community	The main entrance update will provide a better visual to the surrounding community as traffic continues to increase along Oak Ridge Rd. For the pond we are hoping that the improved circulation will help the aquatic life in the pond and decrease algae to a degree.
How does the project align with the Westfield Comprehensive Plan?	We believe that the entrance work aligns with environmental and landscape enhancements that will bring a more vibrant look to that area. The pond work also falls under the same category, as it will improve the health of the aquatic life in the pond and provide a more appealing pond for owners to look at.
How do you plan to evaluate the success of the project?	We would evaluate it in the Summer of 2026. The second year of plantings is when you see how it should look going forward, and that will be a year of the aeration system so we can see if the overall health has improved. If so, we will see if we can do a project similar to the one at the south pond.
If your project is not approved, what will you do to accomplish the project?	We plan to move on to the entrance work with or without approval. The aeration system will be tabled for the year while we evaluate our financial position. If the community is still in a good position come quarter 4, we will bring it back to a board vote.
Who will be involved in the implementation of the project?	The management company, Kirkpatrick Management, will coordinate with the two vendors we have for the work. Brightview Landscaping will handle the main entrance planting as they are the Association landscaping vendor. ASAP Aquatic will coordinate and install the aeration system.
Is there any additional information that is important to include about the project?	The attachments have designs and pictures of all the work that is planned.
Project Plans	Oaks Preserve - pond aeration installation.pdf, The Oaks Preserve Condos - Entrance Designs.pdf, The Oaks

[Preserve Condos - Entrance Renovations SO 8608395 - signed.pdf](#)

Email not displaying correctly? [View it in your browser.](#)

CITY OF WESTFIELD, INDIANA
NEIGHBORHOOD VIBRANCY GRANT AGREEMENT

This Neighborhood Vibrancy Grant Agreement (“Agreement”) is entered into by and between the City of Westfield, Indiana (“City”) and Scofield Farms Home Owners Association (“HOA”) (each a “Party” and collectively “the Parties”) on this ____ day of _____, 2025.

WHEREAS, the City is a municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council;

WHEREAS, the HOA is a Indiana nonprofit corporation organized to manage and maintain common areas and enforce rules within a community, such as a condominium or subdivision, and ensure the upkeep of shared spaces and adherence to community standards, which operates within the City;

WHEREAS, the City administers a Neighborhood Vibrancy Grant Program (“NVGP”) whereby the City provides funding for unique and innovative ideas that make the community a more vibrant place to live and positively impact the quality of life in the City;

WHEREAS, Ind. Code § 36-10-2-2, Ind. Code § 36-10-2-4, Ind. Code § 36-10-2-5, and State Board of Accounts guidance provide that the City may provide aid to recreation facilities and programs, community service facilities and programs, neighborhood

centers, community centers, and civic centers, and that a written contract should document the services provided; and

WHEREAS, the City and the HOA desire to enter into this Agreement to formalize the City's grant of funds to the HOA, and responsibilities and commitments related thereto.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, the City and the HOA hereby agree as follows:

Section 1. Recitals. The above Recitals are an integral part of this Agreement and are specifically incorporated herein by reference.

Section 2. Grant Agreement. The City, after review and recommendation by the NVGP Committee and approval by the Board of Public Works and Safety, agrees to a one-time grant of a total of SIX HUNDRED DOLLARS AND ZERO CENTS (\$600.00) ("Grant Funds") to the HOA to assist with payments and costs related to the project described in the attached NVGP application ("Project"). The Grant Funds shall be used only in accordance with the terms of this Agreement.

Section 3. Obligations of the HOA. The HOA agrees that the Project must be completed within one (1) year of receipt of the Grant Funds. The HOA agrees to use any and all Grant Funds from the City only towards the cost of the Project and for no other purpose. The HOA agrees to provide the City with the following information and documentation:

- (a) A budget for the Project;
- (b) Certified copies of incorporation as a nonprofit corporation under Indiana state law;
- (c) Appropriate documentation identifying the HOA as an Indiana nonprofit corporation in good standing;
- (d) Any audits, reviews, financial statements, or compilations available describing the financial condition of the HOA;
- (e) A Project end report describing how the Grant Funds were used and the impact of the dollars had on completing the Project; and
- (f) Other relevant documentation that the City requests.

Section 4. Non-profit Status. By executing this Agreement, the HOA hereby represents and warrants that it is a nonprofit entity in good standing.

Section 5. Use of Funds by the HOA. The Grant Funds received by the HOA pursuant to this Agreement shall be used only to assist with costs for the Project, and for no other purpose. If it is determined by the City that the Grant Funds have been misappropriated, or the HOA violates any term of this Agreement, this Agreement shall immediately be terminated and the HOA agrees to return all funds received from the City.

Section 6. Non-Exclusivity. The City and the HOA agree that the City may enter into other Grant Agreements or similar agreements, and the HOA shall not be the exclusive recipient of grants or donations from the City.

Section 7. Good Faith Cooperation. The City and the HOA agree to cooperate fully and in good faith, take additional actions, and execute additional documents as may be needed to fulfill the terms and intent of this Agreement.

Section 8. Effective Date and Term. This Agreement shall be effective upon the signing of both parties hereto, and shall be in effect until Project completion or one (1) year after the Grant Funds are awarded, which ever comes first, subject to termination pursuant to Section 5 of this Agreement. This Agreement may otherwise be terminated or extended only by a written agreement signed by authorized representatives of both the City and the HOA.

Section 9. Notices. Any notice or documentation required to be submitted pursuant to this Agreement shall be submitted in writing to the following addresses:

City of Westfield
Attn: Community Development
2728 E 171st Street
Westfield, Indiana 46074

Scofield Farms HOA
Attn: Stacy Meyers Weigel
4400 West Fork Drive
Westfield, Indiana 46062

Section 10. Non-Discrimination. The HOA agrees that it will not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement or the Project, with respect to the employee's hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of the employee's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement.

Section 11. Indemnification. The HOA shall defend, indemnify, and hold harmless the City and each and every past, present, and future official, representative, subsidiary, parent, division, affiliate, officer, director, employee, attorney, predecessor, and successor, both individually and in their representative capacities from and against all third party claims, demands, litigation and losses arising out of or concerning (1) the failure of the HOA to observe and perform any of its obligations under this Agreement and/or (2) any intentional or negligent act or omission by the HOA.

Section 12. Governing Law. This Agreement is governed by the laws of the State of Indiana. The Parties submit to the jurisdiction of Hamilton County, Indiana courts and waive any objection to venue.

Section 13. 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 provision(s) shall continue in full force and effect.

Section 14. Relationship of the Parties. The employees and/or agents of the City are not employees of the HOA by virtue of this Agreement, and vice versa. The HOA has no authority to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of the City, except as expressly so stated in this Agreement or a duly authorized amendment hereto.

Section 15. Counsel and Understanding. Each Party warrants that: (a) it is represented by competent counsel with respect to this Agreement and all matters covered by it, or has waived the right to be so represented; (b) it has been fully advised by said counsel with respect to its rights and obligations and with respect to the execution of this Agreement or has waived the right to be so advised; and (c) it fully understands this Agreement and the effect of signing and executing it.

Section 16. Amendment. This Agreement may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a writing duly executed by an authorized representative of each of the Parties.

Section 17. Entire Agreement. This Agreement shall constitute the entire agreement between the parties with respect to the subject matter herein, and there are no other terms, statements, obligations, or representations, oral or otherwise, of any nature whatsoever. This Agreement, along with all exhibits, attachments, or other documents

incorporated herein by reference, constitutes the entire agreement by and between the Parties and supersedes and replaces all prior negotiations, proposed agreement or agreements, written or oral, related to this Agreement or the matters addressed herein.

Section 18. Assignment. No Party hereto may assign or otherwise transfer this Agreement or any of its rights and obligations hereunder to any third party.

Section 19. Waiver. The failure of a Party to require performance of any provision shall not affect that Party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

Section 20. Construction. The language of this Agreement shall be construed as a whole, according to its fair meaning and intendment, and not strictly for or against any Party, regardless of who drafted or was principally responsible for drafting this Agreement or any specific term, provision, or condition. This Agreement is hereby deemed to have been drafted by all the Parties, and no Party shall urge otherwise.

Section 21. Warranty. Each Party represents and warrants that it has the full power and authority to enter into this Agreement and to perform all transactions, duties and obligations contained herein. Each signatory to this Agreement who signs on behalf of a Party represents and warrants that he or she has the authority to sign on behalf of that Party.

Section 22. Non-Appropriation. The Parties acknowledge that the City is a governmental entity whose funds are subject to appropriation by its fiscal body. Therefore, if the City's fiscal body should fail to appropriate the Grant Funds, this Agreement will become null and void. The City shall not be obligated to perform unless and until sufficient funds are appropriated.

Section 23. Counterparts. This Agreement may be executed in counterparts.

CITY OF WESTFIELD, INDIANA

Date

SCOFIELD FARMS HOA.

Date

Neighborhood Vibrancy Grant Application

Organization/Neighborhood Name	Scofield Farms
Point of Contact Name (first and last)	Stacy Meyers Weigel
Point of Contact Email Address	s.meyers@hotmail.com
Point of Contact Phone Number	317-504-2082
Applicant Address	4400 West Fork Drive, Westfield IN 46062
Subdivision Address (if different)	<i>Field not completed.</i>
Zip Code	46062
Number of Families/Households	233
Age of Subdivision	7
How did you hear about the Neighborhood Vibrancy Grant Program?	City Meeting (Council, Town Hall, etc.)
If you selected other, please let us know!	<i>Field not completed.</i>
(Section Break)	

Project Overview

Brief description of the proposed project	An area in our neighborhood is wet the majority of the year and does not support the turf grass currently planted there. We would like to purchase four Indiana native Rain Garden kits from Hamilton County Soil and Water Conservation District to beautify the area and reduce maintenance in the form of mowing and fertilization and filter the water flowing into the West Fork Sly Run.
Has the project been approved by the HOA?	Yes
Date of HOA Approval	02/10/2025
Amount Requested	600
Total Cost of Project	900
Project Timeline	Early spring - smother existing vegetation with biodegradable paper tarp. Late spring - plant the HSWCD Rain Garden plugs. Summer - Weed

(Section Break)

Project Submission

Full Project Description	An area in our neighborhood is wet the majority of the year and does not support the turf grass currently planted there. It is muddy, unattractive and unusable. We would like to purchase four Rain Garden kts from Hamilton County Soil and Water Conservation District to beautify the area and reduce maintenance in the form of mowing and fertilization and filter water flowing from the site into the West Fork Sly Run that flows through our neighborhood. We will also purchase biodegradable paper landscape tarp to smother the existing vegetation. This is part of a larger planned project of converting large portions of the subdivision's community areas from turf grass to native meadowscape. This will beautify our neighborhood, provide native landscape and habitat and save our neighborhood costs to maintain the turf grass. As this is a small initial project, we anticipate being able to do the work ourselves.
Explain the impact the project will have on your neighborhood and the surrounding community	This is a small initial project that will have a big impact on the residents of Scofield Farms and Westfield as a whole. The proposed Rain Garden site is currently muddy and unsightly. Water drains from this area directly into the West Fork Sly Run that flows through our neighborhood bringing with it fertilizer and weed killer. Planting a water garden of

	native flowers and grasses will not only improve the look of the site, the plants will naturally filter the water flowing into the creek. Additionally, it will provide habitat for birds and butterflies and other native animals. It will be an area the neighbors can all enjoy as we walk the neighborhood and will add to the esthetics of the neighborhood increasing property values. In addition, starting with this small project will bring more neighbors on board in support of our larger native meadowscaping project to beautify our neighborhood. These future areas are along the walking paths which are visible from the main roads and usable and accessible by other Westfield residents and will benefit and beautify our entire town.
How does the project align with the Westfield Comprehensive Plan?	The Westfield Comprehensive Plan aims to have intentional growth of our town with innovative solutions and ecofriendly projects. Our neighborhood is currently on the edge of country with lots of wildlife such as owls, hawks, eagles, blue herons, foxes, muskrats and even beavers. We want to make our neighborhood supportive of as much of this wildlife as possible even as development continues to progress. Having native plantings not only is more sustainable and beautiful than turf grass, it supports native wildlife. We also want to protect the creek that runs through our neighborhood.
How do you plan to evaluate the success of the project?	When we are able to enjoy the Indiana native plantings growing and blooming on what used to be unsightly mud.
If your project is not approved, what will you do to accomplish the project?	We are looking into other grant programs.
Who will be involved in the implementation of the project?	The landscape committee and our landscaping firm, BAM. It is a small enough project that can be completed on one of our neighborhood beautification workdays.
Is there any additional information that is important to include about the project?	We are very excited about this project and hope that you will see that it's small cost will have big results in the long term. Thank you for having this initiative in Westfield. We are proud to live in this community.
Project Plans	Scofield Farms Rain Garden Conservation Plan.pdf

Email not displaying correctly? [View it in your browser.](#)

CITY OF WESTFIELD, INDIANA
NEIGHBORHOOD VIBRANCY GRANT AGREEMENT

This Neighborhood Vibrancy Grant Agreement (“Agreement”) is entered into by and between the City of Westfield, Indiana (“City”) and Setters Run Home Owners Association (“HOA”) (each a “Party” and collectively “the Parties”) on this ____ day of _____, 2025.

WHEREAS, the City is a municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council;

WHEREAS, the HOA is a Indiana nonprofit corporation organized to manage and maintain common areas and enforce rules within a community, such as a condominium or subdivision, and ensure the upkeep of shared spaces and adherence to community standards, which operates within the City;

WHEREAS, the City administers a Neighborhood Vibrancy Grant Program (“NVGP”) whereby the City provides funding for unique and innovative ideas that make the community a more vibrant place to live and positively impact the quality of life in the City;

WHEREAS, Ind. Code § 36-10-2-2, Ind. Code § 36-10-2-4, Ind. Code § 36-10-2-5, and State Board of Accounts guidance provide that the City may provide aid to recreation facilities and programs, community service facilities and programs, neighborhood

centers, community centers, and civic centers, and that a written contract should document the services provided; and

WHEREAS, the City and the HOA desire to enter into this Agreement to formalize the City's grant of funds to the HOA, and responsibilities and commitments related thereto.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, the City and the HOA hereby agree as follows:

Section 1. Recitals. The above Recitals are an integral part of this Agreement and are specifically incorporated herein by reference.

Section 2. Grant Agreement. The City, after review and recommendation by the NVGP Committee and approval by the Board of Public Works and Safety, agrees to a one-time grant of a total of TEN THOUSAND DOLLARS AND ZERO CENTS (\$10,000.00) ("Grant Funds") to the HOA to assist with payments and costs related to the project described in the attached NVGP application ("Project"). The Grant Funds shall be used only in accordance with the terms of this Agreement.

Section 3. Obligations of the HOA. The HOA agrees that the Project must be completed within one (1) year of receipt of the Grant Funds. The HOA agrees to use any and all Grant Funds from the City only towards the cost of the Project and for no other purpose. The HOA agrees to provide the City with the following information and documentation:

- (a) A budget for the Project;
- (b) Certified copies of incorporation as a nonprofit corporation under Indiana state law;
- (c) Appropriate documentation identifying the HOA as an Indiana nonprofit corporation in good standing;
- (d) Any audits, reviews, financial statements, or compilations available describing the financial condition of the HOA;
- (e) A Project end report describing how the Grant Funds were used and the impact of the dollars had on completing the Project; and
- (f) Other relevant documentation that the City requests.

Section 4. Non-profit Status. By executing this Agreement, the HOA hereby represents and warrants that it is a nonprofit entity in good standing.

Section 5. Use of Funds by the HOA. The Grant Funds received by the HOA pursuant to this Agreement shall be used only to assist with costs for the Project, and for no other purpose. If it is determined by the City that the Grant Funds have been misappropriated, or the HOA violates any term of this Agreement, this Agreement shall immediately be terminated and the HOA agrees to return all funds received from the City.

Section 6. Non-Exclusivity. The City and the HOA agree that the City may enter into other Grant Agreements or similar agreements, and the HOA shall not be the exclusive recipient of grants or donations from the City.

Section 7. Good Faith Cooperation. The City and the HOA agree to cooperate fully and in good faith, take additional actions, and execute additional documents as may be needed to fulfill the terms and intent of this Agreement.

Section 8. Effective Date and Term. This Agreement shall be effective upon the signing of both parties hereto, and shall be in effect until Project completion or one (1) year after the Grant Funds are awarded, which ever comes first, subject to termination pursuant to Section 5 of this Agreement. This Agreement may otherwise be terminated or extended only by a written agreement signed by authorized representatives of both the City and the HOA.

Section 9. Notices. Any notice or documentation required to be submitted pursuant to this Agreement shall be submitted in writing to the following addresses:

City of Westfield
Attn: Community Development
2728 E 171st Street
Westfield, Indiana 46074

Setters Run HOA
Attn: Matthew Arvin
4204 Short Ter
Carmel, Indiana 46033

Section 10. Non-Discrimination. The HOA agrees that it will not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement or the Project, with respect to the employee's hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of the employee's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement.

Section 11. Indemnification. The HOA shall defend, indemnify, and hold harmless the City and each and every past, present, and future official, representative, subsidiary, parent, division, affiliate, officer, director, employee, attorney, predecessor, and successor, both individually and in their representative capacities from and against all third party claims, demands, litigation and losses arising out of or concerning (1) the failure of the HOA to observe and perform any of its obligations under this Agreement and/or (2) any intentional or negligent act or omission by the HOA.

Section 12. Governing Law. This Agreement is governed by the laws of the State of Indiana. The Parties submit to the jurisdiction of Hamilton County, Indiana courts and waive any objection to venue.

Section 13. 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 provision(s) shall continue in full force and effect.

Section 14. Relationship of the Parties. The employees and/or agents of the City are not employees of the HOA by virtue of this Agreement, and vice versa. The HOA has no authority to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of the City, except as expressly so stated in this Agreement or a duly authorized amendment hereto.

Section 15. Counsel and Understanding. Each Party warrants that: (a) it is represented by competent counsel with respect to this Agreement and all matters covered by it, or has waived the right to be so represented; (b) it has been fully advised by said counsel with respect to its rights and obligations and with respect to the execution of this Agreement or has waived the right to be so advised; and (c) it fully understands this Agreement and the effect of signing and executing it.

Section 16. Amendment. This Agreement may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a writing duly executed by an authorized representative of each of the Parties.

Section 17. Entire Agreement. This Agreement shall constitute the entire agreement between the parties with respect to the subject matter herein, and there are no other terms, statements, obligations, or representations, oral or otherwise, of any nature whatsoever. This Agreement, along with all exhibits, attachments, or other documents

incorporated herein by reference, constitutes the entire agreement by and between the Parties and supersedes and replaces all prior negotiations, proposed agreement or agreements, written or oral, related to this Agreement or the matters addressed herein.

Section 18. Assignment. No Party hereto may assign or otherwise transfer this Agreement or any of its rights and obligations hereunder to any third party.

Section 19. Waiver. The failure of a Party to require performance of any provision shall not affect that Party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

Section 20. Construction. The language of this Agreement shall be construed as a whole, according to its fair meaning and intentment, and not strictly for or against any Party, regardless of who drafted or was principally responsible for drafting this Agreement or any specific term, provision, or condition. This Agreement is hereby deemed to have been drafted by all the Parties, and no Party shall urge otherwise.

Section 21. Warranty. Each Party represents and warrants that it has the full power and authority to enter into this Agreement and to perform all transactions, duties and obligations contained herein. Each signatory to this Agreement who signs on behalf of a Party represents and warrants that he or she has the authority to sign on behalf of that Party.

Section 22. Non-Appropriation. The Parties acknowledge that the City is a governmental entity whose funds are subject to appropriation by its fiscal body. Therefore, if the City's fiscal body should fail to appropriate the Grant Funds, this Agreement will become null and void. The City shall not be obligated to perform unless and until sufficient funds are appropriated.

Section 23. Counterparts. This Agreement may be executed in counterparts.

CITY OF WESTFIELD, INDIANA

Date

SETTERS RUN HOA.

Date

Neighborhood Vibrancy Grant Application

Organization/Neighborhood Name	Setters Run Neighborhood
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Point of Contact Name (first and last)	Matthew Arvin
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Point of Contact Email Address	mcarvin9@gmail.com
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Point of Contact Phone Number	1-812-653-7291
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Applicant Address	4204 Short Ter, Carmel, IN 46033
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Subdivision Address (if different)	14753 Setters Rd, Carmel, IN 46033
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Zip Code	46033
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Number of Families/Households	176
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Age of Subdivision	1996
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How did you hear about the Neighborhood Vibrancy Grant Program?	City Website
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If you selected other,
please let us know!

Field not completed.

(Section Break)

Project Overview

Brief description of the proposed project	The Setters Run Neighborhood is requesting funding for the installation of a shade structure at the neighborhood park located at 14753 Setters Rd, Carmel, IN 46033. The proposed structure is a 10-foot entry, 16'x16' cantilever single post pyramid umbrella shade, strategically positioned on the northwestern edge of the mulched area to provide shade for existing site furnishing.
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Has the project been approved by the HOA?	No
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Date of HOA Approval	22APR2025
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Amount Requested	10000
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Total Cost of Project	15000
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Project Timeline	01JUL2025
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(Section Break)

Project Submission

Full Project Description	The Setters Run Neighborhood recognizes the need for additional shade at its neighborhood park to enhance usability for residents and their children. The neighborhood park is centrally located in the community and adjacent to the popular neighborhood swimming pool. However, the neighborhood park has limited shade coverage and the shade offered by swimming pool facilities does not allow for line of sight to park equipment. With frequent use by families and children, providing a location for relief from the sun and heat is crucial to encourage community outdoor activity. The proposed shade structure—a durable, weather-resistant 10-foot entry, 16'x16' cantilever single post pyramid shade umbrella (Examples for vendor quotes include Landscape Structures, Model # 237675; WillyGoat, SKU: 1POSTPYRCANTI*16x16-10E; DunRite Playgrounds, Product Code: CU161610SG; and Adventure Shade Structures, Cantilever Umbrella, 2025 Playground & Park Design Guide) —will be installed on the northwestern edge of the playground's mulched play area, shading existing seating. There is currently no site furnishing with
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table surface. The proposed shade structure will offer an ideal location for addition of site furnishing with table surfaces where community members may picnic. This structure will increase accessibility and enjoyment for all park-goers, particularly in warmer months. The structure will be professionally installed to ensure safety and longevity. The total estimated cost, including materials and installation, is estimated to be \$15,000. Grant announcement date is 01APR2025. A 3-week period is estimated for approvals, weather conditions, and miscellaneous factors. There is an estimated 8-week lead time from structure order. There is an estimated 2-week lead time for professional installation. Project completion is estimated to be 01JUL2025.

Explain the impact the project will have on your neighborhood and the surrounding community

The shade structure will enhance the appeal of the park as a recreational space, contributing to overall neighborhood vibrancy by:

- Increasing the usability, comfort, and safety of the park.
- Improving accessibility for individuals sensitive to heat or sun exposure.
- Increasing the diversity and duration of social interaction and community events that can utilize the space.

How does the project align with the Westfield Comprehensive Plan?

The project location falls within Suburban Residential Land Use and aligns with the Westfield Comprehensive Plan's goals by:

- Rejuvenating neighborhood shared spaces of aging areas
- Enhancing public green spaces, making them more accessible and comfortable for residents.
- Promoting community engagement by improving central and visible outdoor gathering areas.
- Supporting the city's commitment to sustainable and resident-friendly neighborhood enhancements.

How do you plan to evaluate the success of the project?

The success of the project will be measured by:

- Informal observation on park usage and resident feedback.
- Monitoring changes in the frequency of community events utilizing the space.
- Community survey to gauge satisfaction and identify additional improvements.

If your project is not approved, what will you do to accomplish the project?

If the grant is awarded, the Settlers Run HOA will conduct a committee vote by 22APR2025. The committee decision will be based on project merit, project feasibility, financial contributions, and community interest.

If the application is not successful, the HOA will revise and

resubmit the proposal by:

- Seeking additional community feedback to strengthen the application.
- Adjusting the project scope or exploring alternative shade solutions.

Who will be involved in the implementation of the project?

The grant applicant and point of contact, HOA committee members, the vendor selected from the quote process, and a professional installation service.

Is there any additional information that is important to include about the project?

Please see attached project plans.

Project Plans

[Setters Run Neighborhood NVG Project Plans.pdf](#)

Email not displaying correctly? [View it in your browser.](#)

CITY OF WESTFIELD, INDIANA
NEIGHBORHOOD VIBRANCY GRANT AGREEMENT

This Neighborhood Vibrancy Grant Agreement (“Agreement”) is entered into by and between the City of Westfield, Indiana (“City”) and Sheffield Park Home Owners Association (“HOA”) (each a “Party” and collectively “the Parties”) on this ____ day of _____, 2025.

WHEREAS, the City is a municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council;

WHEREAS, the HOA is a Indiana nonprofit corporation organized to manage and maintain common areas and enforce rules within a community, such as a condominium or subdivision, and ensure the upkeep of shared spaces and adherence to community standards, which operates within the City;

WHEREAS, the City administers a Neighborhood Vibrancy Grant Program (“NVGP”) whereby the City provides funding for unique and innovative ideas that make the community a more vibrant place to live and positively impact the quality of life in the City;

WHEREAS, Ind. Code § 36-10-2-2, Ind. Code § 36-10-2-4, Ind. Code § 36-10-2-5, and State Board of Accounts guidance provide that the City may provide aid to recreation facilities and programs, community service facilities and programs, neighborhood

centers, community centers, and civic centers, and that a written contract should document the services provided; and

WHEREAS, the City and the HOA desire to enter into this Agreement to formalize the City's grant of funds to the HOA, and responsibilities and commitments related thereto.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, the City and the HOA hereby agree as follows:

Section 1. Recitals. The above Recitals are an integral part of this Agreement and are specifically incorporated herein by reference.

Section 2. Grant Agreement. The City, after review and recommendation by the NVGP Committee and approval by the Board of Public Works and Safety, agrees to a one-time grant of a total of TEN THOUSAND DOLLARS AND ZERO CENTS (\$10,000.00) ("Grant Funds") to the HOA to assist with payments and costs related to the project described in the attached NVGP application ("Project"). The Grant Funds shall be used only in accordance with the terms of this Agreement.

Section 3. Obligations of the HOA. The HOA agrees that the Project must be completed within one (1) year of receipt of the Grant Funds. The HOA agrees to use any and all Grant Funds from the City only towards the cost of the Project and for no other purpose. The HOA agrees to provide the City with the following information and documentation:

- (a) A budget for the Project;
- (b) Certified copies of incorporation as a nonprofit corporation under Indiana state law;
- (c) Appropriate documentation identifying the HOA as an Indiana nonprofit corporation in good standing;
- (d) Any audits, reviews, financial statements, or compilations available describing the financial condition of the HOA;
- (e) A Project end report describing how the Grant Funds were used and the impact of the dollars had on completing the Project; and
- (f) Other relevant documentation that the City requests.

Section 4. Non-profit Status. By executing this Agreement, the HOA hereby represents and warrants that it is a nonprofit entity in good standing.

Section 5. Use of Funds by the HOA. The Grant Funds received by the HOA pursuant to this Agreement shall be used only to assist with costs for the Project, and for no other purpose. If it is determined by the City that the Grant Funds have been misappropriated, or the HOA violates any term of this Agreement, this Agreement shall immediately be terminated and the HOA agrees to return all funds received from the City.

Section 6. Non-Exclusivity. The City and the HOA agree that the City may enter into other Grant Agreements or similar agreements, and the HOA shall not be the exclusive recipient of grants or donations from the City.

Section 7. Good Faith Cooperation. The City and the HOA agree to cooperate fully and in good faith, take additional actions, and execute additional documents as may be needed to fulfill the terms and intent of this Agreement.

Section 8. Effective Date and Term. This Agreement shall be effective upon the signing of both parties hereto, and shall be in effect until Project completion or one (1) year after the Grant Funds are awarded, which ever comes first, subject to termination pursuant to Section 5 of this Agreement. This Agreement may otherwise be terminated or extended only by a written agreement signed by authorized representatives of both the City and the HOA.

Section 9. Notices. Any notice or documentation required to be submitted pursuant to this Agreement shall be submitted in writing to the following addresses:

City of Westfield
Attn: Community Development
2728 E 171st Street
Westfield, Indiana 46074

Sheffield Park HOA
Attn: Ashley Hindle
3582 Sheffield Park Ct
Westfield, Indiana 46074

Section 10. Non-Discrimination. The HOA agrees that it will not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement or the Project, with respect to the employee's hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of the employee's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement.

Section 11. Indemnification. The HOA shall defend, indemnify, and hold harmless the City and each and every past, present, and future official, representative, subsidiary, parent, division, affiliate, officer, director, employee, attorney, predecessor, and successor, both individually and in their representative capacities from and against all third party claims, demands, litigation and losses arising out of or concerning (1) the failure of the HOA to observe and perform any of its obligations under this Agreement and/or (2) any intentional or negligent act or omission by the HOA.

Section 12. Governing Law. This Agreement is governed by the laws of the State of Indiana. The Parties submit to the jurisdiction of Hamilton County, Indiana courts and waive any objection to venue.

Section 13. 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 provision(s) shall continue in full force and effect.

Section 14. Relationship of the Parties. The employees and/or agents of the City are not employees of the HOA by virtue of this Agreement, and vice versa. The HOA has no authority to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of the City, except as expressly so stated in this Agreement or a duly authorized amendment hereto.

Section 15. Counsel and Understanding. Each Party warrants that: (a) it is represented by competent counsel with respect to this Agreement and all matters covered by it, or has waived the right to be so represented; (b) it has been fully advised by said counsel with respect to its rights and obligations and with respect to the execution of this Agreement or has waived the right to be so advised; and (c) it fully understands this Agreement and the effect of signing and executing it.

Section 16. Amendment. This Agreement may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a writing duly executed by an authorized representative of each of the Parties.

Section 17. Entire Agreement. This Agreement shall constitute the entire agreement between the parties with respect to the subject matter herein, and there are no other terms, statements, obligations, or representations, oral or otherwise, of any nature whatsoever. This Agreement, along with all exhibits, attachments, or other documents

incorporated herein by reference, constitutes the entire agreement by and between the Parties and supersedes and replaces all prior negotiations, proposed agreement or agreements, written or oral, related to this Agreement or the matters addressed herein.

Section 18. Assignment. No Party hereto may assign or otherwise transfer this Agreement or any of its rights and obligations hereunder to any third party.

Section 19. Waiver. The failure of a Party to require performance of any provision shall not affect that Party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

Section 20. Construction. The language of this Agreement shall be construed as a whole, according to its fair meaning and intentment, and not strictly for or against any Party, regardless of who drafted or was principally responsible for drafting this Agreement or any specific term, provision, or condition. This Agreement is hereby deemed to have been drafted by all the Parties, and no Party shall urge otherwise.

Section 21. Warranty. Each Party represents and warrants that it has the full power and authority to enter into this Agreement and to perform all transactions, duties and obligations contained herein. Each signatory to this Agreement who signs on behalf of a Party represents and warrants that he or she has the authority to sign on behalf of that Party.

Section 22. Non-Appropriation. The Parties acknowledge that the City is a governmental entity whose funds are subject to appropriation by its fiscal body. Therefore, if the City's fiscal body should fail to appropriate the Grant Funds, this Agreement will become null and void. The City shall not be obligated to perform unless and until sufficient funds are appropriated.

Section 23. Counterparts. This Agreement may be executed in counterparts.

CITY OF WESTFIELD, INDIANA

Date

SHEFFIELD PARK HOA.

Date

Neighborhood Vibrancy Grant Application

Organization/Neighborhood Name	Sheffield Park
Point of Contact Name (first and last)	Ashley Hindle
Point of Contact Email Address	ataflinger34@gmail.com
Point of Contact Phone Number	3179873247
Applicant Address	3582 Sheffield Park Court
Subdivision Address (if different)	<i>Field not completed.</i>
Zip Code	46074
Number of Families/Households	125
Age of Subdivision	7 years
How did you hear about the Neighborhood Vibrancy Grant Program?	WeCAN
If you selected other, please let us know!	<i>Field not completed.</i>

(Section Break)

Project Overview

Brief description of the proposed project	We would also like to enhance the entrance with lighting and landscaping. We currently do not have any lighting in the concrete median which is a safety concern.
Has the project been approved by the HOA?	Yes
Date of HOA Approval	1/01/2025
Amount Requested	10,000
Total Cost of Project	20,000
Project Timeline	2 weeks

(Section Break)

Project Submission

Full Project Description

	We have added an entrance sign and added a couple columns as well as mirrored the North side of the entrance. We added a couple of light poles that would match what we currently have. Also, added the annual beds in the median and in front of each Sheffield Park sign.
Explain the impact the project will have on your neighborhood and the surrounding community	Lighting and additional landscaping will help with the safety and the beautification of the neighborhood. This HOA board is brand new and really wants to start incorporating neighborhood activities to begin to create a community engagement.
How does the project align with the Westfield Comprehensive Plan?	Sheffield Park needs a rejuvenating entrance to create some excitement about our neighborhood. This new HOA board has already begun to schedule community activities to create some community engagement that we were lacking for the last few years. We want to create a vibrant place to live and this project will complete that goal.
How do you plan to evaluate the success of the project?	Word of mouth is always the best way, in my opinion, to gauge if people are happy.
If your project is not approved, what will you do to accomplish the project?	We have already planned to rejuvenate the front entrance within our budget.

Who will be involved in the implementation of the project?	Calvin Landscaping
Is there any additional information that is important to include about the project?	Sheffield Park is a small but diverse neighborhood that feeds into Washington Woods Elementary school. We have some amazing neighbors who try to create a family like feel here and we just want to continue that and make our neighborhood the best it can be.
Project Plans	Sheffield Park - 3D - 1.jpg

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CITY OF WESTFIELD, INDIANA
NEIGHBORHOOD VIBRANCY GRANT AGREEMENT

This Neighborhood Vibrancy Grant Agreement (“Agreement”) is entered into by and between the City of Westfield, Indiana (“City”) and Springdale Farms Home Owners Association (“HOA”) (each a “Party” and collectively “the Parties”) on this ____ day of _____, 2025.

WHEREAS, the City is a municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council;

WHEREAS, the HOA is a Indiana nonprofit corporation organized to manage and maintain common areas and enforce rules within a community, such as a condominium or subdivision, and ensure the upkeep of shared spaces and adherence to community standards, which operates within the City;

WHEREAS, the City administers a Neighborhood Vibrancy Grant Program (“NVGP”) whereby the City provides funding for unique and innovative ideas that make the community a more vibrant place to live and positively impact the quality of life in the City;

WHEREAS, Ind. Code § 36-10-2-2, Ind. Code § 36-10-2-4, Ind. Code § 36-10-2-5, and State Board of Accounts guidance provide that the City may provide aid to recreation facilities and programs, community service facilities and programs, neighborhood

centers, community centers, and civic centers, and that a written contract should document the services provided; and

WHEREAS, the City and the HOA desire to enter into this Agreement to formalize the City's grant of funds to the HOA, and responsibilities and commitments related thereto.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, the City and the HOA hereby agree as follows:

Section 1. Recitals. The above Recitals are an integral part of this Agreement and are specifically incorporated herein by reference.

Section 2. Grant Agreement. The City, after review and recommendation by the NVGP Committee and approval by the Board of Public Works and Safety, agrees to a one-time grant of a total of TEN THOUSAND DOLLARS AND ZERO CENTS (\$10,000.00) ("Grant Funds") to the HOA to assist with payments and costs related to the project described in the attached NVGP application ("Project"). The Grant Funds shall be used only in accordance with the terms of this Agreement.

Section 3. Obligations of the HOA. The HOA agrees that the Project must be completed within one (1) year of receipt of the Grant Funds. The HOA agrees to use any and all Grant Funds from the City only towards the cost of the Project and for no other purpose. The HOA agrees to provide the City with the following information and documentation:

- (a) A budget for the Project;
- (b) Certified copies of incorporation as a nonprofit corporation under Indiana state law;
- (c) Appropriate documentation identifying the HOA as an Indiana nonprofit corporation in good standing;
- (d) Any audits, reviews, financial statements, or compilations available describing the financial condition of the HOA;
- (e) A Project end report describing how the Grant Funds were used and the impact of the dollars had on completing the Project; and
- (f) Other relevant documentation that the City requests.

Section 4. Non-profit Status. By executing this Agreement, the HOA hereby represents and warrants that it is a nonprofit entity in good standing.

Section 5. Use of Funds by the HOA. The Grant Funds received by the HOA pursuant to this Agreement shall be used only to assist with costs for the Project, and for no other purpose. If it is determined by the City that the Grant Funds have been misappropriated, or the HOA violates any term of this Agreement, this Agreement shall immediately be terminated and the HOA agrees to return all funds received from the City.

Section 6. Non-Exclusivity. The City and the HOA agree that the City may enter into other Grant Agreements or similar agreements, and the HOA shall not be the exclusive recipient of grants or donations from the City.

Section 7. Good Faith Cooperation. The City and the HOA agree to cooperate fully and in good faith, take additional actions, and execute additional documents as may be needed to fulfill the terms and intent of this Agreement.

Section 8. Effective Date and Term. This Agreement shall be effective upon the signing of both parties hereto, and shall be in effect until Project completion or one (1) year after the Grant Funds are awarded, which ever comes first, subject to termination pursuant to Section 5 of this Agreement. This Agreement may otherwise be terminated or extended only by a written agreement signed by authorized representatives of both the City and the HOA.

Section 9. Notices. Any notice or documentation required to be submitted pursuant to this Agreement shall be submitted in writing to the following addresses:

City of Westfield
Attn: Community Development
2728 E 171st Street
Westfield, Indiana 46074

Springdale Farms HOA
Attn: Luiza Faro
59 E Stargrass Dr
Westfield, Indiana 46074

Section 10. Non-Discrimination. The HOA agrees that it will not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement or the Project, with respect to the employee's hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of the employee's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement.

Section 11. Indemnification. The HOA shall defend, indemnify, and hold harmless the City and each and every past, present, and future official, representative, subsidiary, parent, division, affiliate, officer, director, employee, attorney, predecessor, and successor, both individually and in their representative capacities from and against all third party claims, demands, litigation and losses arising out of or concerning (1) the failure of the HOA to observe and perform any of its obligations under this Agreement and/or (2) any intentional or negligent act or omission by the HOA.

Section 12. Governing Law. This Agreement is governed by the laws of the State of Indiana. The Parties submit to the jurisdiction of Hamilton County, Indiana courts and waive any objection to venue.

Section 13. 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 provision(s) shall continue in full force and effect.

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Section 23. Counterparts. This Agreement may be executed in counterparts.

CITY OF WESTFIELD, INDIANA

Date

SPRINGDALE FARMS HOA.

Date

Neighborhood Vibrancy Grant Application

Organization/Neighborhood Name Springdale Farms

Point of Contact Name (first and last) Luiza Faro

Point of Contact Email Address luizafaro@gmail.com

Point of Contact Phone Number 812-340-3346

Applicant Address 59 E Stargrass Dr

Subdivision Address (if different) *Field not completed.*

Zip Code 46074

Number of Families/Households 96

Age of Subdivision 31 years

How did you hear about the Neighborhood Vibrancy Grant Program? City Website

If you selected other,
please let us know!

Field not completed.

(Section Break)

Project Overview

Brief description of the proposed project

The Springdale Farm Neighborhood is undertaking an exciting project to revitalize its front entrance and communal pond, enhancing curb appeal and environmental sustainability. Key improvements include replacing the aging pond fountain, essential for maintaining the ecosystem's health and removing invasive Bradford Pear trees, which will be replaced with vibrant, native Red Autumn Blaze and Orange Maple trees. The entrance will also see upgraded lighting for better visibility and a sustainable landscaping redesign featuring native perennials. Additionally, the initiative includes treating and trimming existing trees around the neighborhood to preserve its natural beauty. These efforts will create a welcoming, eco-friendly, visually striking community entrance for residents and visitors alike.

Has the project been approved by the HOA?

Yes

Date of HOA Approval

02/23/2025

Amount Requested

\$10,000.00

Total Cost of Project

\$19,081.55

Project Timeline

May 2025 to December 2025

(Section Break)

Project Submission

Full Project Description

The Springdale Farm Neighborhood, established in 1994, is located on 156th Street, between Oak Ridge and Springmill Road. Since its inception, our neighborhood has focused on enhancing its curb appeal. By balancing our HOA fees with a network of residents who volunteer for improvements and repairs, we have been able to consider a much-needed makeover for our front entrance and communal pond area.

The project we are considering applies to the location shown in Exhibit A of the attachment. This area covers approximately a one-mile stretch of 156th Street, much of

which is occupied by our neighborhood retention pond, which is heavily traveled by car and the multiuse trail for walking and riding pleasure.

The main component of this project is replacing our pond fountain, which has needed to be replaced since the summer of 2024. The fountain was installed about 20 years ago and has been maintained by our HOA. Our pond attracts a variety of wildlife, supporting a healthy ecosystem of plants and fish that contributes to the pond's overall health. The fountain plays a crucial role in this ecosystem by providing a steady flow of water, air, and movement.

Additionally, the project aims to revitalize the front entrance by planting three (3) maple trees behind the existing stone entrance wall to replace the evasive Bradford Trees that were planted by the developer and are beginning to die. The Maple trees will be a combination of Red Autumn Blaze and Orange trees from the Acer Rubrum and Saccharum, respectively and will be planted by K.D. Landscaping with a 1-year warranty on their survival.

Furthermore, we will replace a broken lighting system that illuminates our neighborhood sign and main entrance structure (refer to Exhibit B), enhancing visibility. Finally, we will improve the entrance's landscaping design by replacing non-native plants and bushes with native perennial varieties, allowing for a more sustainable maintenance approach.

We have also recognized the importance of treating the existing trees surrounding our neighborhood's outer limits. We have identified various illnesses and trimming needs that will help us preserve as much as possible while improving our appearance by caring for our current landscape.

Explain the impact the project will have on your neighborhood and the surrounding community

We aim for this revitalization project to impact our neighborhood and surrounding communities positively. By adopting a sustainable approach, we aim to improve the common areas nearby, create a better environment for local wildlife, and provide residents and visitors with a safer and more clearly defined entrance to our neighborhood.

How does the project align with the Westfield Comprehensive Plan?

Our proposed project aligns with Westfield's Comprehensive Plan by enhancing the visual appeal of our neighborhoods. Our sustainable approach includes removing invasive plant species, brightening public spaces,

	and caring for the existing landscape. These efforts aim to improve the use of our common areas and provide enhanced safety features for drivers and pedestrians.
How do you plan to evaluate the success of the project?	We believe that the success of the project can be evaluated based on three key factors: the impact and enthusiasm expressed by the neighborhood residents, the support from community volunteers who will help us achieve our goals, and the health and growth of our pond ecosystems, including the plants and trees.
If your project is not approved, what will you do to accomplish the project?	If our NVG grant application is unsuccessful, our HOA board will develop a long-term plan to address necessary repairs and maintenance. We will prioritize the aspects of the project that require the most urgent attention. Without the grant, our project would not have had as significant an impact on our community and surrounding neighbors. However, the board remains committed to focusing on projects where timely action can prevent further damage or loss.
Who will be involved in the implementation of the project?	The HOA Board and community volunteers will collaborate with contractors to complete the planned entrance and street-side renovations.
Is there any additional information that is important to include about the project?	The Springdale Farms neighbor has a great group of regular volunteers who dedicate their time and resources to keeping our neighborhood visually attractive not only to the residents but also to the many cars, cyclists, walkers, runners, and golf carts that utilize this section of roadway and trail.
Project Plans	Savatree Estimate Form.pdf , Springdale Farms Entrance Lighting Estimate Rev. 2.pdf , KD Landscaping SDFs quote_5499.pdf , Jones Springdale New Ftn Quote.pdf , Sprindale Farms Exhibit B.pdf , Springdale Farms Exhibit A.pdf

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CITY OF WESTFIELD, INDIANA
NEIGHBORHOOD VIBRANCY GRANT AGREEMENT

This Neighborhood Vibrancy Grant Agreement (“Agreement”) is entered into by and between the City of Westfield, Indiana (“City”) and Viking Meadows Home Owners Association (“HOA”) (each a “Party” and collectively “the Parties”) on this ____ day of _____, 2025.

WHEREAS, the City is a municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council;

WHEREAS, the HOA is a Indiana nonprofit corporation organized to manage and maintain common areas and enforce rules within a community, such as a condominium or subdivision, and ensure the upkeep of shared spaces and adherence to community standards, which operates within the City;

WHEREAS, the City administers a Neighborhood Vibrancy Grant Program (“NVGP”) whereby the City provides funding for unique and innovative ideas that make the community a more vibrant place to live and positively impact the quality of life in the City;

WHEREAS, Ind. Code § 36-10-2-2, Ind. Code § 36-10-2-4, Ind. Code § 36-10-2-5, and State Board of Accounts guidance provide that the City may provide aid to recreation facilities and programs, community service facilities and programs, neighborhood

centers, community centers, and civic centers, and that a written contract should document the services provided; and

WHEREAS, the City and the HOA desire to enter into this Agreement to formalize the City's grant of funds to the HOA, and responsibilities and commitments related thereto.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, the City and the HOA hereby agree as follows:

Section 1. Recitals. The above Recitals are an integral part of this Agreement and are specifically incorporated herein by reference.

Section 2. Grant Agreement. The City, after review and recommendation by the NVGP Committee and approval by the Board of Public Works and Safety, agrees to a one-time grant of a total of TEN THOUSAND DOLLARS AND ZERO CENTS (\$10,000.00) ("Grant Funds") to the HOA to assist with payments and costs related to the project described in the attached NVGP application ("Project"). The Grant Funds shall be used only in accordance with the terms of this Agreement.

Section 3. Obligations of the HOA. The HOA agrees that the Project must be completed within one (1) year of receipt of the Grant Funds. The HOA agrees to use any and all Grant Funds from the City only towards the cost of the Project and for no other purpose. The HOA agrees to provide the City with the following information and documentation:

- (a) A budget for the Project;
- (b) Certified copies of incorporation as a nonprofit corporation under Indiana state law;
- (c) Appropriate documentation identifying the HOA as an Indiana nonprofit corporation in good standing;
- (d) Any audits, reviews, financial statements, or compilations available describing the financial condition of the HOA;
- (e) A Project end report describing how the Grant Funds were used and the impact of the dollars had on completing the Project; and
- (f) Other relevant documentation that the City requests.

Section 4. Non-profit Status. By executing this Agreement, the HOA hereby represents and warrants that it is a nonprofit entity in good standing.

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Section 7. Good Faith Cooperation. The City and the HOA agree to cooperate fully and in good faith, take additional actions, and execute additional documents as may be needed to fulfill the terms and intent of this Agreement.

Section 8. Effective Date and Term. This Agreement shall be effective upon the signing of both parties hereto, and shall be in effect until Project completion or one (1) year after the Grant Funds are awarded, which ever comes first, subject to termination pursuant to Section 5 of this Agreement. This Agreement may otherwise be terminated or extended only by a written agreement signed by authorized representatives of both the City and the HOA.

Section 9. Notices. Any notice or documentation required to be submitted pursuant to this Agreement shall be submitted in writing to the following addresses:

City of Westfield
Attn: Community Development
2728 E 171st Street
Westfield, Indiana 46074

Viking Meadows HOA
Attn: David Helm
1019 Lair Ct
Westfield, Indiana 46074

Section 10. Non-Discrimination. The HOA agrees that it will not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement or the Project, with respect to the employee's hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of the employee's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement.

Section 11. Indemnification. The HOA shall defend, indemnify, and hold harmless the City and each and every past, present, and future official, representative, subsidiary, parent, division, affiliate, officer, director, employee, attorney, predecessor, and successor, both individually and in their representative capacities from and against all third party claims, demands, litigation and losses arising out of or concerning (1) the failure of the HOA to observe and perform any of its obligations under this Agreement and/or (2) any intentional or negligent act or omission by the HOA.

Section 12. Governing Law. This Agreement is governed by the laws of the State of Indiana. The Parties submit to the jurisdiction of Hamilton County, Indiana courts and waive any objection to venue.

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stricken, and all other provisions of this Agreement which can operate independently of such stricken provision(s) shall continue in full force and effect.

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Section 15. Counsel and Understanding. Each Party warrants that: (a) it is represented by competent counsel with respect to this Agreement and all matters covered by it, or has waived the right to be so represented; (b) it has been fully advised by said counsel with respect to its rights and obligations and with respect to the execution of this Agreement or has waived the right to be so advised; and (c) it fully understands this Agreement and the effect of signing and executing it.

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incorporated herein by reference, constitutes the entire agreement by and between the Parties and supersedes and replaces all prior negotiations, proposed agreement or agreements, written or oral, related to this Agreement or the matters addressed herein.

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Section 23. Counterparts. This Agreement may be executed in counterparts.

CITY OF WESTFIELD, INDIANA

Date

VIKING MEADOWS HOA.

Date

Neighborhood Vibrancy Grant Application

Organization/Neighborhood Name Viking Meadows

Point of Contact Name (first and last) David Helm

Point of Contact Email Address Dave.Helm@hotmail.com

Point of Contact Phone Number 3175191057

Applicant Address 1019 lair ct

Subdivision Address (if different) 15757 Viking Meadows Drive

Zip Code 46074

Number of Families/Households 515

Age of Subdivision 19

How did you hear about the Neighborhood Vibrancy Grant Program? WeCAN

If you selected other, please let us know! *Field not completed.*

(Section Break)

Project Overview

Brief description of the proposed project	replace and paint perimeter horse fence
Has the project been approved by the HOA?	Yes
Date of HOA Approval	2/3/25
Amount Requested	10,000.00
Total Cost of Project	35,200.00
Project Timeline	Spring

(Section Break)

Project Submission

Full Project Description	We need to replace rotten posts and boards and paint the perimeter fence on the east side of Oakridge from 156th to 161st and 161st to the edge of our property at the Retreat on the Monon. 161st is a busy road and the fence is looking pretty rough
Explain the impact the project will have on your neighborhood and the surrounding community	161 and the parallel walking path are becoming a busy thoroughfare for Westfield residents and the horse fence is becoming an eyesore as boards are rotting and falling from the posts in some areas. There are pictures on the quote.
How does the project align with the Westfield Comprehensive Plan?	The repair and painting of the perimeter fence will ensure the maintenance of a high standard of upkeep, meeting the expectations of Westfield residents and visitors along two major thoroughfares.
How do you plan to evaluate the success of the project?	The fence is repaired and repainted, restoring it to its original aesthetic.
If your project is not approved, what will you do to accomplish the project?	We may need to wait another year for budgetary reasons
Who will be involved in the implementation of the project?	Property management company, Vendor Legacy Painting, and HOA board

Is there any additional information that is important to include about the project?

n/a

Project Plans

[Fence estimate-24468-Viking Meadows.pdf](#)

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CITY OF WESTFIELD, INDIANA
NEIGHBORHOOD VIBRANCY GRANT AGREEMENT

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WHEREAS, Ind. Code § 36-10-2-2, Ind. Code § 36-10-2-4, Ind. Code § 36-10-2-5, and State Board of Accounts guidance provide that the City may provide aid to recreation facilities and programs, community service facilities and programs, neighborhood

centers, community centers, and civic centers, and that a written contract should document the services provided; and

WHEREAS, the City and the HOA desire to enter into this Agreement to formalize the City's grant of funds to the HOA, and responsibilities and commitments related thereto.

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Section 1. Recitals. The above Recitals are an integral part of this Agreement and are specifically incorporated herein by reference.

Section 2. Grant Agreement. The City, after review and recommendation by the NVGP Committee and approval by the Board of Public Works and Safety, agrees to a one-time grant of a total of TEN THOUSAND DOLLARS AND ZERO CENTS (\$10,000.00) ("Grant Funds") to the HOA to assist with payments and costs related to the project described in the attached NVGP application ("Project"). The Grant Funds shall be used only in accordance with the terms of this Agreement.

Section 3. Obligations of the HOA. The HOA agrees that the Project must be completed within one (1) year of receipt of the Grant Funds. The HOA agrees to use any and all Grant Funds from the City only towards the cost of the Project and for no other purpose. The HOA agrees to provide the City with the following information and documentation:

- (a) A budget for the Project;
- (b) Certified copies of incorporation as a nonprofit corporation under Indiana state law;
- (c) Appropriate documentation identifying the HOA as an Indiana nonprofit corporation in good standing;
- (d) Any audits, reviews, financial statements, or compilations available describing the financial condition of the HOA;
- (e) A Project end report describing how the Grant Funds were used and the impact of the dollars had on completing the Project; and
- (f) Other relevant documentation that the City requests.

Section 4. Non-profit Status. By executing this Agreement, the HOA hereby represents and warrants that it is a nonprofit entity in good standing.

Section 5. Use of Funds by the HOA. The Grant Funds received by the HOA pursuant to this Agreement shall be used only to assist with costs for the Project, and for no other purpose. If it is determined by the City that the Grant Funds have been misappropriated, or the HOA violates any term of this Agreement, this Agreement shall immediately be terminated and the HOA agrees to return all funds received from the City.

Section 6. Non-Exclusivity. The City and the HOA agree that the City may enter into other Grant Agreements or similar agreements, and the HOA shall not be the exclusive recipient of grants or donations from the City.

Section 7. Good Faith Cooperation. The City and the HOA agree to cooperate fully and in good faith, take additional actions, and execute additional documents as may be needed to fulfill the terms and intent of this Agreement.

Section 8. Effective Date and Term. This Agreement shall be effective upon the signing of both parties hereto, and shall be in effect until Project completion or one (1) year after the Grant Funds are awarded, which ever comes first, subject to termination pursuant to Section 5 of this Agreement. This Agreement may otherwise be terminated or extended only by a written agreement signed by authorized representatives of both the City and the HOA.

Section 9. Notices. Any notice or documentation required to be submitted pursuant to this Agreement shall be submitted in writing to the following addresses:

City of Westfield
Attn: Community Development
2728 E 171st Street
Westfield, Indiana 46074

Village Farms HOA
Attn: Steve Castle
453 East Greyhound Pass
Westfield, Indiana 46074

Section 10. Non-Discrimination. The HOA agrees that it will not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement or the Project, with respect to the employee's hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of the employee's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement.

Section 11. Indemnification. The HOA shall defend, indemnify, and hold harmless the City and each and every past, present, and future official, representative, subsidiary, parent, division, affiliate, officer, director, employee, attorney, predecessor, and successor, both individually and in their representative capacities from and against all third party claims, demands, litigation and losses arising out of or concerning (1) the failure of the HOA to observe and perform any of its obligations under this Agreement and/or (2) any intentional or negligent act or omission by the HOA.

Section 12. Governing Law. This Agreement is governed by the laws of the State of Indiana. The Parties submit to the jurisdiction of Hamilton County, Indiana courts and waive any objection to venue.

Section 13. 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 provision(s) shall continue in full force and effect.

Section 14. Relationship of the Parties. The employees and/or agents of the City are not employees of the HOA by virtue of this Agreement, and vice versa. The HOA has no authority to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of the City, except as expressly so stated in this Agreement or a duly authorized amendment hereto.

Section 15. Counsel and Understanding. Each Party warrants that: (a) it is represented by competent counsel with respect to this Agreement and all matters covered by it, or has waived the right to be so represented; (b) it has been fully advised by said counsel with respect to its rights and obligations and with respect to the execution of this Agreement or has waived the right to be so advised; and (c) it fully understands this Agreement and the effect of signing and executing it.

Section 16. Amendment. This Agreement may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a writing duly executed by an authorized representative of each of the Parties.

Section 17. Entire Agreement. This Agreement shall constitute the entire agreement between the parties with respect to the subject matter herein, and there are no other terms, statements, obligations, or representations, oral or otherwise, of any nature whatsoever. This Agreement, along with all exhibits, attachments, or other documents

incorporated herein by reference, constitutes the entire agreement by and between the Parties and supersedes and replaces all prior negotiations, proposed agreement or agreements, written or oral, related to this Agreement or the matters addressed herein.

Section 18. Assignment. No Party hereto may assign or otherwise transfer this Agreement or any of its rights and obligations hereunder to any third party.

Section 19. Waiver. The failure of a Party to require performance of any provision shall not affect that Party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

Section 20. Construction. The language of this Agreement shall be construed as a whole, according to its fair meaning and intendment, and not strictly for or against any Party, regardless of who drafted or was principally responsible for drafting this Agreement or any specific term, provision, or condition. This Agreement is hereby deemed to have been drafted by all the Parties, and no Party shall urge otherwise.

Section 21. Warranty. Each Party represents and warrants that it has the full power and authority to enter into this Agreement and to perform all transactions, duties and obligations contained herein. Each signatory to this Agreement who signs on behalf of a Party represents and warrants that he or she has the authority to sign on behalf of that Party.

Section 22. Non-Appropriation. The Parties acknowledge that the City is a governmental entity whose funds are subject to appropriation by its fiscal body. Therefore, if the City's fiscal body should fail to appropriate the Grant Funds, this Agreement will become null and void. The City shall not be obligated to perform unless and until sufficient funds are appropriated.

Section 23. Counterparts. This Agreement may be executed in counterparts.

CITY OF WESTFIELD, INDIANA

Date

VILLAGE FARMS HOA.

Date

Neighborhood Vibrancy Grant Application

Organization/Neighborhood Name	The Village Farms
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Point of Contact Name (first and last)	Steve Castle
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Point of Contact Email Address	President@thevillagefarms.com
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Point of Contact Phone Number	630-234-9427
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Applicant Address	PO Box 717
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Subdivision Address (if different)	453 East Greyhound Pass
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Zip Code	46074
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Number of Families/Households	782
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Age of Subdivision	52 years
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How did you hear about the Neighborhood Vibrancy Grant Program?	WeCAN
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If you selected other,
please let us know!

Field not completed.

(Section Break)

Project Overview

Brief description of the proposed project	Revitalization of 0.41 acres of common ground property, visible from Greyhound Pass and located on the lower lake. The property is located at 1000 East Greyhound Pass.
Has the project been approved by the HOA?	Yes
Date of HOA Approval	2/18/2025
Amount Requested	\$10,000
Total Cost of Project	\$23,000
Project Timeline	Summer/Fall 2025

(Section Break)

Project Submission

Full Project Description	This project aims to revitalize 0.41 acres of overgrown neighborhood common grounds located next to the lower lake and Greyhound Pass. The initiative involves clearing brush and removing dead trees to create a safer and more aesthetically pleasing environment. Following the cleanup, native plants will be introduced to enhance the local ecosystem and promote biodiversity. Additionally, a fence will be installed to delineate the common ground property from residents' personal property, providing a clear boundary for the community. The property is located at 1000 East Greyhound Pass and is Parcel 08-09-13-01-02-006.000. See the planting plan for full details of plants.
Explain the impact the project will have on your neighborhood and the surrounding community	This project will have several positive effects on the neighborhood and the surrounding community: Recreation Area: By reclaiming the overgrown common grounds, the project will revitalize an unutilized recreation area for the neighborhood. This space can be used for various outdoor activities, encouraging residents to spend more time outside and engage in physical activity. Enhanced Aesthetics: Clearing the brush and dead trees, along with adding native landscaping, will significantly

enhance the view for passersby. The improved aesthetics will contribute to a more pleasant and inviting neighborhood environment.

Community Gathering: The revitalized common grounds will serve as a focal point for neighbors to gather and socialize. This can strengthen community bonds and foster a sense of belonging among residents. Our neighborhood holds an annual fishing tournament, and this would provide another prime location for participants.

Environmental Benefits: Introducing native plants will promote biodiversity and support the local ecosystem. This will lead to an increased wildlife presence in the area.

Property Boundaries: Installing a fence to delineate the common ground property from residents' personal property will provide clear boundaries, enhancing security and reducing potential conflicts.

How does the project align with the Westfield Comprehensive Plan?

Enhancing Community Spaces: The project supports the Comprehensive Plan's goal of improving and maintaining community spaces. By revitalizing the common grounds, the project enhances the neighborhood's recreational areas, making them more accessible and enjoyable for residents.

Promoting Environmental Sustainability: Planting native landscaping aligns with the Plan's emphasis on environmental sustainability. Native plants support local biodiversity and contribute to a healthier ecosystem, which is a key objective of the Comprehensive Plan.

Improving Aesthetics and Property Values: Clearing overgrown areas and installing a fence improves the overall aesthetics of the neighborhood. This not only enhances the visual appeal but can also positively impact property values, aligning with the Plan's goals for community development and beautification.

Fostering Community Engagement: The project encourages neighbors to gather and utilize the common grounds, fostering a sense of community and social interaction. This aligns with the Comprehensive Plan's objective of creating vibrant, connected neighborhoods.

Safety and Security: By installing a fence to clearly define property boundaries, the project enhances safety and

security for residents. This supports the Comprehensive Plan's focus on creating safe and well-defined community spaces.

How do you plan to evaluate the success of the project?

Resident Feedback: After the trees and brush were cleared in the fall of 2024 the HOA has received many positive responses. One resident exclaimed that they now have a lake view from their house without moving! We will continue to gather feedback from residents with the additional phases of the project. Residents have been observed using this space to access the lakefront. This would not have been possible prior to the clearing activities. Further development will make the space even more enjoyable and enticing for community recreation activities.

Usage Rates: Monitor how frequently the common grounds are used for recreational activities. Increased usage can indicate that the space is meeting the community's needs.

Aesthetic Improvements: Take before-and-after photos to visually document the changes. Improved aesthetics can be a clear indicator of success. We have included before and after photos in our application of the first phase of clearing the land.

Community Engagement: Measure the level of community engagement and social interactions in the common grounds, particularly during our fishing tournament. More frequent gatherings and events can signify a successful project.

Maintenance and Upkeep: Evaluate the ease of maintaining the new landscaping and fence. The landscaping and plantings chosen for the space are native and low maintenance. The fence will be a natural material fence consistent with other fences in the area which have proven to not require much period maintenance such as painting. Successful projects should be sustainable and not require excessive maintenance.

If your project is not approved, what will you do to accomplish the project?

If not approved, we will install the fence this year. Due to budget constraints, do not see an opportunity to fund the project in the next few years. We are working through our reserve study, current budget obligations, and evaluating where our dues are set to be able to budget for this in the future. It will likely be broken into many phases, but our first commitment to the surrounding residents is to add a fence

to delineate boundaries to clearly show the limits of common ground vs private property.

Who will be involved in the implementation of the project?

Our entire board is involved, but it will be led by our Director of Common Grounds, Pat Moyer, and implemented by our contracted property manager, Maureen Schriner.

Is there any additional information that is important to include about the project?

We have completed the first phase of clearing the land, costing \$25,273, which had a huge impact. The before and after photos are included in the application upload with the project plans and illustrations. Notice of this grant opportunity came out after a very difficult budget meeting where we decided to trim our pool hours in 2025 compared to prior seasons, to save funds and minimize dues increases. We plan to solicit residents for sponsorship of the benches. We work to steward the funds of our residents well, meet operational requirements, and provide lasting value where possible. We see this as a tremendous opportunity to give this area a facelift and provide residents with access to the lower lake at a time when the neighborhood's finances would require this project to be tackled over several years.

Note that the draft meeting minutes from February are attached and the vote on the project is documented on page 5. Minutes will be approved at the March Meeting.

Project Plans

[Before and After 2024 Clearing.pdf](#), [February 2025 Draft Meeting Minutes.pdf](#), [Village Farms - 1000 E Greyhound Pass - Landscape Plan with Color.pdf](#), [Village Farms - 1000 E Greyhound Pass - Landscape Plan.pdf](#), [Village Farms - Middle Bed Rendering.jpg](#), [Village Farms - Outside Beds Rendering.jpg](#), [Village Farms - Overhead Rendering.jpg](#)

Email not displaying correctly? [View it in your browser.](#)

CITY OF WESTFIELD, INDIANA
NEIGHBORHOOD VIBRANCY GRANT AGREEMENT

This Neighborhood Vibrancy Grant Agreement (“Agreement”) is entered into by and between the City of Westfield, Indiana (“City”) and William Trace at Spring Mill Trails Home Owners Association (“HOA”) (each a “Party” and collectively “the Parties”) on this ____ day of _____, 2025.

WHEREAS, the City is a municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council;

WHEREAS, the HOA is a Indiana nonprofit corporation organized to manage and maintain common areas and enforce rules within a community, such as a condominium or subdivision, and ensure the upkeep of shared spaces and adherence to community standards, which operates within the City;

WHEREAS, the City administers a Neighborhood Vibrancy Grant Program (“NVGP”) whereby the City provides funding for unique and innovative ideas that make the community a more vibrant place to live and positively impact the quality of life in the City;

WHEREAS, Ind. Code § 36-10-2-2, Ind. Code § 36-10-2-4, Ind. Code § 36-10-2-5, and State Board of Accounts guidance provide that the City may provide aid to recreation facilities and programs, community service facilities and programs, neighborhood

centers, community centers, and civic centers, and that a written contract should document the services provided; and

WHEREAS, the City and the HOA desire to enter into this Agreement to formalize the City's grant of funds to the HOA, and responsibilities and commitments related thereto.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, the City and the HOA hereby agree as follows:

Section 1. Recitals. The above Recitals are an integral part of this Agreement and are specifically incorporated herein by reference.

Section 2. Grant Agreement. The City, after review and recommendation by the NVGP Committee and approval by the Board of Public Works and Safety, agrees to a one-time grant of a total of TEN THOUSAND DOLLARS AND ZERO CENTS (\$10,000.00) ("Grant Funds") to the HOA to assist with payments and costs related to the project described in the attached NVGP application ("Project"). The Grant Funds shall be used only in accordance with the terms of this Agreement.

Section 3. Obligations of the HOA. The HOA agrees that the Project must be completed within one (1) year of receipt of the Grant Funds. The HOA agrees to use any and all Grant Funds from the City only towards the cost of the Project and for no other purpose. The HOA agrees to provide the City with the following information and documentation:

- (a) A budget for the Project;
- (b) Certified copies of incorporation as a nonprofit corporation under Indiana state law;
- (c) Appropriate documentation identifying the HOA as an Indiana nonprofit corporation in good standing;
- (d) Any audits, reviews, financial statements, or compilations available describing the financial condition of the HOA;
- (e) A Project end report describing how the Grant Funds were used and the impact of the dollars had on completing the Project; and
- (f) Other relevant documentation that the City requests.

Section 4. Non-profit Status. By executing this Agreement, the HOA hereby represents and warrants that it is a nonprofit entity in good standing.

Section 5. Use of Funds by the HOA. The Grant Funds received by the HOA pursuant to this Agreement shall be used only to assist with costs for the Project, and for no other purpose. If it is determined by the City that the Grant Funds have been misappropriated, or the HOA violates any term of this Agreement, this Agreement shall immediately be terminated and the HOA agrees to return all funds received from the City.

Section 6. Non-Exclusivity. The City and the HOA agree that the City may enter into other Grant Agreements or similar agreements, and the HOA shall not be the exclusive recipient of grants or donations from the City.

Section 7. Good Faith Cooperation. The City and the HOA agree to cooperate fully and in good faith, take additional actions, and execute additional documents as may be needed to fulfill the terms and intent of this Agreement.

Section 8. Effective Date and Term. This Agreement shall be effective upon the signing of both parties hereto, and shall be in effect until Project completion or one (1) year after the Grant Funds are awarded, which ever comes first, subject to termination pursuant to Section 5 of this Agreement. This Agreement may otherwise be terminated or extended only by a written agreement signed by authorized representatives of both the City and the HOA.

Section 9. Notices. Any notice or documentation required to be submitted pursuant to this Agreement shall be submitted in writing to the following addresses:

City of Westfield
Attn: Community Development
2728 E 171st Street
Westfield, Indiana 46074

William Trace at Spring Mill Trails
HOA
Attn: Jeremy Meadows
1243 Jack View Drive
Westfield, Indiana 46074

Section 10. Non-Discrimination. The HOA agrees that it will not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement or the Project, with respect to the employee's hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of the employee's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement.

Section 11. Indemnification. The HOA shall defend, indemnify, and hold harmless the City and each and every past, present, and future official, representative, subsidiary, parent, division, affiliate, officer, director, employee, attorney, predecessor, and successor, both individually and in their representative capacities from and against all third party claims, demands, litigation and losses arising out of or concerning (1) the failure of the HOA to observe and perform any of its obligations under this Agreement and/or (2) any intentional or negligent act or omission by the HOA.

Section 12. Governing Law. This Agreement is governed by the laws of the State of Indiana. The Parties submit to the jurisdiction of Hamilton County, Indiana courts and waive any objection to venue.

Section 13. 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 provision(s) shall continue in full force and effect.

Section 14. Relationship of the Parties. The employees and/or agents of the City are not employees of the HOA by virtue of this Agreement, and vice versa. The HOA has no authority to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of the City, except as expressly so stated in this Agreement or a duly authorized amendment hereto.

Section 15. Counsel and Understanding. Each Party warrants that: (a) it is represented by competent counsel with respect to this Agreement and all matters covered by it, or has waived the right to be so represented; (b) it has been fully advised by said counsel with respect to its rights and obligations and with respect to the execution of this Agreement or has waived the right to be so advised; and (c) it fully understands this Agreement and the effect of signing and executing it.

Section 16. Amendment. This Agreement may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a writing duly executed by an authorized representative of each of the Parties.

Section 17. Entire Agreement. This Agreement shall constitute the entire agreement between the parties with respect to the subject matter herein, and there are no other terms, statements, obligations, or representations, oral or otherwise, of any nature whatsoever. This Agreement, along with all exhibits, attachments, or other documents

incorporated herein by reference, constitutes the entire agreement by and between the Parties and supersedes and replaces all prior negotiations, proposed agreement or agreements, written or oral, related to this Agreement or the matters addressed herein.

Section 18. Assignment. No Party hereto may assign or otherwise transfer this Agreement or any of its rights and obligations hereunder to any third party.

Section 19. Waiver. The failure of a Party to require performance of any provision shall not affect that Party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

Section 20. Construction. The language of this Agreement shall be construed as a whole, according to its fair meaning and intendment, and not strictly for or against any Party, regardless of who drafted or was principally responsible for drafting this Agreement or any specific term, provision, or condition. This Agreement is hereby deemed to have been drafted by all the Parties, and no Party shall urge otherwise.

Section 21. Warranty. Each Party represents and warrants that it has the full power and authority to enter into this Agreement and to perform all transactions, duties and obligations contained herein. Each signatory to this Agreement who signs on behalf of a Party represents and warrants that he or she has the authority to sign on behalf of that Party.

Section 22. Non-Appropriation. The Parties acknowledge that the City is a governmental entity whose funds are subject to appropriation by its fiscal body. Therefore, if the City's fiscal body should fail to appropriate the Grant Funds, this Agreement will become null and void. The City shall not be obligated to perform unless and until sufficient funds are appropriated.

Section 23. Counterparts. This Agreement may be executed in counterparts.

CITY OF WESTFIELD, INDIANA

Date

WILLIAM TRACE AT SPRING MILL TRAILS HOA.

Date

Neighborhood Vibrancy Grant Application

Organization/Neighborhood Name	William Trace At Springmill Trails Homeowners Association, inc
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Point of Contact Name (first and last)	Jeremy Meadows
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Point of Contact Email Address	william.trace.neighbors@gmail.com
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Point of Contact Phone Number	2145511264
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Applicant Address	1243 Jack View Drive
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Subdivision Address (if different)	<i>Field not completed.</i>
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Zip Code	46074
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Number of Families/Households	88
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Age of Subdivision	02/25/2016
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How did you hear about the Neighborhood Vibrancy Grant Program?	WeCAN
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If you selected other, please let us know!	<i>Field not completed.</i>
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(Section Break)

Project Overview

Brief description of the proposed project	The William Trace community seeks funding through the City of Westfield Neighborhood Vibrancy Grant to restore and beautify the two ponds within our neighborhood. This project will enhance the environmental health, aesthetic appeal, and overall quality of life for our residents by addressing invasive species, erosion control, and native landscaping.
Has the project been approved by the HOA?	Yes
Date of HOA Approval	12/12/2024
Amount Requested	\$10,000
Total Cost of Project	\$17,695 - \$22,625
Project Timeline	Spring 2025

(Section Break)

Project Submission

Full Project Description	Project Summary: Initial Woody Species and Cattail Removal and Root Treatment – Pond Shoreline – ASAP (Spring 2025) The first part of this proposal is for the removal and treatment of all Woody species and cattails around the perimeter of the two ponds at the William Trace community. The invasive material will first be sprayed with an aquatic safe herbicide that takes one to two weeks to develop. Once the material has developed, all dead material will be cut and hauled off site. The stumps of the trees will then be treated. Initial Removal- Estimated \$2,995.00 / Spring 2025 Maintenance Following - \$3,525.00 Recommended Maintenance – Monthly Treatments and Vegetation Cut Back Each year we recommend spraying cattails and invasive species on a monthly schedule to mitigate their growth. Each month, the cattails and woody species around the perimeter of the pond will be chemically treated. The herbicide is an aquatic
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safe herbicide designed for water use. The chemical takes roughly 2 weeks to fully develop. The following month, the dead material will be trimmed back, and an additional chemical treatment will be administered on any new growth.

Erosion and Muskrat Damage – Critical Areas Only (Yellow on map) (Spring 2025)

This part of the proposal is for erosion remediation around the ponds at the William trace community. Two major areas around the pond have been identified with erosion and muskrat damage. Please see the areas outlined below. The areas outlined on the map will be regraded with additional soil to prep the site. Once the ground is prepped, premium grass seed will be installed along with an erosion blanket to help the seeds, germinate and prevent future erosion. -

Estimated Cost \$4,190.00 (Spring 2025)

Turf Over seeding and Aeration – Both Pond Banks (Spring 2025)

This part of the proposal is for aeration and over seeding both pond banks at the William

Trace community. The goal of this project is to get more turf growth so there is less bare soil and erosion around the pond. The ground will first be aerated, then premium grass seed will be installed within a 48-hr. window for ample germination.

Estimated \$7,895.00 (Spring 2025)

Organic Soil Enhancer: Supports microbiology that is crucial to plant health, as well as improving soil health. The organic enhancer will be applied as a liquid application to all turf areas within the project workspace. - Estimate at \$995.00

Native Planting Installation - Beautification

This part of the proposal is for the installation of 2" x 2" native plants. Each plant is \$5.75 installed and can be customized to the HOA's request.

Native Plants To be used

Asclepias incarnata – Marsh Milkweed

Boltonia latisquama – False Aster

Carex emoryi – Riverbank Tussock Sedge

Echinacea purpurea (Purple Coneflower)

Iris virginica shrevei (Blue Flag Iris)
Penstemon digitalis (Foxglove Beardtongue)
Rudbeckia fulgida speciosa (Showy Black Eyed Susan)

Explain the impact the project will have on your neighborhood and the surrounding community

This project will benefit the William Trace community and the broader Westfield area by:

Creating a more attractive and functional outdoor space
Improving local water quality and reducing erosion
Encouraging community engagement through environmental stewardship
Supporting Westfield's commitment to sustainability and neighborhood vibrancy

How does the project align with the Westfield Comprehensive Plan?

The William Trace Pond Restoration and Beautification project aligns with the Westfield Comprehensive Plan in several key ways:

Environmental Stewardship & Sustainability:

Supports the preservation and enhancement of natural resources, aligning with the plan's emphasis on environmental protection.

Implements invasive species management and erosion control to improve local water quality and protect native ecosystems.

Parks & Open Spaces Enhancement:

Enhances the aesthetic and recreational value of the neighborhood ponds, contributing to Westfield's goal of vibrant, well-maintained open spaces.

Introduces native plant species, promoting biodiversity and pollinator habitats in line with green infrastructure strategies.

Community Development & Engagement:

Encourages neighborhood involvement and long-term investment in shared spaces, fostering civic pride and stronger community ties.

Supports the City's commitment to quality-of-life improvements by creating a more attractive and functional green space for residents.

Water Quality & Storm water Management:

Addresses storm water runoff and erosion issues, which aligns with Westfield's goals for sustainable water management and flood mitigation.

Reduces long-term maintenance costs through proactive land and vegetation management.

By improving both the environmental health and visual appeal of the ponds, this project directly supports Westfield's vision of a sustainable, engaged, and well-planned community.

How do you plan to evaluate the success of the project?

The success of the William Trace Pond Restoration and Beautification project can be evaluated using the following key metrics:

1. Environmental Impact

Reduction in Invasive Species: Measure the decrease in cattails and woody species through visual assessments and periodic surveys.

Improved Water Quality: Track changes in water clarity, algae growth, and sedimentation levels before and after treatments.

Erosion Control Success: Assess stabilization of shoreline areas using soil retention tests and visual inspections.

2. Aesthetic and Recreational Enhancement

Community Feedback: Conduct resident surveys to gauge satisfaction with the improved pond landscape and usability.

Vegetation Growth & Coverage: Monitor turf establishment, native plant survival rates, and overall landscape enhancement.

Wildlife and Pollinator Presence: Document the return of beneficial wildlife and pollinators to the restored habitat.

3. Long-Term Maintenance & Sustainability

Cost Reduction Over Time: Compare maintenance costs before and after the project to evaluate efficiency gains.

Ongoing Vegetation Control Effectiveness: Measure the need for continued invasive species management and whether native plantings reduce future maintenance demands.

4. Community Engagement & Utilization

Resident Participation: Track involvement in volunteer maintenance efforts or educational events about conservation.

Increased Use of Green Space: Observe more frequent

	use of the pond area for recreational and social activities. By analyzing these factors, the project's success can be quantified in terms of environmental restoration, cost savings, and enhanced neighborhood vibrancy.
If your project is not approved, what will you do to accomplish the project?	If this project is not approved for grant funding, it will be financed through the HOA's reserve account, with the possibility of a special assessment if additional funds are required.
Who will be involved in the implementation of the project?	Hoosier Aquatic Management Inc. P.O. Box 1906, Indianapolis, Indiana 46206 Phone: 317-709-5379 www.hoosieraquaticmanagement.com
Is there any additional information that is important to include about the project?	When purchasing homes in our small, 88-home community, residents were assured that HOA fees would remain reasonable. However, over the past five years, we have learned that the builder and developer did not accurately represent the long-term financial requirements. As a result, HOA dues have significantly increased over 150% for some residents. This project is a critical step toward addressing invasive species and correcting multiple issues caused by the developer's cost-cutting measures, ensuring a healthier and more sustainable environment for our community.
Project Plans	William Trace – Native Planting Options and Past Project Exa (1).pdf, William trace Pond maintenance 2025 (1).pdf, Pond Grant Proposal for the City of Westfield Neighborhood Vibrancy Grant.pdf

Email not displaying correctly? [View it in your browser.](#)

CITY OF WESTFIELD, INDIANA
NEIGHBORHOOD VIBRANCY GRANT AGREEMENT

This Neighborhood Vibrancy Grant Agreement (“Agreement”) is entered into by and between the City of Westfield, Indiana (“City”) and Willow Creek Home Owners Association (“HOA”) (each a “Party” and collectively “the Parties”) on this ____ day of _____, 2025.

WHEREAS, the City is a municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council;

WHEREAS, the HOA is a Indiana nonprofit corporation organized to manage and maintain common areas and enforce rules within a community, such as a condominium or subdivision, and ensure the upkeep of shared spaces and adherence to community standards, which operates within the City;

WHEREAS, the City administers a Neighborhood Vibrancy Grant Program (“NVGP”) whereby the City provides funding for unique and innovative ideas that make the community a more vibrant place to live and positively impact the quality of life in the City;

WHEREAS, Ind. Code § 36-10-2-2, Ind. Code § 36-10-2-4, Ind. Code § 36-10-2-5, and State Board of Accounts guidance provide that the City may provide aid to recreation facilities and programs, community service facilities and programs, neighborhood

centers, community centers, and civic centers, and that a written contract should document the services provided; and

WHEREAS, the City and the HOA desire to enter into this Agreement to formalize the City's grant of funds to the HOA, and responsibilities and commitments related thereto.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, the City and the HOA hereby agree as follows:

Section 1. Recitals. The above Recitals are an integral part of this Agreement and are specifically incorporated herein by reference.

Section 2. Grant Agreement. The City, after review and recommendation by the NVGP Committee and approval by the Board of Public Works and Safety, agrees to a one-time grant of a total of TEN THOUSAND DOLLARS AND ZERO CENTS (\$10,000.00) ("Grant Funds") to the HOA to assist with payments and costs related to the project described in the attached NVGP application ("Project"). The Grant Funds shall be used only in accordance with the terms of this Agreement.

Section 3. Obligations of the HOA. The HOA agrees that the Project must be completed within one (1) year of receipt of the Grant Funds. The HOA agrees to use any and all Grant Funds from the City only towards the cost of the Project and for no other purpose. The HOA agrees to provide the City with the following information and documentation:

- (a) A budget for the Project;
- (b) Certified copies of incorporation as a nonprofit corporation under Indiana state law;
- (c) Appropriate documentation identifying the HOA as an Indiana nonprofit corporation in good standing;
- (d) Any audits, reviews, financial statements, or compilations available describing the financial condition of the HOA;
- (e) A Project end report describing how the Grant Funds were used and the impact of the dollars had on completing the Project; and
- (f) Other relevant documentation that the City requests.

Section 4. Non-profit Status. By executing this Agreement, the HOA hereby represents and warrants that it is a nonprofit entity in good standing.

Section 5. Use of Funds by the HOA. The Grant Funds received by the HOA pursuant to this Agreement shall be used only to assist with costs for the Project, and for no other purpose. If it is determined by the City that the Grant Funds have been misappropriated, or the HOA violates any term of this Agreement, this Agreement shall immediately be terminated and the HOA agrees to return all funds received from the City.

Section 6. Non-Exclusivity. The City and the HOA agree that the City may enter into other Grant Agreements or similar agreements, and the HOA shall not be the exclusive recipient of grants or donations from the City.

Section 7. Good Faith Cooperation. The City and the HOA agree to cooperate fully and in good faith, take additional actions, and execute additional documents as may be needed to fulfill the terms and intent of this Agreement.

Section 8. Effective Date and Term. This Agreement shall be effective upon the signing of both parties hereto, and shall be in effect until Project completion or one (1) year after the Grant Funds are awarded, which ever comes first, subject to termination pursuant to Section 5 of this Agreement. This Agreement may otherwise be terminated or extended only by a written agreement signed by authorized representatives of both the City and the HOA.

Section 9. Notices. Any notice or documentation required to be submitted pursuant to this Agreement shall be submitted in writing to the following addresses:

City of Westfield
Attn: Community Development
2728 E 171st Street
Westfield, Indiana 46074

Willow Creek HOA
Attn: Stacy Collins
3128 Grandview Way
Westfield, Indiana 46074

Section 10. Non-Discrimination. The HOA agrees that it will not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement or the Project, with respect to the employee's hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of the employee's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement.

Section 11. Indemnification. The HOA shall defend, indemnify, and hold harmless the City and each and every past, present, and future official, representative, subsidiary, parent, division, affiliate, officer, director, employee, attorney, predecessor, and successor, both individually and in their representative capacities from and against all third party claims, demands, litigation and losses arising out of or concerning (1) the failure of the HOA to observe and perform any of its obligations under this Agreement and/or (2) any intentional or negligent act or omission by the HOA.

Section 12. Governing Law. This Agreement is governed by the laws of the State of Indiana. The Parties submit to the jurisdiction of Hamilton County, Indiana courts and waive any objection to venue.

Section 13. 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 provision(s) shall continue in full force and effect.

Section 14. Relationship of the Parties. The employees and/or agents of the City are not employees of the HOA by virtue of this Agreement, and vice versa. The HOA has no authority to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of the City, except as expressly so stated in this Agreement or a duly authorized amendment hereto.

Section 15. Counsel and Understanding. Each Party warrants that: (a) it is represented by competent counsel with respect to this Agreement and all matters covered by it, or has waived the right to be so represented; (b) it has been fully advised by said counsel with respect to its rights and obligations and with respect to the execution of this Agreement or has waived the right to be so advised; and (c) it fully understands this Agreement and the effect of signing and executing it.

Section 16. Amendment. This Agreement may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a writing duly executed by an authorized representative of each of the Parties.

Section 17. Entire Agreement. This Agreement shall constitute the entire agreement between the parties with respect to the subject matter herein, and there are no other terms, statements, obligations, or representations, oral or otherwise, of any nature whatsoever. This Agreement, along with all exhibits, attachments, or other documents

incorporated herein by reference, constitutes the entire agreement by and between the Parties and supersedes and replaces all prior negotiations, proposed agreement or agreements, written or oral, related to this Agreement or the matters addressed herein.

Section 18. Assignment. No Party hereto may assign or otherwise transfer this Agreement or any of its rights and obligations hereunder to any third party.

Section 19. Waiver. The failure of a Party to require performance of any provision shall not affect that Party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

Section 20. Construction. The language of this Agreement shall be construed as a whole, according to its fair meaning and intentment, and not strictly for or against any Party, regardless of who drafted or was principally responsible for drafting this Agreement or any specific term, provision, or condition. This Agreement is hereby deemed to have been drafted by all the Parties, and no Party shall urge otherwise.

Section 21. Warranty. Each Party represents and warrants that it has the full power and authority to enter into this Agreement and to perform all transactions, duties and obligations contained herein. Each signatory to this Agreement who signs on behalf of a Party represents and warrants that he or she has the authority to sign on behalf of that Party.

Section 22. Non-Appropriation. The Parties acknowledge that the City is a governmental entity whose funds are subject to appropriation by its fiscal body. Therefore, if the City's fiscal body should fail to appropriate the Grant Funds, this Agreement will become null and void. The City shall not be obligated to perform unless and until sufficient funds are appropriated.

Section 23. Counterparts. This Agreement may be executed in counterparts.

CITY OF WESTFIELD, INDIANA

Date

WILLOW CREEK HOA.

Date

Neighborhood Vibrancy Grant Application

Organization/Neighborhood Name Willow Creek

Point of Contact Name (first and last) Stacy Collins

Point of Contact Email Address smcollins07@gmail.com

Point of Contact Phone Number 317-417-3637

Applicant Address 3128 Grandview Way

Subdivision Address (if different) PO Box 546

Zip Code 46074

Number of Families/Households 158

Age of Subdivision Final build completed in 1994 - 31 years

How did you hear about the Neighborhood Vibrancy Grant Program? WeCAN

If you selected other,
please let us know!

Field not completed.

(Section Break)

Project Overview

Brief description of the proposed project

This project will revitalize both neighborhood entrances along Highway 32 and Grassy Branch Road, creating a cohesive, sustainable, and visually appealing entryway. It includes removing invasive species, introducing native pollinator-friendly plants, upgrading irrigation and lighting, and installing a surface aerator in the retention pond. These enhancements will improve curb appeal, support local ecosystems, and align with Westfield's beautification efforts while maintaining affordability for residents. Corey Floors, owner of Landscape Designs of Indianapolis and a Willow Creek resident, is donating his company's services, ensuring a high-quality and cost-effective implementation.

Has the project been approved by the HOA?

Yes

Date of HOA Approval

2/15/2025

Amount Requested

10,000

Total Cost of Project

22,147.88

Project Timeline

Majority of work to be completed in Summer 2025, aligning with optimal planting seasons.

(Section Break)

Project Submission

Full Project Description

Landscaping & Aesthetic Enhancements:
Redesign entrance landscaping with native, low-maintenance plants.
Remove invasive species (including Callery Pear trees and vines).
Enhance pollinator habitats to support biodiversity.
Strip and replace grass and outdated plantings in key areas.
Install mulch for moisture retention and weed control.

Native Plant Selection (Pollinator-friendly & low-maintenance):
Millennium Onion (*Allium 'Millenium'*)
Butterfly Weed (*Asclepias tuberosa*) – Monarch habitat

Eastern Redbud (Multistem) (*Cercis canadensis*) – Native flowering tree
 Kodiak Black Honeysuckle (*Diervilla rivularis* ‘Kodiak Black’) – Hardy shrub
 Annabelle Hydrangea (*Hydrangea arborescens* ‘Annabelle’) – Shade tolerant
 Winterberry (Afterglow & Jim Dandy) (*Ilex verticillata*) – Wildlife-friendly
 Niagara Falls Switch Grass (*Panicum virgatum*) – Ornamental grass
 Little Bluestem (*Schizachyrium scoparium*) – Native prairie grass
 Rock 'n' Round Pure Joy Sedum (*Hylotelephium* ‘Pure Joy’) – Drought-resistant

Infrastructure & Lighting Improvements:
 Upgrade irrigation system for water efficiency.
 Install LED lighting for monument signs and trees.
 Bore electric conduit to center island for lighting.
Water Feature Installation
 Install Powerhouse Surface Aerator in retention pond to improve circulation and reduce algae.
 Set up electrical pedestal, wiring, and aerator controls.
 Store aerator boiler during winter months for longevity.

Cleanup & Debris Removal:
 Remove trash, invasive plants, and existing landscaping.
 Haul debris to landfill.

Explain the impact the project will have on your neighborhood and the surrounding community

This project will preserve and enhance one of Westfield's oldest neighborhoods, home to many original residents. With a mix of retirees and young families, the HOA works to keep fees low, ensuring affordability. The grant will enable critical improvements without financial strain on residents. A refreshed entrance boosts community pride, strengthens neighborhood identity, and enhances Westfield's overall appearance.

How does the project align with the Westfield Comprehensive Plan?

This project elevates Willow Creek's visibility as one of the first neighborhoods encountered when entering Westfield along Highway 32, creating a more attractive and welcoming gateway to the city. By improving landscaping and signage, the project supports Westfield's goal of maintaining well-maintained and aesthetically pleasing corridors. A cohesive and updated entrance reinforces neighborhood identity while fostering a connected and visually appealing community. Additionally, these improvements align with the planned widening of Highway

32, ensuring that Willow Creek integrates seamlessly with Westfield's evolving streetscape.

How do you plan to evaluate the success of the project?

The success of the project will be evaluated through before-and-after photos to document the transformation and assess the visual impact. Resident and visitor feedback will provide insights into the effectiveness of the improvements, while property value trends and real estate interest will be monitored to gauge any potential impact on neighborhood desirability. The long-term durability of landscaping and infrastructure will also be tracked to ensure sustainability and cost-effective maintenance. Additionally, the HOA will coordinate with city officials to confirm that the enhancements align with the Highway 32 expansion and broader city beautification efforts.

If your project is not approved, what will you do to accomplish the project?

If the grant is not awarded, the HOA will prioritize essential upgrades, such as signage and basic landscaping, and implement improvements in phases as funding allows. HOA funds will be used carefully to ensure progress while keeping fees affordable for residents. To offset costs, the HOA will seek donations and in-kind support from local businesses and landscapers. Additionally, volunteer efforts will be organized for seasonal plantings and general maintenance to enhance the entrances over time. The HOA will also continue engaging with city officials to explore potential partnership opportunities that align with Westfield's beautification and infrastructure improvement plans.

Who will be involved in the implementation of the project?

The Willow Creek HOA Board oversees the project, with John O'Malia serving as President, Bernadette Buckley as Treasurer, Emily Alexander as Secretary, Corey Floors as Grounds Chair, and Stacy Collins as Development Chair. Landscape Designs of Indianapolis, owned by Corey Floors, is generously donating services for landscape design and installation. Community volunteers will contribute by assisting with planting and light maintenance to help sustain the improvements. The HOA will work closely with the City of Westfield to ensure compliance with zoning, permitting, and city beautification standards. Additionally, the HOA will seek partnerships with local businesses, nurseries, and garden centers for potential discounts and in-kind support to maximize the project's impact while maintaining affordability.

Is there any additional information that is

Willow Creek has two entrances separated by a ravine, creating a disjointed look. This project will unify both entrances, reinforcing that we are one community, not two

important to include about the project?

separate sections. A cohesive design will strengthen neighborhood identity and improve the overall aesthetic appeal of the area. We are grateful for your consideration!

Project Plans

[wllow creek attachments.pdf](#)

Email not displaying correctly? [View it in your browser.](#)

HWC Water & Land Resources, LLC
BMO Plaza
135 North Pennsylvania Street, Suite 2800
Indianapolis, IN 46204
(317) 347-3663

MEMORANDUM OF AGREEMENT FOR LAND MANAGEMENT SERVICES

Client: City of Westfield
Client Address: 2706 East 171st Street, Westfield, IN
Project Name: 46074 Stormwater Program 2025
Project Number: 20250311

Services to be provided: The Scope of Services includes land management services as described in Appendix "A", attached.

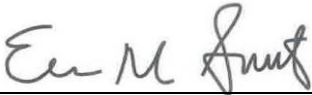
Schedule: Wet Program: Starts April 1, 2025
Dry Program: 1st Spray in June and 2nd Spray in August.

Fees: \$75,679 Lump Sum
Payment 1 – Billed in April 2025 for 50%
Payment 2 – Billed in July 2025 for 50%

Invoicing/Payments: ~~Billing is monthly unless otherwise noted.~~ Payments are due within 30 days of invoice receipt. The rates identified in this Agreement are subject to change each December 31st without notification or modification to this Agreement. If a maximum fee amount is indicated, this amount will not be exceeded without further authorization by the client. The terms and conditions under which we are providing these services are set forth on pages 2 - 3 and are incorporated herein by reference. Additional services requested or unusual problems or difficulties may necessitate a higher fee and contract amendment.

The above is intended as a summary of our agreement for the performance of the work described. Please examine same carefully and, if accurate, indicate your approval and acceptance in space provided below.

HWC WATER & LAND RESOURCES, LLC

Date: March 12, 2025 
Printed Name & Title: Eric M. Smith, PE – Partner/VP, Dir. of Water Resources

CITY OF WESTFIELD

The undersigned hereby states that they are the person or duly authorized agent of the person or organization contracting for the above services for the above-described project and that the terms and conditions stated are understood and herewith agreed to and accepted. HWC Water and Land Resources, LLC is hereby authorized to proceed with the services outlined herein.

Date: _____ By: _____
Printed Name & Title: _____

TERMS AND CONDITIONS

To assure an understanding of matters related to our mutual responsibilities these terms and conditions for land management services are part of this agreement for our services.

COMPENSATION FOR HWC's SERVICES - The basis for compensation will be as identified in the agreement. When "Lump Sum" payment is utilized it shall include all labor and expenses (for the scope of work as defined in the agreement) incurred by **HWC** and shall not exceed the fixed payment amount without prior authorization of the **CLIENT**. When hourly (no limit) and hourly not-to-exceed (NTE) is utilized, all labor, equipment, and reimbursable expenses will be billed according to the rate schedule attached to this agreement.

"Reimbursable Expenses" means the actual expenses incurred directly or indirectly in connection with the work including but not limited to the following: Transportation and subsistence, toll telephone calls, reproduction or printing, Equipment, layout, inspection, and other outside consultants.

TIME OF PAYMENT - **HWC** may submit monthly statements for services and expenses based upon the proportion of the actual work completed at the time of billing. If the **CLIENT** fails to make any payment due **HWC** for services and expenses within 30 days after receipt of **HWC's** invoice ~~the amounts due HWC will be increased at the rate of 1.5% per month from the thirtieth day from invoicing.~~ In addition, **HWC** may, after giving fourteen days written notice to **CLIENT**, suspend services under this Agreement until **HWC** has been paid in full all amounts due for services, expenses, and other related charges. In the event of a disputed or contested invoice, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.

If the **CLIENT** fails to make payments when due and **HWC** incurs any costs in order to collect overdue sums from the **CLIENT**, the **CLIENT** agrees that all such collection costs incurred shall immediately become due and payable to **HWC**. Collection costs shall include, without limitation, legal fees, collection agency fees and expenses, court costs, collection bonds and reasonable **HWC** staff costs at standard billing rates for **HWC's** time spent in efforts to collect. This obligation of the **CLIENT** to pay **HWC's** collection costs shall survive the term of this Agreement or any earlier termination by either party.

INDEMNITIES - **HWC** and the **CLIENT** each agree to indemnify and hold the other harmless, and their respective officers, employees, agents, and representatives from and against liability for all claims, losses, damages, and expenses, including reasonable attorney fees, to the extent such claims, losses, damages, or expenses are caused by the indemnifying party's negligent acts, errors, or omissions.

In addition to the indemnity of this Agreement, and to the fullest extent permitted by law, **CLIENT** shall indemnify and hold harmless **HWC**, **HWC's** Subconsultants and the officers, directors, partners, employees of **HWC**, from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from the presence of asbestos, toxic materials, or any other hazardous, toxic or dangerous environmental condition, on or about the Project site (the "Site"), whether known or unknown to **CLIENT**, provided that nothing in this Article shall obligate **CLIENT** to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

The **CLIENT** agrees to extend any and all liability limitations and indemnifications for performance of services under this Agreement to, in and including, but not limited to **HWC's** officers and employees, their heirs and assigns, and **HWC's** Subconsultant's their heirs and assigns.

HWC will retain all pertinent records relating to the services performed for a period of five (5) years following performance of work, during which period the records will be made available to the **CLIENT** at all reasonable times for inspection or copying.

PROFESSIONAL RESPONSIBILITY - **HWC** will exercise reasonable skill, care, and diligence in the performance of services and will carry out all responsibilities in accordance with customarily accepted professional engineering practices. Failure by the **CLIENT** to report any defect or suspected defect to **HWC** within one (1) year from the completion of **HWC's** services for the Project shall relieve **HWC** of the obligation to cure the defect or suspected defect or any costs associated with the efforts to cure the defect or suspected defect.

HWC shall not be required to sign any documents, no matter by whom requested, that would result in **HWC** having to certify, guarantee or warrant the existence of conditions whose existence **HWC** cannot ascertain. The **CLIENT** also agrees not to make resolution of any dispute with **HWC** or payment of any amount due to **HWC** in any way contingent upon **HWC's** signing any such certification.

ABANDONMENT - Services may be terminated by the **CLIENT** and **HWC** by thirty (30) days' notice in the event of substantial failure to perform in accordance with the terms hereof by the other party through no fault of the terminating party so long as such nonperformance has not been caused by delays outside of the control of **HWC**. The earned value of the work performed shall be based upon an estimate of the portions of the total services as have been rendered by **HWC** to the date of the abandonment for all services to be paid for on a lump sum basis. **HWC** shall be compensated for services properly rendered prior to the effective date of abandonment on all services to be paid on a cost basis or a cost plus fixed fee basis. The payment as made to **HWC** shall be paid as the final payment in **CLIENT's** full settlement and release for the services hereunder unless otherwise provided hereunder.

INSURANCE - **HWC** shall procure and maintain Professional liability insurance for claims arising from the negligent performance of professional services under this Agreement, which shall be either: General Office Coverage or Project Specific Professional Liability Insurance, with a per occurrence limit of not less than \$2,000,000.00. The Professional Liability Insurance shall contain prior acts coverage sufficient to cover all Services performed by **HWC**, and Worker's Compensation, disability benefit, or any other similar employee benefit laws, including bodily injury, occupational sickness or disease of an employee; Commercial General Liability Insurance, with a per occurrence limit of not less than \$1,000,000.00; **HWC shall name CLIENT as additional insured on the Commercial General Liability policy.** Additionally, **HWC** shall require its Subconsultants to maintain Commercial General Liability and Comprehensive Automobile Liability coverage equal to or greater than **HWC**.

CLIENT shall procure and maintain Commercial General Liability Insurance, with a per occurrence limit of not less than \$2,000,000.00; shall cause **HWC** and **HWC's** Consultants to be listed as additional insured on any general liability or property insurance policies carried by **CLIENT** which are applicable to the Project; shall require Contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause **HWC** and **HWC's** Consultants to be listed as additional insured with respect to such liability and other insurance purchased and maintained by Contactor for the Project.

CLIENT and **HWC** shall each deliver to the other certificates of insurance evidencing the coverage indicated in this Agreement. Such certificates shall be furnished prior to commencement of **HWC's** services and at renewals thereafter during the life of the Agreement.

All policies of property insurance shall contain provisions to the effect that **HWC's** and **HWC's** Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insured's or additional insured's there under.

GOVERNING LAWS AND DISPUTES – This Agreement and all the terms and provisions shall be interpreted and construed according to the laws of the State of Indiana, notwithstanding any state's choice of law rules to the contrary. Should any clause, paragraph, or other part of this Agreement be held or declared to be void or illegal, for any reason, by any court having competent jurisdiction, all other causes, paragraphs or part of this Agreement, shall nevertheless remain in full force and effect. All claims or disputes of **HWC** and the **CLIENT** arising out of or relating to the Agreement, or the breach thereof after notice and a reasonable opportunity to cure, shall be first submitted to non-binding mediation. If a claim or dispute is not resolved by mediation, the party making the claim or alleging a dispute shall have the right to institute any legal or equitable proceedings in a court located in ~~Marion~~ Hamilton County, Indiana.

AMENDMENTS - This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and shall be deemed to supersede all prior and contemporaneous agreements, representations and understandings, whether written or oral, and the same shall be deemed to have been merged into this Agreement. No amendment or modification to this Agreement shall have any force or effect unless in writing and signed by both the **CLIENT** and **HWC**.

NON-APPROPRIATION. The Parties acknowledge that the **CLIENT** is a governmental entity whose funds are subject to appropriation by its fiscal body. Therefore, if at any time during the initial term or subsequent term of this representation, the **CLIENT's** fiscal body should fail to appropriate sufficient funds to continue this representation, it will become null and void. The **CLIENT** shall not be obligated to perform unless and until sufficient funds are appropriated. The **CLIENT** agrees to seek funding for the continuation of the representation during each budget cycle during the initial term or subsequent term of this representation. The **CLIENT** agrees to inform **HWC** in writing of any such non-allocation of funds at the earliest possible date and shall pay for all services provided prior to exhaustion of the appropriated funds.

WAIVER: The Parties agree that the failure to enforce any provision or obligation under this agreement shall not constitute a waiver thereof, or serve as a bar to the subsequent enforcement of any such provision or obligation under this Agreement.

COUNTERPARTS: This Agreement may be executed simultaneously in one or more counterparts, each of which shall be considered an original, but all of which together constitute one Agreement. Delivery of this Agreement may be accomplished by facsimile.

INDEPENDENT CONTRACTORS: The relationship between the Parties shall be that of independent contractors. Nothing in this Agreement will constitute or be deemed to constitute a partnership, joint venture, employment relationship, or agency. Under no circumstances will the employees of one party be deemed to be employees of the other party by virtue of this Agreement.

Treatments & visits subject to weather, safe water quality conditions, temperature & holidays. Products are safe; however, there is always a fish kill risk especially carp & shad; **HWC** is not liable for costs or cleanup in these rare events.

Appendix "A"

STORMWATER PROGRAM 2025

Site 1: Bio Retention 151st/US 31 (Goodwill Area) 2X

.8-acre site

Spray Invasives: Spot spray Invasives per visit.	\$800
Spray Inlets/Outlets: Kill weeds per visit.	\$500
Trash: Pickup all trash on site per visit	\$350
Spray Rip Rap: Kill weeds in rip rap areas.	\$800
Bush hog and Spray Invasives. 1x	<u>\$1500</u>
Total:	<u>\$3950</u>

Site 2: Bio Retention Grayhound Ct/US 31 (St Vincent) 2X

.9-acre site

Spray Rip Rap: Kill weeds in rip rap areas per visit.	\$700
Spray Inlets/Outlets: Kill weeds, clean area per visit.	\$700
Trash: Pickup all trash on site per visit.	\$350
Bush hog and Spray Invasives. 1x	<u>\$1500</u>
Total:	<u>\$3250</u>

Site 3: Bio Retention Carey Rd/161st St 2X

1.05-acre site

Spray Inlets/Outlets: Kill weeds, clean area, per visit.	\$950
Spray Rip Rap: Kill weeds in rip rap area, per visit.	\$600
Trash: Pickup all trash on site per visit.	\$350
Bush hog and Spray Invasives. 1x	<u>\$1500</u>
Total:	<u>\$3400</u>

Site 4: Bio Swale 191st/Thomlinson Rd 2X

.2-acre site

Spray Invasives: Spot spray invasive species per visit.	\$250
Spray Inlets/Outlets: Kill weeds, clean area, per visit.	\$400
Spray Rip Rap: Kill weeds in rip rap area, per visit.	\$200
Trash: Pickup all trash on site per visit.	<u>\$350</u>
Total:	<u>\$1200</u>

Site 5: City Administration Building 2X

.12-acre site

Spray Invasives: Spot spray invasive species, per visit.	\$250
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Appendix "A"

STORMWATER PROGRAM 2025

Clean Inlets/Outlets: Kill weeds, clean area, per visit.	\$75
Spray Perimeter: Kill weeds around area and rip rap.	\$150
Pickup Trash: Pickup all trash on site per visit.	<u>\$350</u>
Total:	<u>\$825</u>

Site 6: Bio Swale Carey Rd (By Bridgewater) 2X

.14-acre site

Spray Inlets/Outlets: Kill weeds, clean area, per visit.	\$650
Trash: Pickup all trash on site per visit.	<u>\$350</u>
Total:	<u>\$1000</u>

Site 7: Bio Swale/Wet Basin Dartown Rd (Behind Fire Station) 2X

.8-acre site

Spray Cattails: Manage Cattails in area.	\$1000
Spray Inlets/Outlets: Kill weeds, clean area, per visit.	\$300
Trash: Pickup all trash on site per visit.	\$350
Treat Pond: Based on 10 treatments, April-October.	<u>\$4000</u>
Total:	<u>\$5650</u>

Site 8: Bio Retention/Wet Basin (In front of McDonalds on 32) Every 2 weeks.

.5-acre site

Spray Inlets/Outlets: Kill weeds, clean area, per visit.	\$500
Spray Cattails: Manage Cattails in area.	\$1000
Spray Invasives: Kill invasive species in area per visit.	\$1000
Spray Rip Rap: Kill weeds in rip rap area, per visit.	\$2000
Trash: Pickup all trash on site per visit.	\$1000
Treat Pond: Based on 10 treatments, April-October.	<u>\$3500</u>
Total:	<u>\$9000</u>

Site 8.5: Bio Retention/Wet Basin (In front of Culvers) Every 2 weeks.

.5 acre site

Spray Inlets/Outlets: Kill weeds, clean area, per visit.	\$500
Spray Cattails: Manage Cattails in area.	\$1000
Spray Invasives: Kill invasive species in area, per visit.	\$1000
Spray Rip Rap: Kill weeds in rip rap areas, per visit.	\$500

Appendix "A"

STORMWATER PROGRAM 2025

Trash: Pickup all trash on site per visit.	\$750
Treat Pond: Based on 10 treatments, April-October.	<u>\$2500</u>
Total:	<u>\$6250</u>

Site 9: Wet Basin 181st/US 31 (Old TSC) 2X

1.2-acre site

Spray Inlets/Outlets: Kill weeds, clean area, per visit.	\$350
Trash: Pickup all trash on site per visit.	\$350
Treat Pond: Based on 10 treatments, April-October	<u>\$1500</u>
Total:	<u>\$2200</u>

Site 9.5: Wet Basin (Small pond north of Site 9) 2X

.2 acres

Spray Inlets/Outlets: Kill weeds, clean area, per visit.	\$350
Trash: Pickup all trash on site per visit.	\$350
Treat Pond: Based on 10 treatments, April-October.	<u>\$1500</u>
Total:	<u>\$2200</u>

Site 10: Wet Basin 171st/Ditch (Across from Maple Glen Elementary) 2X

5.3-acre site

Spray Inlets/Outlets: Kill weeds, clean area, per visit.	\$750
Spray Cattails: Manage Cattails in area.	\$1250
Trash: Pickup all trash on site per visit.	\$500
Treat Pond: Based on 3 treatments, 1x per month June-October.	<u>\$2500</u>
Total:	<u>\$5000</u>

Site 11: Bio Retention Freedom Park 1X

.12-acre site

Spray Inlets/Outlets.	\$400
Trash: Pickup all trash on site per visit.	\$350
Bush hog and Spray Invasives. 1x	<u>\$1000</u>
Total:	<u>\$1750</u>

Site 12: 151st/Target AND small area on Westfield Blvd. 2x

Spray Inlets/Outlets.	\$750
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Appendix "A"

STORMWATER PROGRAM 2025

Spray Rip Rap areas: Spray for weeds and grasses.	<u>\$750</u>
Total:	<u>\$1500</u>

Site 13: 151st/US 31 Behind Firehouse. 2X
.4-acre site.

Spray Cattails-Manage.	\$500
Treat Pond-Season based on 10 treatments.	\$4000
Trash-Pickup all trash on site per visit.	\$350
Spray Inlets/Outlets.	<u>\$300</u>
Total:	<u>\$5150</u>

Site 14: Area out front of Washington Woods Elementary and Fire Station. 2x

Spray Inlets/Outlets.	\$750
Spray Rip Rap areas: Spray for weeds and grasses.	<u>\$750</u>
Total:	<u>\$1500</u>

Site 15: Bio Retention Westfield Blvd. 2X

1.05-acre site

Spray Inlets/Outlets: Kill weeds, clean area, per visit.	\$1000
Spray Rip Rap: Kill weeds in rip rap area, per visit.	\$700
Trash: Pickup all trash on site per visit.	\$350
Bush hog and Spray Invasives. 1x	<u>\$1500</u>
Total:	<u>\$3550</u>

Site 16: Bio Retention Ditch Rd/St Rd 32. 2X

1.5-acre site

Spray Inlets/Outlets: Kill weeds, clean area, per visit.	\$1000
Spray Rip Rap: Kill weeds in rip rap area, per visit.	\$900
Trash: Pickup all trash on site per visit.	\$350
Bush hog and spray invasives. 1X	<u>\$1500</u>
Total:	<u>\$3750</u>

Site 17: Westfield Blvd A/B Hydrodynamic Separator

3 Mechanical Separators @ \$1750 per	\$5250
Inspect and clean per visit. 1X	Incl
Clean floatables per visit. 1X	Incl

Appendix "A"

STORMWATER PROGRAM 2025

Clean trash around area per visit. 1X	<u>\$350</u>
Total:	<u>\$5600</u>

Site 18: S Union Hydrodynamic Separator

1 Mechanical Separator @ \$1750 per	\$1750
Inspect and clean per visit. 1X	Incl
Clean floatables per visit. 1X	Incl
Clean trash around area per visit. 1X	<u>\$350</u>
Total:	<u>\$2100</u>

Site 19: 161st and Oak Rd Dry Detention Basin 2x

2 Acre Site

Spray Inlets/Outlets: Kill weeds, clean area, each visit.	\$1250
Spray Rip Rap: Kill weeds in rip-rap areas each visit.	\$1050
Trash: Pickup all trash on site per visit	\$350
Spray and/or bushhog area each visit.	<u>\$2000</u>
Total	<u>\$4650</u>

Total Project Not to Exceed \$73,475

3% Increase 2025 \$2204

NEW Not to Exceed Amount 2025 Stormwater BMP Program \$75,679

APPENDIX "B"

STATUTORY REQUIREMENTS

E-Verify. Pursuant to Ind. Code § 22-5-1.7-11, HWC, by entering into the Contract with CLIENT, is required to enroll in and verify the work eligibility status of all of its newly hired employees through the E-Verify program. HWC is not required to verify the work eligibility status of all of its newly hired employees through the E-Verify program if the E-Verify program no longer exists. HWC hereby states that it does not knowingly employ an unauthorized alien. HWC further affirms that, prior to entering into the Contract with CLIENT, it will enroll in and agrees to verify the work eligibility status of all its newly hired employees through the E-Verify program.

Non-Discrimination. HWC agrees that it, and its subcontractors, will not discriminate against any employee or applicant for employment to be employed in the performance of this Contract, with respect to the employee's hire, tenure, terms, conditions or privileges or employment, or any matter directly or indirectly related to employment, because of the employee's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of the Contract.



Resolution Group, Inc.

March 13, 2025

Mr. Wes Rood
Stormwater Coordinator
City of Westfield, Indiana
2706 E 171st Street
Westfield, IN 46074

**RE: Private BMP Inventory
Post-Construction BMPs**

Dear Wes:

Resolution Group (RGI) is excited to submit to you a proposal and fee for creating an inventory of private Post-Construction Best Management Practices (BMPs) currently installed with the project area outlined in the "Westfield Private BMP Inventory Scope of Services" document.

Scope of Work

RGI will complete the following tasks:

- Kick-off Meeting and regular coordination with Westfield staff
- Review plans supplied by Westfield for private BMP information
- Review IDEM's nSITE portal for information about unknown BMP locations
- Prepare database of private BMP information for all available private BMP locations
- Prepare GIS layer with attribute data for all available private BMP locations
- Limited Field investigation of unknown BMP locations
- General Assessment of private BMP condition
- Prepare generic O&M manuals
- Prepare generic maintenance checklists

Deliverables

- Database of private BMP information including owner name, owner contact information, BMP type, BMP description, and all relevant technical information able to be collected via plan review and field investigation without the use of survey equipment
- GIS layer with private BMP locations and attribute data
- Documentation of general assessment of BMP condition
- Generic O&M manuals for: Wet Detention Basins, Dry Detention Basins, Rain Gardens/Infiltration Trenches/Bioretenention Areas, and Hydrodynamic Separator Units
- Maintenance Checklists for: Wet Detention Basins, Dry Detention Basins, Rain Gardens/Infiltration Trenches/Bioretenention Areas, and Hydrodynamic Separator Units

Assumptions

- No survey level data will be collected as part of this project
- General Assessments of BMPs condition will not involve measurement of sediment levels
- The preparation of four generic O&M manuals and four maintenance checklists is included in this scope. Additional O&M manuals and maintenance checklists can be prepared upon request for a fee to be negotiated.
- Inspection checklists are not included as part of this scope but can be added upon request for a fee to be negotiated.

Schedule

We are anticipating 300 hours of work to be completed over about 12 weeks.

Fee

RGI proposes to perform the above-mentioned scope of work for a **not-to-exceed of \$36,000**. RGI shall submit invoices once per month with work completed billed on a time and materials basis.

RGI will only perform additional services with Client's prior written consent.

If you have any questions or need additional information about this proposal, please feel free to contact us at (317) 558-2911 or rtoole@resogrp.com.

Sincerely,
Resolution Group, Inc.



Robyn M. Toole, PE, CPESC, CFM
Director of Water Resource Services

CC: John Summerlin, Resolution Group, Inc.



Westfield's Partner for Private BMP Inventory because MS4 compliance matters



Wes Rood:

Resolution Group, Inc. (RGI) is excited to submit our proposal for the Private BMP Inventory. As a trusted advisor and consultant to the City of Westfield, we appreciate the opportunity to continue our partnership. Rather than resting on our previous experience, we are eager to once again earn your trust by providing tailored solutions to support your stormwater program. Our team understands the importance of maintaining an accurate and up-to-date BMP inventory to ensure regulatory compliance and improve water quality. With our expertise in stormwater management, BMP inspections, and GIS integration, we are confident in our ability to deliver efficient, cost-effective solutions that align with the City's needs. RGI has performed design services for several projects with the City of Westfield, both past and current, and we look forward to the opportunity to further support your stormwater initiatives.

DEPTH ON THE BENCH

Our value proposition is rooted firmly in our knowledge of MS4 compliance and IDEM regulations. Our multidisciplinary team includes engineers and environmental scientists, all with extensive experience working in MS4 communities. **RGI has been involved in other municipal contracts of the same or similar scope and size** and we achieve client satisfaction with qualified experts and an experienced project manager fully committed to meeting the client's program objectives in a responsive fashion. Additional details about our team's qualifications are located on **page 2**.

PROJECT UNDERSTANDING

This work will support the City of Westfield's MS4 compliance by addressing Minimum Control Measure (MCM) 5 – Post-Construction Runoff Control. As part of this MCM, the City of Westfield's MS4 Operator is responsible for monitoring compliance with MCM 5 throughout the community. This work will support that effort by addressing the need for an inventory of private BMP owners, documentation of data about these BMPs, and documents that will guide the operation and maintenance of these BMPs.

POST-CONSTRUCTION BMP EXPERTISE

Our team has a strong background in GIS and GPS data collection. We will help ensure that all BMPs within the project area are located and coordinate with you to ensure all collected data are cohesive with other asset management processes currently in place.

The RGI team has worked on the design, inspection, and maintenance of Post-Construction Best Management Practices (BMPs) at the local level and for state projects. The RGI team has prepared maintenance checklists, operations & maintenance (O&M) manuals, and inspection checklists for several MS4 entities and for a range of BMP types.

Our team has inspected multiple types of Post-Construction BMPs across the state which has allowed us to gain experience regarding the primary maintenance issues for multiple BMP types.

PROJECT MANAGER

Robyn Toole, PE, CPESC, CFM



Robyn is Director of Water Resources for RGI. She is an experienced project manager with a strong background in hydrologic and hydraulic (H&H) modeling and analysis for planning and design of stormwater conveyance, detention, and quality. She has prepared design documents for drainage improvements projects on a wide range of infrastructure projects. She has completed nearly 200 stormwater quality control plans and more than 10 CSGP permits.

Expertise

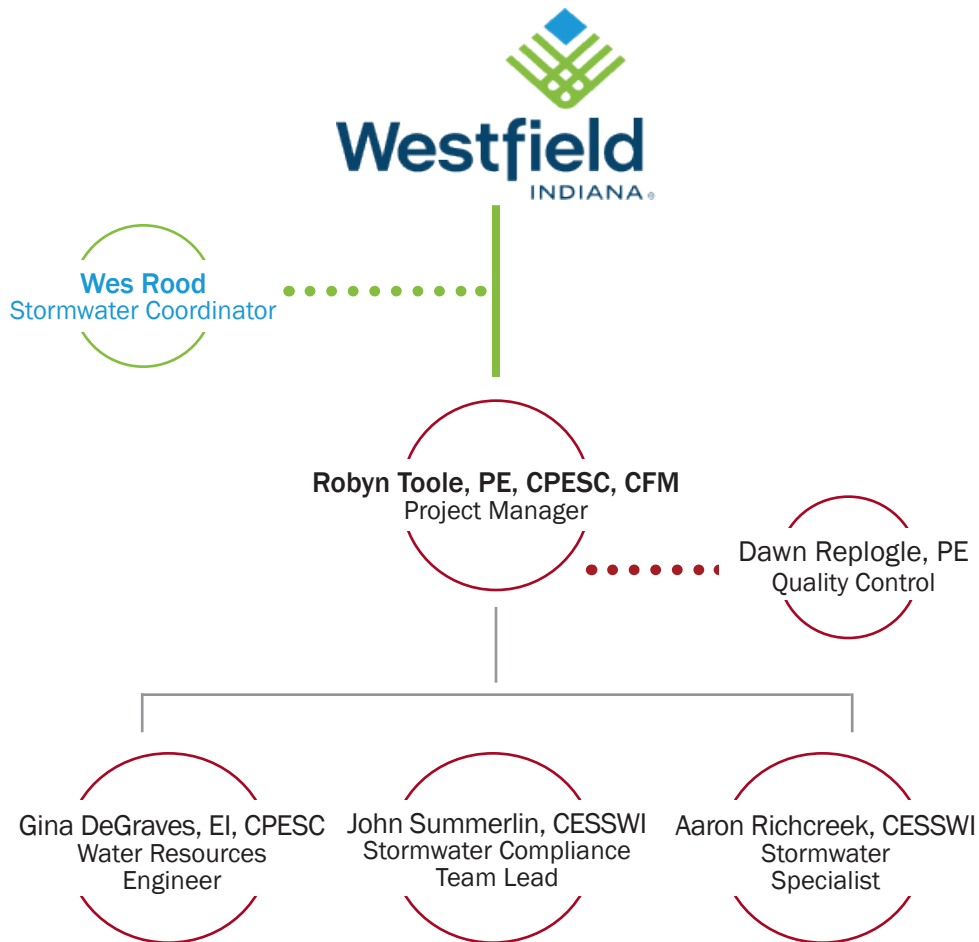
- Project Management
- MS4 Compliance
- Stormwater Management
- Hydraulic Analysis

Project Experience

- Post-Construction BMP Program Implementation
INDOT Central Office
- On-Call Stormwater, Contract ENG-21-008
City of Indianapolis DPW
- MS4 Compliance Assistance
City of Lawrence



AN EXPERIENCED PROJECT TEAM



Team Organization

SPECIALIZED EXPERTISE

The RGI Team has been carefully selected to provide the City of Westfield with peace of mind. Stormwater compliance and post-construction BMP programs require specialized expertise and understanding of complex variables.

O & M MANUAL PREPARATION

- ✓ Robyn
- ✓ Gina
- ✓ John

POST-CONSTRUCTION BMP INSPECTIONS

- ✓ Aaron
- ✓ John
- ✓ Gina

RELEVANT PROJECTS

City of Indianapolis - On-Call Stormwater Contract ENG-21-008

Four annual subcontracts to perform Post-Construction BMPs on an as-needed basis throughout the city. We are planning a fifth year of work this year.

INDOT Central Office - Post-Construction BMP Program Implementation

To comply with its MS4 permit, INDOT requires that the Indiana Design Manual Chapter 204 – Post-Construction Stormwater Best Management Practices (BMPs) be implemented on INDOT projects. Our team includes experts in Chapter 204 and stormwater design with demonstrated success implementing and managing stormwater programs.

City of Lawrence - MS4 Program Assistance

Robyn prepared a review of the existing City of Lawrence MS4 program documents and processes, developed updates to the stormwater ordinance, and recommended improvements for other aspects of the program to bring the City's MS4 program into an improved state of compliance with IDEM. Robyn's responsibilities also included preparing an MS4 Annual Report and an MS4 Rule 13 5-Year Permit Renewal. Program Assistance was ongoing from 2018 through 2023.

MS4 entities that RGI has supported for MCM compliance:

- ✓ City of Lawrence, Indiana
- ✓ City of Indianapolis, Indiana
- ✓ Indiana Department of Transportation



OUR PROJECT APPROACH



GETTING STARTED WITH GOOD COMMUNICATION

We propose to start by having a kickoff meeting with Westfield to get a download of background information and discuss specific concerns from Westfield staff. At this meeting we will also discuss a feasible timeline and set up a communication plan.

Consistent and regular communication with you is part of our plan to ensure that we provide the right information at the right level of detail for your community's needs.

RESOURCEFULNESS IS KEY

Next, the RGI team will review plans provided by Westfield and the IDEM nSITE Explorer for construction plans for other properties in the project area that have applied for a Construction Stormwater General Permit (CSGP). We have been able to obtain some site plan information for our active construction site inspections with the City during our previous work.

As we review plans and the IDEM nSITE Explorer portal, we will create a database of information about each of the private Post-Construction BMPs and add features to a GIS layer to track the locations of each private BMP.

For areas where no construction plans are available, RGI will review aerial imagery for areas such as residential developments to locate wet and dry detention basins that would qualify as Post-Construction BMPs.

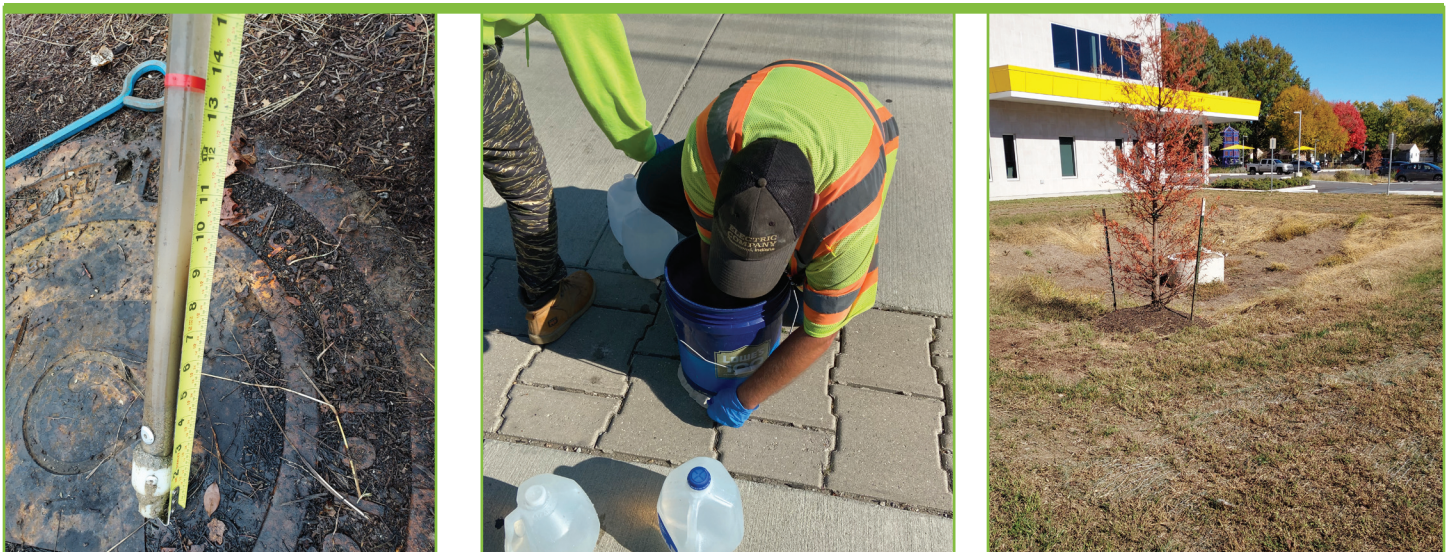
Next, our field team will visit commercial properties to look for evidence of Post-Construction BMPs at locations where no construction plans are available. This will be

done simultaneously while we are in the field conducting general condition assessments of known private BMPs. Our team will use a GPS unit to collect location data for any private BMPs found in the field.

We anticipate that the most challenging part of this project could be obtaining owner names and contact information. Our plan is to use property report information from the City's GIS to help track down this information for each private Post-Construction BMP. Many of the housing developments within the City of Westfield have an HOA that uses a property management company for maintenance of common areas. There is a small number of property management companies operating within the Hamilton County area and that information can be leveraged to assist with obtaining owner information.

MAINTENANCE TEMPLATES FOR BETTER OUTCOMES

Generic Operations & Maintenance Manuals and Maintenance Checklists will be developed for wet detention basins, dry detention basins, rain gardens/infiltration trenches/bioretention areas, and hydrodynamic separator units. Additional manuals and checklists can be prepared as needed. These documents will be prepared considering the guidance in the Indiana Stormwater Quality Manual, the City of Westfield Stormwater Management Technical Standards Manual, and the maintenance issues observed in the field while doing general assessments of private BMPs in Westfield. The RGI team will also pull from our knowledge of maintenance issues observed in the field in other MS4 areas.



LPA - CONSULTING CONTRACT

This Contract ("this Contract") is made and entered into effective as of _____, 20____ ("Effective Date") by and between City of Westfield, Indiana, acting by and through its proper officials ("LOCAL PUBLIC AGENCY" or "LPA"), and Egis BLN USA, Inc. ("the CONSULTANT"), [a corporation/limited liability company organized under the laws of the State of Indiana].

Des. No.:

Project Description: Towne Road Extension from 166th Street to State Road 32

RECITALS

WHEREAS, the LPA has entered into an agreement to utilize federal monies with the Indiana Department of Transportation ("INDOT") for a transportation or transportation enhancement project ("the Project"), which Project Coordination Contract is herein attached as Attachment 1 and incorporated as reference; and

WHEREAS, the LPA wishes to hire the CONSULTANT to provide services toward the Project completion more fully described in Appendix "A" attached hereto ("Services");

WHEREAS, the CONSULTANT has extensive experience, knowledge and expertise relating to these Services; and

WHEREAS, the CONSULTANT has expressed a willingness to furnish the Services in connection therewith.

NOW, THEREFORE, in consideration of the following mutual covenants, the parties hereto mutually covenant and agree as follows:

The "Recitals" above are hereby made an integral part and specifically incorporated into this Contract.

SECTION I SERVICES BY CONSULTANT. The CONSULTANT will provide the Services and deliverables described in Appendix "A" which is herein attached to and made an integral part of this Contract.

SECTION II INFORMATION AND SERVICES TO BE FURNISHED BY THE LPA. The information and services to be furnished by the LPA are set out in Appendix "B" which is herein attached to and made an integral part of this Contract.

SECTION III TERM. The term of this Contract shall be from the date of the last signature affixed to this Contract to the completion of the construction contract which is estimated to be 2026. A schedule for completion of the Services and deliverables is set forth in Appendix "C" which is herein attached to and made an integral part of this Contract.

SECTION IV COMPENSATION. The LPA shall pay the CONSULTANT for the Services performed under this Contract as set forth in Appendix "D" which is herein attached to and made an integral part of this Contract. The maximum amount payable under this Contract shall not exceed \$ 1,809,090.00.

SECTION V NOTICE TO PROCEED AND SCHEDULE. The CONSULTANT shall begin the work to be performed under this Contract only upon receipt of the written notice to proceed from the LPA, and shall deliver the work to the LPA in accordance with the schedule contained in Appendix "C" which is herein attached to and made an integral part of this Contract.

SECTION VI GENERAL PROVISIONS

1. **Access to Records.** The CONSULTANT and any SUB-CONSULTANTS shall maintain all books, documents, papers, correspondence, accounting records and other evidence pertaining to the cost incurred under this Contract, and shall make such materials available at their respective offices at all reasonable times during the period of this Contract and for five (5) years from the date of final payment under the terms of this Contract, for inspection or audit by the LPA, INDOT and/or the Federal Highway Administration ("FHWA") or its authorized representative, and copies thereof shall be furnished free of charge, if requested by the LPA, INDOT, and/or FHWA. The CONSULTANT agrees that, upon request by any agency participating in federally-assisted programs with whom the CONSULTANT has contracted or seeks to contract, the CONSULTANT may release or make available to the agency any working papers from an audit performed by the LPA, INDOT and/or FHWA of the CONSULTANT and its SUB-CONSULTANTS in connection with this Contract, including any books, documents, papers, accounting records and other documentation which support or form the basis for the audit conclusions and judgments.

2. **Assignment; Successors.**
 - A. The CONSULTANT binds its successors and assignees to all the terms and conditions of this Contract. The CONSULTANT shall not assign or subcontract the whole or any part of this Contract without the LPA's prior written consent, except that the CONSULTANT may assign its right to receive payments to such third parties as the CONSULTANT may desire without the prior written consent of the LPA, provided that the CONSULTANT gives written notice (including evidence of such assignment) to the LPA thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.

 - B. Any substitution of SUB-CONSULTANTS must first be approved and receive written authorization from the LPA. Any substitution or termination of a Disadvantaged Business Enterprise ("DBE") SUB-CONSULTANT must first be approved and receive written authorization from the LPA and INDOT's Economic Opportunity Division Director.

3. **Audit.** The CONSULTANT acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with 48 CFR part 31 and audit guidelines specified by the State and/or in accordance with audit requirements specified elsewhere in this Contract.

4. **Authority to Bind Consultant.** The CONSULTANT warrants that it has the necessary authority to enter into this Contract. The signatory for the CONSULTANT represents that he/she has been duly authorized to execute this Contract on behalf of the CONSULTANT and has obtained all necessary or applicable approval to make this Contract fully binding upon the CONSULTANT when his/her signature is affixed hereto.

5. **Certification for Federal-Aid Contracts Lobbying Activities.**
 - A. The CONSULTANT certifies, by signing and submitting this Contract, to the best of its knowledge and belief after diligent inquiry, and other than as disclosed in writing to the LPA prior to or contemporaneously with the execution and delivery of this Contract by the CONSULTANT, the CONSULTANT has complied with Section 1352, Title 31, U.S. Code, and specifically, that:
 - i. No federal appropriated funds have been paid, or will be paid, by or on behalf of the CONSULTANT to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contracts, the making of any federal grant, the making of any federal loan, the

entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- ii. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- B. The CONSULTANT also agrees by signing this Contract that it shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

- 6. **Changes in Work.** The CONSULTANT shall not commence any additional work or change the scope of the work until authorized in writing by the LPA. The CONSULTANT shall make no claim for additional compensation or time in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may be amended, supplemented or modified only by a written document executed in the same manner as this Contract. The CONSULTANT acknowledges that no claim for additional compensation or time may be made by implication, oral agreements, actions, inaction, or course of conduct.

7. **Compliance with Laws.**

- A. The CONSULTANT 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. If the CONSULTANT violates such rules, laws, regulations and ordinances, the CONSULTANT shall assume full responsibility for such violations and shall bear any and all costs attributable to the original performance of any correction of such acts. The enactment of any state or federal statute, or the promulgation of regulations thereunder, after execution of this Contract, shall be reviewed by the LPA and the CONSULTANT to determine whether formal modifications are required to the provisions of this Contract.
- B. The CONSULTANT represents to the LPA that, to the best of the CONSULTANT'S knowledge and belief after diligent inquiry and other than as disclosed in writing to the LPA prior to or contemporaneously with the execution and delivery of this Contract by the CONSULTANT:
 - i. *State of Indiana Actions.* The CONSULTANT has no current or outstanding criminal, civil, or enforcement actions initiated by the State of Indiana pending, and agrees that it will immediately notify the LPA of any such actions. During the term of such actions, CONSULTANT agrees that the LPA may delay, withhold, or deny work under any supplement or amendment, change order or other contractual device issued pursuant to this Contract.
 - ii. *Professional Licensing Standards.* The CONSULTANT, its employees and SUBCONSULTANTS have complied with and shall continue to comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the CONSULTANT pursuant to this Contract.

- iii. *Work Specific Standards.* The CONSULTANT and its SUB-CONSULTANTS, if any, have obtained, will obtain and/or will 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 work activities for the LPA.
 - iv. *Secretary of State Registration.* If the CONSULTANT is an entity described in IC Title 23, it is properly registered and owes no outstanding reports with the Indiana Secretary of State.
 - v. *Debarment and Suspension of CONSULTANT.* Neither the CONSULTANT nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State and will immediately notify the LPA of any such actions. The term "principal" for purposes of this Contract 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 CONSULTANT or who has managerial or supervisory responsibilities for the Services.
 - vi. *Debarment and Suspension of any SUB-CONSULTANTS.* The CONSULTANT's SUB-CONSULTANTS are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State. The CONSULTANT shall be solely responsible for any recoupment, penalties or costs that might arise from the use of a suspended or debarred SUBCONSULTANT. The CONSULTANT shall immediately notify the LPA and INDOT if any SUB-CONSULTANT becomes debarred or suspended, and shall, at the LPA's request, take all steps required by the LPA to terminate its contractual relationship with the SUB-CONSULTANT for work to be performed under this Contract.
- C. *Violations.* In addition to any other remedies at law or in equity, upon CONSULTANT'S violation of any of Section 7(A) through 7(B), the LPA may, at its sole discretion, do any one or more of the following:
- i. terminate this Contract; or
 - ii. delay, withhold, or deny work under any supplement or amendment, change order or other contractual device issued pursuant to this Contract.
- D. *Disputes.* If a dispute exists as to the CONSULTANT's liability or guilt in any action initiated by the LPA, and the LPA decides to delay, withhold, or deny work to the CONSULTANT, the CONSULTANT may request that it be allowed to continue, or receive work, without delay. The CONSULTANT must submit, in writing, a request for review to the LPA. A determination by the LPA under this Section 7.D shall be final and binding on the parties and not subject to administrative review. Any payments the LPA may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest under IC 5-17-5.
8. **Condition of Payment.** The CONSULTANT must perform all Services under this Contract to the LPA's reasonable satisfaction, as determined at the discretion of the LPA and in accordance with all applicable federal, state, local laws, ordinances, rules, and regulations. The LPA will not pay for work not performed to the LPA's reasonable satisfaction, inconsistent with this Contract or performed in violation of federal, state, or local law (collectively, "deficiencies") until all deficiencies are remedied in a timely manner.

9. **Confidentiality of LPA Information.**

- A. The CONSULTANT understands and agrees that data, materials, and information disclosed to the CONSULTANT may contain confidential and protected information. Therefore, the CONSULTANT covenants that data, material, and information gathered, based upon or disclosed to the CONSULTANT for the purpose of this Contract, will not be disclosed to others or discussed with third parties without the LPA's prior written consent.
- B. The parties acknowledge that the Services to be performed by the CONSULTANT for the LPA under this Contract may require or allow access to data, materials, and information containing Social Security numbers and maintained by the LPA in its computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the CONSULTANT and the LPA agree to comply with the provisions of IC 4-1-10 and IC 4-1-11. If any Social Security number(s) is/are disclosed by the CONSULTANT, the CONSULTANT agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this Contract.

10. **Delays and Extensions.** The CONSULTANT agrees that no charges or claim for damages shall be made by it for any minor delays from any cause whatsoever during the progress of any portion of the Services specified in this Contract. Such delays, if any, shall be compensated for by an extension of time for such period as may be determined by the LPA subject to the CONSULTANT's approval, it being understood, however, that permitting the CONSULTANT to proceed to complete any services, or any part of them after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the LPA of any of its rights herein. In the event of substantial delays or extensions, or change of any kind, not caused by the CONSULTANT, which causes a material change in scope, character or complexity of work the CONSULTANT is to perform under this Contract, the LPA at its sole discretion shall determine any adjustments in compensation and in the schedule for completion of the Services. CONSULTANT must notify the LPA in writing of a material change in the work immediately after the CONSULTANT first recognizes the material change.

11. **DBE Requirements.**

- A. Notice is hereby given to the CONSULTANT and any SUB-CONSULTANT, and both agree, that failure to carry out the requirements set forth in 49 CFR Sec. 26.13(b) shall constitute a breach of this Contract and, after notification and failure to promptly cure such breach, may result in termination of this Contract or such remedy as INDOT deems appropriate. The referenced section requires the following assurance to be included in all subsequent contracts between the CONSULTANT and any SUB-CONSULTANT:

The CONSULTANT, sub recipient or SUB-CONSULTANT shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as INDOT, as the recipient, deems appropriate.

- B. The CONSULTANT shall make good faith efforts to achieve the DBE percentage goal that may be included as part of this Contract with the approved DBE SUB-CONSULTANTS identified on its Affirmative Action Certification submitted with its Letter of Interest, or with approved amendments. Any changes to a DBE firm listed in the Affirmative Action Certification must be requested in writing and receive prior approval by the LPA and INDOT's Economic Opportunity Division Director. After this Contract is completed and if a DBE SUB-CONSULTANT has performed services thereon, the CONSULTANT must complete, and return, a Disadvantaged Business Enterprise Utilization Affidavit ("DBE-3 Form") to INDOT's

Economic Opportunity Division Director. The DBE-3 Form requires certification by the CONSULTANT AND DBE SUB-CONSULTANT that the committed contract amounts have been paid and received.

12. Non-Discrimination.

- A. Pursuant to I.C. 22-9-1-10, the Civil Rights Act of 1964, and the Americans with Disabilities Act, the CONSULTANT shall not discriminate against any employee or applicant for employment, to be employed in the performance of work under this Contract, with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin, ancestry or status as a veteran. Breach of this covenant may be regarded as a material breach of this Contract. Acceptance of this Contract also signifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran.
- B. The CONSULTANT understands that the LPA is a recipient of federal funds. Pursuant to that understanding, the CONSULTANT agrees that if the CONSULTANT employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, the CONSULTANT will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The CONSULTANT shall comply with Section 202 of executive order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of Contract.

It is the policy of INDOT to assure full compliance with Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and Section 504 of the Vocational Rehabilitation Act and related statutes and regulations in all programs and activities. Title VI and related statutes require that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (INDOT's Title VI enforcement shall include the following additional grounds: sex, ancestry, age, income status, religion and disability.)

- C. The CONSULTANT shall not discriminate in its selection and retention of contractors, including without limitation, those services retained for, or incidental to, construction, planning, research, engineering, property management, and fee contracts and other commitments with persons for services and expenses incidental to the acquisitions of right-of-way.
- D. The CONSULTANT shall not modify the Project in such a manner as to require, on the basis of race, color or national origin, the relocation of any persons. (INDOT's Title VI enforcement will include the following additional grounds; sex, ancestry, age, income status, religion and disability).
- E. The CONSULTANT shall not modify the Project in such a manner as to deny reasonable access to and use thereof to any persons on the basis of race, color or national origin. (INDOT's Title VI enforcement will include the following additional grounds; sex, ancestry, age, income status, religion and disability.)
- F. The CONSULTANT shall neither allow discrimination by contractors in their selection and retention of subcontractors, lessors and/or material suppliers, nor allow discrimination by their subcontractors in their selection of subcontractors, lessors or material suppliers, who participate in construction, right-of-way clearance and related projects.

- G. The CONSULTANT shall take appropriate actions to correct any deficiency determined by itself and/or the Federal Highway Administration ("FHWA") within a reasonable time period, not to exceed ninety (90) days, in order to implement Title VI compliance in accordance with INDOT's assurances and guidelines.
- H. During the performance of this Contract, the CONSULTANT, for itself, its assignees and successors in interest (hereinafter referred to as the "CONSULTANT") agrees as follows:
- (1) **Compliance with Regulations:** The CONSULTANT shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
 - (2) **Nondiscrimination:** The CONSULTANT, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
 - (3) **Solicitations for SUBCONSULTANTS, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential SUBCONSULTANT or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
 - (4) **Information and Reports:** The CONSULTANT shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the LPA or INDOT to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information the CONSULTANT shall so certify to the LPA, or INDOT as appropriate, and shall set forth what efforts it has made to obtain the information.
 - (5) **Sanctions for Noncompliance:** In the event of the CONSULTANT'S noncompliance with the nondiscrimination provisions of this contract, the LPA shall impose such contract sanctions as it or INDOT may determine to be appropriate, including, but not limited to:
 - (a) withholding of payments to the CONSULTANT under the Contract until the CONSULTANT complies, and/or
 - (b) cancellation, termination or suspension of the Contract, in whole or in part.
 - (6) **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The CONSULTANT shall take such action with respect to any SUBCONSULTANT procurement as the LPA or INDOT may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a SUBCONSULTANT or supplier as a result of such direction, the CONSULTANT may request the LPA to enter into such litigation to protect the interests of the LPA, and, in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

13. Disputes.

- A. Should any disputes arise with respect to this Contract, the CONSULTANT and the LPA agree to act promptly and in good faith to resolve such disputes in accordance with this Section 13. Time is of the essence in the resolution of disputes.
- B. The CONSULTANT agrees that the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the CONSULTANT fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs (including reasonable attorneys' fees and expenses) incurred by the LPA or the CONSULTANT as a result of such failure to proceed shall be borne by the CONSULTANT.
- C. If a party to this Contract is not satisfied with the progress toward resolving a dispute, the party must notify the other party of this dissatisfaction in writing. Upon written notice, the parties have ten (10) business days, unless the parties mutually agree in writing to extend this period, following the written notification to resolve the dispute. If the dispute is not resolved within ten (10) business days, a dissatisfied party may submit the dispute in writing to initiate negotiations to resolve the dispute. The LPA may withhold payments on disputed items pending resolution of the dispute.

14. Drug-Free Workplace Certification.

- A. The CONSULTANT hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace, and that it will give written notice to the LPA within ten (10) days after receiving actual notice that an employee of the CONSULTANT in the State of Indiana has been convicted of a criminal drug violation occurring in the CONSULTANT's workplace. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of Contract payments, termination of this Contract and/or debarment of contracting opportunities with the LPA.
- B. The CONSULTANT certifies and agrees that it will provide a drug-free workplace by:
 - i. Publishing and providing to all of its employees a statement notifying their employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the CONSULTANT's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
 - ii. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the CONSULTANT'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;

- iii. Notifying all employees in the statement required by subparagraph 14.B.i above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the CONSULTANT of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- iv. Notifying in writing the LPA within ten (10) days after receiving notice from an employee under subdivision 14.B.iii(2) above, or otherwise receiving actual notice of such conviction;
- v. Within thirty (30) days after receiving notice under subdivision 14.B.iii(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
- vi. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs 14.B.i. through 14.B.v. above.

15. **Employment Eligibility Verification.** The CONSULTANT affirms under the penalties of perjury that he/she/it does not knowingly employ an unauthorized alien.

The CONSULTANT shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. The CONSULTANT is not required to participate should the E-Verify program cease to exist. Additionally, the CONSULTANT is not required to participate if the CONSULTANT is self-employed and does not employ any employees.

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

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

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

16. **Force Majeure.** In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of fire, natural disaster, acts of God, acts of war, terrorism, civil disorders, decrees of governmental bodies, strikes, lockouts, labor or supply disruptions or similar causes beyond the reasonable control of the affected party (hereinafter referred to as a Force Majeure Event), the party who has been so affected shall immediately give written notice to the other party of the occurrence of the Force Majeure Event (with a description in reasonable detail of the circumstances causing such Event) and shall do everything reasonably possible to resume performance. Upon receipt of such written notice, all obligations under this Contract shall be immediately suspended for as long as such Force Majeure Event continues and provided that the affected party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay. If the period of nonperformance exceeds thirty (30) days from the receipt of written notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

17. **Governing Laws.** This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and the suit, if any, must be brought in the State of Indiana. The CONSULTANT consents to the jurisdiction of and to venue in any court of competent jurisdiction in the State of Indiana.
18. **Liability.** If the CONSULTANT or any of its SUB-CONSULTANTS fail to comply with any federal requirement which results in the LPA's repayment of federal funds to INDOT the CONSULTANT shall be responsible to the LPA, for repayment of such costs to the extent such costs are caused by the CONSULTANT and/or its SUB-CONSULTANTS.
19. **Indemnification.** The CONSULTANT agrees to indemnify the LPA, and their agents, officials, and employees, and to hold each of them harmless, from claims and suits including court costs, attorney's fees, and other expenses caused by any negligent act, error or omission of, or by any recklessness or willful misconduct by, the CONSULTANT and/or its SUB-CONSULTANTS, if any, under this Contract, provided that if the CONSULTANT is a "contractor" within the meaning of I.C. 8-3-2-12.5, this indemnity obligation shall be limited by and interpreted in accordance with I.C. 8-23-2-12-5. The LPA shall not provide such indemnification to the CONSULTANT.
20. **Independent Contractor.** Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents or employees of the other party. The CONSULTANT shall be responsible for providing all necessary unemployment and workers' compensation insurance for its employees.
21. **Insurance - Liability for Damages.**
 - A. The CONSULTANT shall be responsible for the accuracy of the Services performed under this Contract and shall promptly make necessary revisions or corrections resulting from its negligence, errors or omissions without any additional compensation from the LPA. Acceptance of the Services by the LPA shall not relieve the CONSULTANT of responsibility for subsequent correction of its negligent act, error or omission or for clarification of ambiguities. The CONSULTANT shall have no liability for the errors or deficiencies in designs, drawings, specifications or other services furnished to the CONSULTANT by the LPA on which the Consultant has reasonably relied, provided that the foregoing shall not relieve the CONSULTANT from any liability from the CONSULTANT'S failure to fulfill its obligations under this Contract, to exercise its professional responsibilities to the LPA, or to notify the LPA of any errors or deficiencies which the CONSULTANT knew or should have known existed.
 - B. During construction or any phase of work performed by others based on Services provided by the CONSULTANT, the CONSULTANT shall confer with the LPA when necessary for the purpose of interpreting the information, and/or to correct any negligent act, error or omission. The CONSULTANT shall prepare any plans or data needed to correct the negligent act, error or omission without additional compensation, even though final payment may have been received by the CONSULTANT. The CONSULTANT shall give immediate attention to these changes for a minimum of delay to the project.
 - C. The CONSULTANT shall be responsible for damages including but not limited to direct and indirect damages incurred by the LPA as a result of any negligent act, error or omission of the CONSULTANT, and for the LPA's losses or costs to repair or remedy construction. Acceptance of the Services by the LPA shall not relieve the CONSULTANT of responsibility for subsequent correction.

- D. The CONSULTANT shall be required to maintain in full force and effect, insurance as described below from the date of the first authorization to proceed until the LPA's acceptance of the work product. The CONSULTANT shall list both the LPA and INDOT as insureds on any policies. The CONSULTANT must obtain insurance written by insurance companies authorized to transact business in the State of Indiana and licensed by the Department of Insurance as either admitted or non-admitted insurers.
- E. The LPA, its officers and employees assume no responsibility for the adequacy of limits and coverage in the event of any claims against the CONSULTANT, its officers, employees, sub-consultants or any agent of any of them, and the obligations of indemnification in Section 19 herein shall survive the exhaustion of limits of coverage and discontinuance of coverage beyond the term specified, to the fullest extent of the law.
- F. The CONSULTANT shall furnish a certificate of insurance and all endorsements to the LPA prior to the commencement of this Contract. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the CONSULTANT. Failure to provide insurance as required in this Contract is a material breach of Contract entitling the LPA to immediately terminate this Contract.

I. Professional Liability Insurance

The CONSULTANT must obtain and carry professional liability insurance as follows: For INDOT Prequalification **Work Types** 1.1, 12.2-12.6 the CONSULTANTS shall provide not less than \$250,000.00 professional liability insurance per claim and \$250,000.00 aggregate for all claims for negligent performance. For **Work Types** 2.2, 3.1, 3.2, 4.1, 4.2, 5.5, 5.8, 5.11, 6.1, 7.1, 8.1, 8.2, 9.1, 9.2, 10.1 – 10.4, 11.1, 13.1, 14.1 – 14.5, the CONSULTANTS shall carry professional liability insurance in an amount not less than \$1,000,000.00 per claim and \$1,000,000.00 aggregate for all claims for negligent performance. The CONSULTANT shall maintain the coverage for a period ending two (2) years after substantial completion of construction.

II. Commercial General Liability Insurance

The CONSULTANT must obtain and carry Commercial / General liability insurance as follows: For INDOT Prequalification **Work Types** 2.1, 6.1, 7.1, 8.1, 8.2, 9.1, 9.2, 10.1 – 10.4, 11.1, 13.1, 14.1 – 14.5, the CONSULTANT shall carry \$1,000,000.00 per occurrence, \$2,000,000.00 general aggregate. Coverage shall be on an occurrence form, and include contractual liability. The policy shall be amended to include the following extensions of coverage:

1. Exclusions relating to the use of explosives, collapse, and underground damage to property shall be removed.
2. The policy shall provide thirty (30) days notice of cancellation to LPA.
3. The CONSULTANT shall name the LPA as an additional insured.

III. Automobile Liability

The CONSULTANT shall obtain automobile liability insurance covering all owned, leased, borrowed, rented, or non-owned autos used by employees or others on behalf of the CONSULTANT for the conduct of the CONSULTANT's business, for an amount not less than \$1,000,000.00 Combined Single Limit for Bodily Injury and Property Damage. The term "automobile" shall include private passenger autos, trucks, and similar type vehicles licensed for use on public highways. The policy shall be amended to include the following extensions of coverage:

1. Contractual Liability coverage shall be included.
2. The policy shall provide thirty (30) days notice of cancellation to the LPA.
3. The CONSULTANT shall name the LPA as an additional insured.

IV. Watercraft Liability (When Applicable)

1. When necessary to use watercraft for the performance of the CONSULTANT's Services under the terms of this Contract, either by the CONSULTANT, or any SUB-CONSULTANT, the CONSULTANT or SUB-CONSULTANT operating the watercraft shall carry watercraft liability insurance in the amount of \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage, including Protection & Indemnity where applicable. Coverage shall apply to owned, non-owned, and hired watercraft.
2. If the maritime laws apply to any work to be performed by the CONSULTANT under the terms of the agreement, the following coverage shall be provided:
 - a. United States Longshoremen & Harbor workers
 - b. Maritime Coverage - Jones Act
3. The policy shall provide thirty (30) days notice of cancellation to the LPA.
4. The CONSULTANT or SUB-CONSULTANT shall name the LPA as an additional insured.

V. Aircraft Liability (When Applicable)

1. When necessary to use aircraft for the performance of the CONSULTANT's Services under the terms of this Contract, either by the CONSULTANT or SUB-CONSULTANT, the CONSULTANT or SUB-CONSULTANT operating the aircraft shall carry aircraft liability insurance in the amount of \$5,000,000 Combined Single Limit for Bodily Injury and Property Damage, including Passenger Liability. Coverage shall apply to owned, non-owned and hired aircraft.
2. The policy shall provide thirty (30) days notice of cancellation to the LPA.
3. The CONSULTANT or SUB-CONSULTANT shall name the LPA as an additional insured.

22. **Merger and Modification.** This Contract constitutes the entire agreement between the parties. No understandings, agreements or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by all necessary parties.
23. **Notice to Parties:** Any notice, request, consent or communication (collectively a "Notice") under this Agreement shall be effective only if it is in writing and (a) personally delivered; (b) sent by certified or registered mail, return receipt requested, postage prepaid; or (c) sent by a nationally recognized overnight delivery service, with delivery confirmed and costs of delivery being prepaid, addressed as follows:

Notices to the LPA shall be sent to:

Johnathan Nail, Director of Public Works
2728 East 171st Street
Westfield, IN 46074

Notices to the CONSULTANT shall be sent to:

Egis BLN USA, Inc.
8320 Craig Street
Indianapolis, IN 46250

or to such other address or addresses as shall be furnished in writing by any party to the other party. Unless the sending party has actual knowledge that a Notice was not received by the intended recipient, a Notice shall be deemed to have been given as of the date (i) when personally delivered; (ii) three (3) days after the date deposited with the United States mail properly addressed; or (iii) the next day when delivered during business hours to overnight delivery service, properly addressed and prior to such delivery service's cut off time for next day delivery. The parties acknowledge that notices delivered by facsimile or by email shall not be effective.

24. **Order of Precedence; Incorporation by Reference.** Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) This Contract and attachments, (2) RFP document, (3) the CONSULTANT's response to the RFP document, and (4) attachments prepared by the CONSULTANT. All of the foregoing are incorporated fully by reference.
25. **Ownership of Documents and Materials.** All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by the CONSULTANT prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the CONSULTANT assigns and transfers any ownership claim to the LPA and all such materials ("Work Product") will be the property of the LPA. The CONSULTANT agrees to execute and deliver such assignments or other documents as may be requested by the LPA. Use of these materials, other than related to contract performance by the CONSULTANT, without the LPA's prior written consent, is prohibited. During the performance of this Contract, the CONSULTANT shall be responsible for any loss of or damage to any of the Work Product developed for or supplied by INDOT and used to develop or assist in the Services provided herein while any such Work Product is in the possession or control of the CONSULTANT. Any loss or damage thereto shall be restored at the CONSULTANT's expense. The CONSULTANT shall provide the LPA full, immediate, and unrestricted access to the Work Product during the term of this Contract. The CONSULTANT represents, to the best of its knowledge and belief after diligent inquiry and other than as disclosed in writing prior to or contemporaneously with the execution of this Contract by the CONSULTANT, that the Work Product does not infringe upon or misappropriate the intellectual property or other rights of any third party. The CONSULTANT shall not be liable for the use of its deliverables described in Appendix "A" on other projects without the express written consent of the CONSULTANT or as provided in Appendix "A". The LPA acknowledges that it has no claims to any copyrights not transferred to INDOT under this paragraph.
26. **Payments.** All payments shall be made in arrears and in conformance with the LPA's fiscal policies and procedures.
27. **Penalties, Interest and Attorney's Fees.** The LPA will in good faith perform its required obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law in part, IC 5-17-5, I. C. 34-54-8, and I. C. 34-13-1.

28. **Pollution Control Requirements.** If this Contract is for \$100,000 or more, the CONSULTANT:
- i. Stipulates that any facility to be utilized in performance under or to benefit from this Contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended;
 - ii. Agrees to comply with all of the requirements of section 114 of the Clean Air Act and section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder; and
 - iii. Stipulates that, as a condition of federal aid pursuant to this Contract, it shall notify INDOT and the Federal Highway Administration of the receipt of any knowledge indicating that a facility to be utilized in performance under or to benefit from this Contract is under consideration to be listed on the EPA Listing of Violating Facilities.
29. **Severability.** The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.
30. **Status of Claims.** The CONSULTANT shall give prompt written notice to the LPA any claims made for damages against the CONSULTANT resulting from Services performed under this Contract and shall be responsible for keeping the LPA currently advised as to the status of such claims. The CONSULTANT shall send notice of claims related to work under this Contract to:
31. **Sub-consultant Acknowledgement.** The CONSULTANT agrees and represents and warrants to the LPA, that the CONSULTANT will obtain signed Sub-consultant Acknowledgement forms, from all SUB-CONSULTANTS providing Services under this Contract or to be compensated for Services through this Contract. The CONSULTANT agrees to provide signed originals of the Sub-consultant Acknowledgement form(s) to the LPA for approval prior to performance of the Services by any SUB-CONSULTANT.
32. **Substantial Performance.** This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any modification or Amendment thereof.
33. **Taxes.** The LPA will not be responsible for any taxes levied on the CONSULTANT as a result of this Contract.
34. **Termination for Convenience.**
- A. The LPA may terminate, in whole or in part, whenever, for any reason, when the LPA determines that such termination is in its best interests. Termination or partial termination of Services shall be effected by delivery to the CONSULTANT of a Termination Notice at least fifteen (15) days prior to the termination effective date, specifying the extent to which performance of Services under such termination becomes effective. The CONSULTANT shall be compensated for Services properly rendered prior to the effective date of termination. The LPA will not be liable for Services performed after the effective date of termination.
 - B. If the LPA terminates or partially terminates this Contract for any reason regardless of whether it is for convenience or for default, then and in such event, all data, reports, drawings, plans, sketches, sections and models, all specifications, estimates, measurements and data pertaining to the project, prepared under the terms or in fulfillment of this Contract, shall be delivered within ten (10) days to the LPA. In the event of the failure by the CONSULTANT to make such delivery upon demand, the CONSULTANT shall pay to the LPA any damage (including costs and reasonable attorneys' fees and expenses) it may sustain by reason thereof.

35. **Termination for Default.**

- A. With the provision of twenty (20) days written notice to the CONSULTANT, the LPA may terminate this Contract in whole or in part if
- (i) the CONSULTANT fails to:
 1. Correct or cure any breach of this Contract within such time, provided that if such cure is not reasonably achievable in such time, the CONSULTANT shall have up to ninety (90) days from such notice to effect such cure if the CONSULTANT promptly commences and diligently pursues such cure as soon as practicable;
 2. Deliver the supplies or perform the Services within the time specified in this Contract or any amendment or extension;
 3. Make progress so as to endanger performance of this Contract; or
 4. Perform any of the other provisions of this Contract to be performed by the CONSULTANT; or
 - (ii) if any representation or warranty of the CONSULTANT is untrue or inaccurate in any material respect at the time made or deemed to be made.
- B. If the LPA terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the LPA considers appropriate, supplies or services similar to those terminated, and the CONSULTANT will be liable to the LPA for any excess costs for those supplies or services. However, the CONSULTANT shall continue the work not terminated.
- C. The LPA shall pay the contract price for completed supplies delivered and Services accepted. The CONSULTANT and the LPA shall agree on the amount of payment for manufactured materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause (see Section 13). The LPA may withhold from the agreed upon price for Services any sum the LPA determine necessary to protect the LPA against loss because of outstanding liens or claims of former lien holders.
- D. The rights and remedies of the LPA in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.
- E. **Default by the LPA.** If the CONSULTANT believes the LPA is in default of this Contract, it shall provide written notice immediately to the LPA describing such default. If the LPA fails to take steps to correct or cure any material breach of this Contract within sixty (60) days after receipt of such written notice, the CONSULTANT may cancel and terminate this Contract and institute the appropriate measures to collect monies due up to and including the date of termination, including reasonable attorney fees and expenses, provided that if such cure is not reasonably achievable in such time, the LPA shall have up to one hundred twenty (120) days from such notice to effect such cure if the LPA promptly commences and diligently pursues such cure as soon as practicable. The CONSULTANT shall be compensated for Services properly rendered prior to the effective date of such termination. The CONSULTANT agrees that it has no right of termination for non-material breaches by the LPA.

36. **Waiver of Rights.** No rights conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver or excuse is approved in writing and signed by the party claimed to have waived such right. Neither the LPA's review, approval or acceptance of, nor payment for, the Services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the CONSULTANT shall be and remain liable to the LPA in accordance with applicable law for all damages to the LPA caused by the CONSULTANT's negligent performance of any of the Services furnished under this Contract.
37. **Work Standards/Conflicts of Interest.** The CONSULTANT shall understand and utilize all relevant INDOT standards including, but not limited to, the most current version of the Indiana Department of Transportation Design Manual, where applicable, and other appropriate materials and shall perform all Services in accordance with the standards of care, skill and diligence required in Appendix "A" or, if not set forth therein, ordinarily exercised by competent professionals doing work of a similar nature.
38. **No Third-Party Beneficiaries.** This Agreement is solely for the benefit of the parties hereto. Other than the indemnity rights under this Contract, nothing contained in this Agreement is intended or shall be construed to confer upon any person or entity (other than the parties hereto) any rights, benefits or remedies of any kind or character whatsoever.
39. **No Investment in Iran.** As required by IC 5-22-16.5, the CONSULTANT certifies that the CONSULTANT is not engaged in investment activities in Iran. Providing false certification may result in the consequences listed in IC 5-22-16.5-14, including termination of this Contract and denial of future state contracts, as well as an imposition of a civil penalty.
40. **Assignment of Antitrust Claims.** The CONSULTANT assigns to the State all right, title and interest in and to any claims the CONSULTANT now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

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Non-Collusion.

The undersigned attests, subject to the penalties for perjury, that he/she is the CONSULTANT, or that he/she is the properly authorized representative, agent, member or officer of the CONSULTANT, that he/she has not, nor has any other member, employee, representative, agent or officer of the CONSULTANT, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract. **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 Contract, the Party attests to compliance with the disclosure requirements in IC §4-2-6-10.5.**

In Witness Whereof, the CONSULTANT and the LPA have, through duly authorized representatives, entered into this Contract. The parties having read and understand the forgoing terms of this Contract do by their respective signatures dated below hereby agree to the terms thereof.

CONSULTANT**LOCAL PUBLIC AGENCY**

 Signature

 Thomas C. Longest, CEO
 (Print or type name and title)

Attest:

 Signature

 April Gregory, Project Coordinator
 (Print or type name and title)

 Signature

 Nick Barbknecht, Member
 (Print or type name and title)

 Signature

 Randy Graham, Member
 (Print or type name and title)

 Signature

 Scott Willis, Mayor
 (Print or type name and title)

Attest:

 Signature

 (Print or type name and title)

APPENDIX “A”

Services by Consultant

The CONSULTANT's understanding of the Project is as follows:

CONSULTANT will complete roadway/entrance design for the proposed roadway. It is assumed that roadway will be a three-lane section with curb and gutter. The proposed pavement section will be provided by the OWNER. The design of this project will include the following:

- The extension of Towne Road from 166th Street to State Road 32, including:
 - Reconstruction of Towne Road North of 166th Street
 - The construction of a roundabout at the intersection of 166th Street
 - The construction of a new bridge for the Towne Road Extension over Little Eagle Creek
 - New alignment and existing and proposed intersections for Towne Road from the entrance to Westgate Subdivision (171st St) to SR 32 and S-lines north of RQAW Limits
- Drainage design for the project will consist of the following:
 - Gutter spread and inlet spread calculations
 - Storm sewer and culvert design
 - Post Construction Stormwater Quality
 - Detention Design for roadway project for approval through the City of Westfield and the Hamilton County Surveyor's Office
- Signage and Pavement Markings
 - Signage and Pavement markings for the project will be design for the project in accordance with the Indiana Design Manual, Latest Edition, and the Indiana Department of Transportation's Standards and Standard Drawings. RQAW and Egis will be responsible for designing this item within their individual project limits.
- Lighting design services north of the roundabout. Lighting will be provided on the proposed bridge and at intersections and trail crossing.

The CONSULTANT shall provide the OWNER with the following Services:

1. Project Management
- 1.1 Manage the Project, coordinate with discipline leads and OWNER, and communicate regularly with OWNER'S Project Manager. The following items shall be completed under this phase:
 - 1.1.1 Prepare monthly progress reports
 - 1.1.2 Lead monthly coordination calls
 - 1.1.3 Manage internal discipline efforts
 - 1.1.4 Coordinate with OWNER
 - 1.1.5 Project/Task Management

- 1.2 Meet with the OWNER or its representatives, when requested or necessary for consultation or conference. It is anticipated that approximately five (5) client coordination meetings will be required during the duration of the Project.

2. Route Survey

- 2.1 Perform the fieldwork for the route survey.
- 2.2 Furnish a determination of all existing right-of-way and apparent property lines and to show same on plans.
- 2.3 Prepare and record the route survey plat.

3. Environmental

- 3.1 Prepare a Waters of the US Report for the project due to the impacts to wetlands within the project limits.

4. Preliminary Design

- 4.1 Prepare a preliminary layout based on the draft alignment and layout provided for the project by OWNER.
- 4.2 Develop preliminary alignments for the layout of the roadway from 166th Street to SR 32.
- 4.3 Prepare preliminary layouts for 2 roundabouts on the corridor as well as typical cross sections for the project corridor.

5. Bridge Design

- 5.1 Make preliminary investigations, design studies leading to the preparation of a preliminary general plan or plans, and approximate estimates of cost.
- 5.2 Make final plans to appropriate scale, with geometric computations to be precise for field layout, specifications and estimates of construction cost.
- 5.3 Furnish properly referenced horizontal and vertical control points throughout the Project.
- 5.4 Furnish a determination of all required right-of-way and to show same on plans.
- 5.5 Per the OWNER, CONSULTANT will not be involved in the design of the bridge. Bridge Design SUBCONSULTANT (GAI) will submit plans directly to Hamilton County and the OWNER for review and comment/approval. CONSULTANT assumes no liability in the design of the bridge, details shown in the Contract plans or the provisions in the Contract documents which pertain to the bridge.

6. Road Design

- 6.1 Make preliminary investigations, design studies leading to the preparation of preliminary roadway plans and approximate estimates of cost.

- 6.2 Make final plans to appropriate scale, with geometric computations to be precise for field layout, specifications and estimates of construction cost.
- 6.3 Furnish properly referenced horizontal and vertical control points throughout the Project.
- 6.4 Furnish a determination of all required right-of-way and to show same on plans.
- 6.5 Provide signage and pavement markings for the Project. Design will be in accordance with the Indiana Design Manual and the Indiana Department of Transportation's Standards and Standard Drawings.

7. Soils Investigation and Report

- 7.1 Obtain the borings and substructure explorations, and the analysis thereof, in connection with the Project.
- 7.2 Borings shall extend sufficiently in depth to obtain characteristic data for the proper design of the Project.

8. Public Information Meetings

- 8.1 Conduct one (1) public information meeting to obtain public input regarding the Project. Services shall include scheduling and advertising the public meetings, sending meeting notices to property owners, preparation and attendance at the meetings and preparation of the meeting summaries.

9. Right-of-Way Engineering

- 9.1 Provide last deed of record and/or title searches (as required) for each parcel involved with right-of-way acquisition.
- 9.2 Furnish right-of-way parcel plats for each parcel involved with right-of-way acquisition.
- 9.3 Furnish metes and bounds legal descriptions for acquisitions required for the Project.

10. Right-of-Way Services

- 10.1 Furnish personnel for right-of-way management, appraising, review appraising, APA's and owner negotiations as needed for the acquisition of right-of-way, easements or right-of-entry as required for the Project.
- 10.2 Prepare transfer documents as needed for the acquisition of right-of-way, easements or right-of-entry for the Project.
- 10.3 Furnish personnel for the recording of all transfer documents (if required or requested).
- 10.4 Provide in the field a stake-out locating the new right-of-way line for the partial takings included in the parcels. The stake-out shall be made using wooden hubs located at appropriate points indicating the right-of-way, easements or right-of-entry for the Project.

11. Construction Bidding Phase

11.1 Furnish the personnel to complete the following tasks:

- 11.1.1 Assist the OWNER in bid advertising
- 11.1.2 Send out plans and specifications to bidders
- 11.1.3 Prepare and distribute addenda
- 11.1.4 Assist with bidder's questions
- 11.1.5 Conduct a pre-bid meeting
- 11.1.6 Attend the bid opening
- 11.1.7 Tabulate the bid results

12. Lighting Plans

- 12.1 Make preliminary investigations and design studies leading to the preparation of preliminary lighting plans, and approximate estimates of cost.
- 12.2 Make final lighting plans, specifications and estimates of construction cost.

13. Traffic Signals

- 13.1 Develop construction plans and specifications for proposed traffic signal at the intersection of State Road 32 and Towne Road.

14. General

- 14.1 Prepare applications and documents to assist the OWNER in obtaining permits from various governmental agencies. It is anticipated that one (1) Construction Stormwater General permit, one (1) IDEM 404 permit, one (1) USACOE 404 permit, one (1) IDNR Construction in a Floodway permit and one (1) County Surveyor's Approval and Crossing permit will be required.
- 14.2 Coordinate with utilities and prepare utility reimbursement agreements (if necessary) and perform utility coordination services during design and construction.

- Assumptions:

- CONSULTANT will coordinate with 11 public utilities and INDOT ITS Fiber, for a total of 12 facilities.
- Utility Coordination will follow Chapter 104 from the Indiana Design Manual
- Zero reimbursable utility agreements will be completed, as no reimbursable utilities are known to be within the project limits.
- Zero utilities will need to relocate facilities.
- A supplement will be prepared if CONSULTANT encounters reimbursable utilities, or any utility needs to relocate facilities for the project.
- Any involvement regarding Subsurface Utility Engineering (SUE) will be supplemented. This includes services that would be potentially provided as a sub-consultant to CONSULTANT, services provided by another consultant hired by OWNER, or SUE services provided by a utility company.
- All Tasks and hours related to additional utilities found during discovery will be supplemented as necessary. This includes additional utility coordination agreements and any required coordination during construction if further utilities are identified for relocation.

15. Detention Design

15.1 Detention design will be supplemented once the scope can be more clearly defined.

APPENDIX "B"

Information and Services to be Furnished by Owner

The OWNER shall furnish the CONSULTANT with the following:

1. Guarantee access to and make all provisions for the CONSULTANT to enter upon public and private lands as required for the CONSULTANT to perform the Services under the Agreement.
2. All legal services as may be required for the development of the Project.
3. Assist the CONSULTANT in obtaining property owner information, deeds, plans of adjacent developments, section corner information and any other pertinent information necessary to perform the Services under the Agreement.
4. Utility plans available to the OWNER covering utility facilities, the location of signals and underground conduits throughout the affected areas.
5. Plans of existing structures within the Project limits, if available.
6. Available data from the transportation planning process, including traffic assignments and projections.
7. Criteria for the design and details for signs, signals, lighting, highways and structures, etc.
8. Designate a representative to act on behalf of the OWNER with respect to the Services to be performed under the Agreement with such person to have complete authority to transmit instructions, receive information, interpret and define OWNER'S policies and decisions pertinent to the Services covered by the Agreement.
9. Obtain approval of all governmental authorities having jurisdiction over the Project and such approvals and consents from such other individuals or bodies as may be necessary for completion of the Project.

APPENDIX "C"

Notice to Proceed and Schedule

Unless otherwise directed by the OWNER, the execution of this Agreement shall constitute a notice to proceed with the Services as set forth in Appendix "A".

APPENDIX "D"

Compensation

The OWNER shall compensate the CONSULTANT for the Services performed under this Agreement as follows:

1. Compensate the CONSULTANT for the Services under Appendix "A", Items 1, 2, 3, 4, 5, 6, 8, 11, 12, 13, and 14, a lump sum amount in accordance with the following schedule. The CONSULTANT is to be compensated monthly, based upon percent complete.

a.	Appendix "A", Item 1 (Project Management) (Egis)	\$ 64,000.00
b.	Appendix "A", Item 1 (Project Management) (GAI)	\$ 15,000.00
c.	Appendix "A", Item 2 (Survey)	\$ 179,000.00
d.	Appendix "A", Item 3 (Environmental)	\$ 15,300.00
e.	Appendix "A", Item 4 (Preliminary Layout)	\$ 17,900.00
f.	Appendix "A", Item 5 (Bridge Hydraulics) (GAI)	\$ 38,500.00
g.	Appendix "A", Item 5 (Bridge Design) (GAI)	\$ 355,000.00
h.	Appendix "A", Item 6 (Road Design) (Egis)	\$ 380,000.00
i.	Appendix "A", Item 6 (Road Design) (RQAW)	\$ 178,900.00
j.	Appendix "A", Item 6 (Storm Sewer Design) (RQAW)	\$ 46,000.00
k.	Appendix "A", Item 8 (Public Information Meeting) (Egis)	\$ 20,000.00
l.	Appendix "A", Item 8 (Public Information Meeting) (GAI)	\$ 2,000.00
m.	Appendix "A", Item 11 (Bidding Phase Services) (Egis)	\$ 15,700.00
n.	Appendix "A", Item 11 (Bidding Phase Services) (GAI)	\$ 4,000.00
o.	Appendix "A", Item 12 (Lighting Plans) (RQAW)	\$ 10,500.00
p.	Appendix "A", Item 13 (Signal Design)	\$ 18,800.00
q.	Appendix "A", Item 14 (Permits)	\$ 59,300.00
r.	Appendix "A", Item 14 (Utility Coordination)	\$ 54,000.00

2. Compensate the CONSULTANT for the Services under Appendix "A", Items 9 and 10 (Right-of-way Engineering and Services), based on the specific cost per unit multiplied by the actual units of work performed in accordance with the following schedule. The schedule shall be renegotiated should the completion of the work extend beyond 24 months from the date of the execution of the Agreement.

<u>Item</u>	<u>Cost</u>
<i>Right-of-Way Engineering</i>	
20 Year Title Search Residential (5 Reports)	\$ 455.00 per report
20 Year Title Search Agricultural (7 Reports)	\$ 480.00 per report
20 Year Title Search Municipal (1 Report)	\$ 505.00 per report
Title Updates (13 Updates)	\$ 205.00 per report
Legal Descriptions (19 Descriptions)	\$ 1,250.00 per description
Parcel Plats (12 Parcels)	\$ 950.00 per parcel
R/W Staking (12 Parcels)*	\$ 850.00 per parcel

Copies	\$ 1,625.00
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Right-of-Way Services

Appraisals

- Value Finding w/ 2 Land Values (10 Parcels)	\$ 4,280.00 per parcel
- Short Form (4 Parcels)	\$ 2,140.00 per parcel
- Long Form (10 Parcels)	\$ 5,010.00 per parcel

Negotiations (12 Parcels)	\$ 2,250.00 per parcel
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Negotiations Review (12 Parcels)	\$ 375.00 per parcel
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Recording (12 Parcels)	\$ 200.00 per parcel
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R/W Management (12 Parcels)	\$ 1,365.00 per parcel
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Document Preparation (12 Parcels)	\$ 200.00 per parcel
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Miscellaneous Fees (Partial release fees, contractor quote fees, etc.)	\$ 1,000.00
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* Restaking required through no fault of the CONSULTANT shall be compensated at an additional \$850.00 per parcel.

Due to the nature of the Project, an exact fee cannot be determined; however, it is estimated that approximately two hundred ten thousand nine hundred twenty dollars (\$210,920.00) will be required to complete this work. The CONSULTANT will contact the OWNER when 80% of the fee has been expended. A determination will be made at that time if the fees are sufficient to complete the Project. The CONSULTANT is to be compensated monthly.

3. Compensate the CONSULTANT for the Services under Appendix "A", Item 7 (Soils Investigation and Report), with a not to exceed limit of seventy-four thousand two hundred seventy dollars (\$74,270.00). The CONSULTANT is to be compensated monthly.
4. Compensate the CONSULTANT for the contract administration and for additional services as requested in writing by the OWNER, on an hourly basis by classification, as set forth in Attachment "D-1", which is attached hereto and made an integral part hereof, plus expenses. The CONSULTANT is to be compensated monthly.
5. Compensate the CONSULTANT for any Post Design Services provided on behalf of the OWNER on an hourly basis by classification, as set forth in Attachment "D-1", which is attached hereto and made an integral part hereof, plus expenses with a not to exceed limit of fifty thousand dollars (\$50,000.00). Post Design Services include but are not limited to inquiries from contractors, other consultants, other agencies and shop drawing review. Post Design Services also include any additional submissions of final tracings not due to the fault of the CONSULTANT.

6. Compensate the CONSULTANT for section corner perpetuation (if required) and any work required due to changes in the proposed right-of-way as a result of property owner negotiations or at the request of the OWNER on an hourly basis by classification, as set forth in Attachment "D-1", which is attached hereto and made an integral part hereof, plus expenses. The CONSULTANT is to be compensated monthly.
7. The fee schedule in Appendix "D" shall be renegotiated should the Project experience excessive delays, through no fault of the CONSULTANT, that extend the project design completion beyond 24 months from notice-to-proceed.
8. The compensation to the CONSUTLANT for such professional services under Appendix "A", Item 15 (Detention Design) shall be determined at a later date.

HOURLY BILLING RATES
ATTACHMENT D-1
EGIS BLN USA, INC.

Classification	Average Hourly Rate July 25 - June 26	Overhead (201,21%)	Subtotal	Profit (15%)	Hourly Billing Rate July 25 - June 26	Hourly Billing Rate July 26 - June 27	Hourly Billing Rate July 27 - June 28	Hourly Billing Rate July 28 - June 29
Office Mgr	\$110.55	\$222.44	\$332.99	\$49.95	\$382.94	\$394.42	\$406.26	\$418.44
Dept Mgr	\$104.60	\$210.47	\$315.07	\$47.26	\$362.33	\$373.20	\$384.39	\$395.92
Proj Mgr	\$77.36	\$155.66	\$233.02	\$34.95	\$267.97	\$276.01	\$284.29	\$292.82
Proj Eng	\$57.90	\$116.50	\$174.40	\$26.16	\$200.56	\$206.58	\$212.77	\$219.16
Eng Intern	\$37.83	\$76.12	\$113.95	\$17.09	\$131.04	\$134.97	\$139.02	\$143.19
Sr Env Analyst	\$69.00	\$138.83	\$207.83	\$31.18	\$239.01	\$246.18	\$253.57	\$261.17
Env Analyst	\$39.00	\$78.47	\$117.47	\$17.62	\$135.09	\$139.15	\$143.32	\$147.62
Land Surveyor	\$61.10	\$122.94	\$184.04	\$27.61	\$211.65	\$217.99	\$224.53	\$231.27
Sr Proj Coordinator	\$87.63	\$176.32	\$263.95	\$39.59	\$303.54	\$312.65	\$322.03	\$331.69
Proj Coordinator	\$46.28	\$93.12	\$139.40	\$20.91	\$160.31	\$165.12	\$170.07	\$175.18
CAD Technician	\$44.17	\$88.87	\$133.04	\$19.96	\$153.00	\$157.59	\$162.32	\$167.19
Survey Technician	\$48.60	\$97.79	\$146.39	\$21.96	\$168.35	\$173.40	\$178.60	\$183.96
RWS Technician	\$44.37	\$89.28	\$133.65	\$20.05	\$153.69	\$158.30	\$163.05	\$167.95
RPR	\$41.06	\$82.62	\$123.68	\$18.55	\$142.23	\$146.50	\$150.89	\$155.42
Legal/Contracts	\$89.13	\$179.34	\$268.47	\$40.27	\$308.74	\$318.00	\$327.54	\$337.37
Office Intern	\$20.83	\$41.91	\$62.74	\$9.41	\$72.15	\$74.32	\$76.55	\$78.84
Administration	\$46.80	\$94.17	\$140.97	\$21.14	\$162.11	\$166.97	\$171.98	\$177.14

HOURLY RATES

(Effective 5/1/24)

Classification	Hourly Rates
Principal	\$300.00
Project Manager	250.00
Senior Project Engineer	200.00
Project Engineer	187.00
Staff Engineer	155.00
Engineer	179.00
Senior Designer	176.00
Senior Controls Designer	189.00
Designer	169.00
Senior Environmental Scientist	187.00
Environmental Scientist I	149.00
Environmental Scientist II	169.00
Environmental NEPA Specialist I	139.00
Environmental NEPA Specialist II	170.00
Environmental Section 106 Specialist	173.00
Construction Supervisor	179.00
Construction Inspector	158.00
Staff Surveyor	171.00
Survey Crew Chief	159.00
Survey Technician	137.00

Reimbursable Expenses

Mileage Rate	Current Rate
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The hourly rates and reimbursable expenses are subject to periodic adjustments to reflect the cost of living index and increased wage rates.



GAI Consultants, Inc.
Negotiated Rates by Labor Classification
City of Westfield - Towne Rd over Little Eagle Creek

CLASSIFICATION	AVG PER CLASSIFICATION	Overhead %	Profit %	2025 Rates	2025 1.5 DL Overtime	2026 Rates (3.0% Incr)	2026 1.5 DL Overtime	2027 Rates (3.0% Incr)	2027 1.5 DL Overtime	2028 Rates (3.0% Incr)	2028 1.5 DL Overtime	2029 Rates (3.0% Incr)	2029 1.5 DL Overtime
Engineering Director 1	\$92.70	\$163.01	\$38.36	\$ 294.07		\$ 302.89		\$ 311.98		\$ 321.34		\$ 330.98	
Senior Project Manager	\$86.38	\$151.90	\$35.74	\$ 274.02		\$ 282.24		\$ 290.71		\$ 299.43		\$ 308.41	
Senior CMS Manager	\$68.54	\$120.53	\$28.36	\$ 217.43		\$ 223.95		\$ 230.67		\$ 237.59		\$ 244.72	
Engineering Manager 1	\$74.60	\$131.18	\$30.87	\$ 236.65		\$ 243.75		\$ 251.06		\$ 258.60		\$ 266.35	
Assistant Engineering Manager	\$56.78	\$99.85	\$23.49	\$ 180.12		\$ 185.53		\$ 191.09		\$ 196.82		\$ 202.73	
Senior Utility Coordinator	\$47.51	\$83.55	\$19.66	\$ 150.71		\$ 155.24		\$ 159.89		\$ 164.69		\$ 169.63	
Project EI	\$36.24	\$63.73	\$15.00	\$ 114.96		\$ 118.41		\$ 121.96		\$ 125.62		\$ 129.39	
EI	\$35.85	\$63.04	\$14.83	\$ 113.73		\$ 117.14		\$ 120.65		\$ 124.27		\$ 128.00	
*Senior Lead Designer	\$55.22	\$97.10	\$22.85	\$ 175.17	\$ 202.78	\$ 180.43	\$ 208.87	\$ 185.84	\$ 215.13	\$ 191.42	\$ 221.59	\$ 197.16	\$ 228.23
*Project Designer 1	\$42.50	\$74.74	\$17.59	\$ 134.82	\$ 156.07	\$ 138.87	\$ 160.75	\$ 143.03	\$ 165.58	\$ 147.32	\$ 170.54	\$ 151.74	\$ 175.66

* Indicates employees that are non-exempt and receive 1.5 DL (premium) overtime.

LPA - CONSULTING CONTRACT

This Contract ("this Contract") is made and entered into effective as of April 23,, 2025 ("Effective Date") by and between City of Westfield, Indiana, acting by and through its proper officials ("LOCAL PUBLIC AGENCY" or "LPA"), and A & F Engineering Co., LLC ("the CONSULTANT"), [an individual residing in the State of Indiana] [a corporation/limited liability company organized under the laws of the State of Indiana].

Des. No.: N/A

Project Description: Construction Inspection of a roundabout Intersection Improvement at 161st Street and Spring Mill Road with the installaiton of Pedestrian Bridge over the John Edwards Legal Drain

RECITALS

WHEREAS, the LPA has entered into an agreement to utilize local or federal monies with the Indiana Department of Transportation ("INDOT") for a transportation or transportation enhancement project ("the Project"), which Project Coordination Contract is herein attached as Attachment 1 and incorporated as reference; and

WHEREAS, the LPA wishes to hire the CONSULTANT to provide services toward the Project completion more fully described in Appendix "A" attached hereto ("Services");

WHEREAS, the CONSULTANT has extensive experience, knowledge and expertise relating to these Services; and

WHEREAS, the CONSULTANT has expressed a willingness to furnish the Services in connection therewith.

NOW, THEREFORE, in consideration of the following mutual covenants, the parties hereto mutually covenant and agree as follows:

The "Recitals" above are hereby made an integral part and specifically incorporated into this Contract.

SECTION I SERVICES BY CONSULTANT. The CONSULTANT will provide the Services and deliverables described in Appendix "A" which is herein attached to and made an integral part of this Contract.

SECTION II INFORMATION AND SERVICES TO BE FURNISHED BY THE LPA. The information and services to be furnished by the LPA are set out in Appendix "B" which is herein attached to and made an integral part of this Contract.

SECTION III TERM. The term of this Contract shall be from the date of the last signature affixed to this Contract to the completion of the construction contract which is estimated to be December 31, 2026. A schedule for completion of the Services and deliverables is set forth in Appendix "C" which is herein attached to and made an integral part of this Contract.

SECTION IV COMPENSATION. The LPA shall pay the CONSULTANT for the Services performed under this Contract as set forth in Appendix "D" which is herein attached to and made an integral part of this Contract. The maximum amount payable under this Contract shall not exceed \$ 417,240.00 .

SECTION V NOTICE TO PROCEED AND SCHEDULE. The CONSULTANT shall begin the work to be performed under this Contract only upon receipt of the written notice to proceed from the LPA, and shall deliver the work to the LPA in accordance with the schedule contained in Appendix "C" which is herein attached to and made an integral part of this Contract.

SECTION VI GENERAL PROVISIONS

1. **Access to Records.** The CONSULTANT and any SUB-CONSULTANTS shall maintain all books, documents, papers, correspondence, accounting records and other evidence pertaining to the cost incurred under this Contract, and shall make such materials available at their respective offices at all reasonable times during the period of this Contract and for five (5) years from the date of final payment under the terms of this Contract, for inspection or audit by the LPA, INDOT and/or the Federal Highway Administration (“FHWA”) or its authorized representative, and copies thereof shall be furnished free of charge, if requested by the LPA, INDOT, and/or FHWA. The CONSULTANT agrees that, upon request by any agency participating in federally-assisted programs with whom the CONSULTANT has contracted or seeks to contract, the CONSULTANT may release or make available to the agency any working papers from an audit performed by the LPA, INDOT and/or FHWA of the CONSULTANT and its SUB-CONSULTANTS in connection with this Contract, including any books, documents, papers, accounting records and other documentation which support or form the basis for the audit conclusions and judgments.

2. **Assignment; Successors.**
 - A. The CONSULTANT binds its successors and assignees to all the terms and conditions of this Contract. The CONSULTANT shall not assign or subcontract the whole or any part of this Contract without the LPA’s prior written consent, except that the CONSULTANT may assign its right to receive payments to such third parties as the CONSULTANT may desire without the prior written consent of the LPA, provided that the CONSULTANT gives written notice (including evidence of such assignment) to the LPA thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.

 - B. Any substitution of SUB-CONSULTANTS must first be approved and receive written authorization from the LPA. Any substitution or termination of a Disadvantaged Business Enterprise (“DBE”) SUB-CONSULTANT must first be approved and receive written authorization from the LPA and INDOT’s Economic Opportunity Division Director.

3. **Audit.** The CONSULTANT acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with 48 CFR part 31 and audit guidelines specified by the State and/or in accordance with audit requirements specified elsewhere in this Contract.

4. **Authority to Bind Consultant.** The CONSULTANT warrants that it has the necessary authority to enter into this Contract. The signatory for the CONSULTANT represents that he/she has been duly authorized to execute this Contract on behalf of the CONSULTANT and has obtained all necessary or applicable approval to make this Contract fully binding upon the CONSULTANT when his/her signature is affixed hereto.

5. **Certification for Federal-Aid Contracts Lobbying Activities.**
 - A. The CONSULTANT certifies, by signing and submitting this Contract, to the best of its knowledge and belief after diligent inquiry, and other than as disclosed in writing to the LPA prior to or contemporaneously with the execution and delivery of this Contract by the CONSULTANT, the CONSULTANT has complied with Section 1352, Title 31, U.S. Code, and specifically, that:
 - i. No federal appropriated funds have been paid, or will be paid, by or on behalf of the CONSULTANT to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contracts, the making of any federal grant, the making of any federal loan, the

entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- ii. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- B. The CONSULTANT also agrees by signing this Contract that it shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

- 6. **Changes in Work.** The CONSULTANT shall not commence any additional work or change the scope of the work until authorized in writing by the LPA. The CONSULTANT shall make no claim for additional compensation or time in the absence of prior written approval and amendment executed by all signatories hereto. This Contract may be amended, supplemented or modified only by a written document executed in the same manner as this Contract. The CONSULTANT acknowledges that no claim for additional compensation or time may be made by implication, oral agreements, actions, inaction, or course of conduct.

7. **Compliance with Laws.**

- A. The CONSULTANT 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. If the CONSULTANT violates such rules, laws, regulations and ordinances, the CONSULTANT shall assume full responsibility for such violations and shall bear any and all costs attributable to the original performance of any correction of such acts. The enactment of any state or federal statute, or the promulgation of regulations thereunder, after execution of this Contract, shall be reviewed by the LPA and the CONSULTANT to determine whether formal modifications are required to the provisions of this Contract.
- B. The CONSULTANT represents to the LPA that, to the best of the CONSULTANT'S knowledge and belief after diligent inquiry and other than as disclosed in writing to the LPA prior to or contemporaneously with the execution and delivery of this Contract by the CONSULTANT:
 - i. *State of Indiana Actions.* The CONSULTANT has no current or outstanding criminal, civil, or enforcement actions initiated by the State of Indiana pending and agrees that it will immediately notify the LPA of any such actions. During the term of such actions, CONSULTANT agrees that the LPA may delay, withhold, or deny work under any supplement or amendment, change order or other contractual device issued pursuant to this Contract.
 - ii. *Professional Licensing Standards.* The CONSULTANT, its employees and SUBCONSULTANTS have complied with and shall continue to comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the CONSULTANT pursuant to this Contract.

- iii. *Work Specific Standards.* The CONSULTANT and its SUB-CONSULTANTS, if any, have obtained, will obtain and/or will 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 work activities for the LPA.
 - iv. *Secretary of State Registration.* If the CONSULTANT is an entity described in IC Title 23, it is properly registered and owes no outstanding reports with the Indiana Secretary of State.
 - v. *Debarment and Suspension of CONSULTANT.* Neither the CONSULTANT nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State and will immediately notify the LPA of such actions. The term “principal” for purposes of this Contract 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 CONSULTANT or who has managerial or supervisory responsibilities for the Services.
 - vi. *Debarment and Suspension of any SUB-CONSULTANTS.* The CONSULTANT’s SUB-CONSULTANTS are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State. The CONSULTANT shall be solely responsible for any recoupment, penalties or costs that might arise from the use of a suspended or debarred SUBCONSULTANT. The CONSULTANT shall immediately notify the LPA and INDOT if any SUB-CONSULTANT becomes debarred or suspended, and shall, at the LPA’s request, take all steps required by the LPA to terminate its contractual relationship with the SUB-CONSULTANT for work to be performed under this Contract.
- C. *Violations.* In addition to any other remedies at law or in equity, upon CONSULTANT’S violation of any of Section 7(A) through 7(B), the LPA may, at its sole discretion, do any one or more of the following:
- i. terminate this Contract; or
 - ii. delay, withhold, or deny work under any supplement or amendment, change order or other contractual device issued pursuant to this Contract.
- D. *Disputes.* If a dispute exists as to the CONSULTANT’s liability or guilt in any action initiated by the LPA, and the LPA decides to delay, withhold, or deny work to the CONSULTANT, the CONSULTANT may request that it be allowed to continue, or receive work, without delay. The CONSULTANT must submit, in writing, a request for review to the LPA. A determination by the LPA under this Section 7.D shall be final and binding on the parties and not subject to administrative review. Any payments the LPA may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest under IC 5-17-5.
8. **Condition of Payment.** The CONSULTANT must perform all Services under this Contract to the LPA’s reasonable satisfaction, as determined at the discretion of the LPA and in accordance with all applicable federal, state, local laws, ordinances, rules, and regulations. The LPA will not pay for work not performed to the LPA’s reasonable satisfaction, inconsistent with this Contract or performed in violation of federal, state, or local law (collectively, “deficiencies”) until all deficiencies are remedied in a timely manner.

9. Confidentiality of LPA Information.

- A. The CONSULTANT understands and agrees that data, materials, and information disclosed to the CONSULTANT may contain confidential and protected information. Therefore, the CONSULTANT covenants that data, material, and information gathered, based upon or disclosed to the CONSULTANT for the purpose of this Contract, will not be disclosed to others or discussed with third parties without the LPA's prior written consent.
- B. The parties acknowledge that the Services to be performed by the CONSULTANT for the LPA under this Contract may require or allow access to data, materials, and information containing Social Security numbers and maintained by the LPA in its computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the CONSULTANT and the LPA agree to comply with the provisions of IC 4-1-10 and IC 4-1-11. If any Social Security number(s) is/are disclosed by the CONSULTANT, the CONSULTANT agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this Contract.

- 10. Delays and Extensions.** The CONSULTANT agrees that no charges or claim for damages shall be made by it for any minor delays from any cause whatsoever during the progress of any portion of the Services specified in this Contract. Such delays, if any, shall be compensated for by an extension of time for such period as may be determined by the LPA subject to the CONSULTANT's approval, it being understood, however, that permitting the CONSULTANT to proceed to complete any services, or any part of them after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the LPA of any of its rights herein. In the event of substantial delays or extensions, or change of any kind, not caused by the CONSULTANT, which causes a material change in scope, character or complexity of work the CONSULTANT is to perform under this Contract, the LPA at its sole discretion shall determine any adjustments in compensation and in the schedule for completion of the Services. The CONSULTANT must notify the LPA in writing of a material change in the work immediately after the CONSULTANT first recognizes the material change.

11. DBE Requirements.

- A. Notice is hereby given to the CONSULTANT and any SUB-CONSULTANT, and both agree, that failure to carry out the requirements set forth in 49 CFR Sec. 26.13(b) shall constitute a breach of this Contract and, after notification and failure to promptly cure such breach, may result in termination of this Contract or such remedy as INDOT deems appropriate. The referenced section requires the following assurance to be included in all subsequent contracts between the CONSULTANT and any SUB-CONSULTANT:

The CONSULTANT, sub recipient or SUB-CONSULTANT shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as INDOT, as the recipient deems appropriate.

- B. The CONSULTANT shall make good faith efforts to achieve the DBE percentage goal that may be included as part of this Contract with the approved DBE SUB-CONSULTANTS identified on its Affirmative Action Certification submitted with its Letter of Interest, or with approved amendments. Any changes to a DBE firm listed in the Affirmative Action Certification must be requested in writing and receive prior approval by the LPA and INDOT's Economic Opportunity Division Director. After this Contract is completed and if a DBE SUB-CONSULTANT has performed services thereon, the CONSULTANT must complete, and return, a Disadvantaged Business Enterprise Utilization Affidavit ("DBE-3 Form") to INDOT's

Economic Opportunity Division Director. The DBE-3 Form requires certification by the CONSULTANT AND DBE SUB-CONSULTANT that the committed contract amounts have been paid and received.

12. Non-Discrimination.

- A. Pursuant to I.C. 22-9-1-10, the Civil Rights Act of 1964, and the Americans with Disabilities Act, the CONSULTANT shall not discriminate against any employee or applicant for employment, to be employed in the performance of work under this Contract, with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin, ancestry or status as a veteran. Breach of this covenant may be regarded as a material breach of this Contract. Acceptance of this Contract also signifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran.
- B. The CONSULTANT understands that the LPA is a recipient of federal funds. Pursuant to that understanding, the CONSULTANT agrees that if the CONSULTANT employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, the CONSULTANT will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The CONSULTANT shall comply with Section 202 of executive order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of Contract.

It is the policy of INDOT to assure full compliance with Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and Section 504 of the Vocational Rehabilitation Act and related statutes and regulations in all programs and activities. Title VI and related statutes require that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (INDOT's Title VI enforcement shall include the following additional grounds: sex, ancestry, age, income status, religion and disability.)

- C. The CONSULTANT shall not discriminate in its selection and retention of contractors, including without limitation, those services retained for, or incidental to, construction, planning, research, engineering, property management, and fee contracts and other commitments with persons for services and expenses incidental to the acquisitions of right-of-way.
- D. The CONSULTANT shall not modify the Project in such a manner as to require, on the basis of race, color or national origin, the relocation of any persons. (INDOT's Title VI enforcement will include the following additional grounds; sex, ancestry, age, income status, religion and disability).
- E. The CONSULTANT shall not modify the Project in such a manner as to deny reasonable access to and use thereof to any persons on the basis of race, color or national origin. (INDOT's Title VI enforcement will include the following additional grounds; sex, ancestry, age, income status, religion and disability).
- F. The CONSULTANT shall neither allow discrimination by contractors in their selection and retention of subcontractors, lessors and/or material suppliers, nor allow discrimination by their subcontractors in their selection of subcontractors, lessors or material suppliers, who participate in construction, right-of-way clearance and related projects.

- G. The CONSULTANT shall take appropriate actions to correct any deficiency determined by itself and/or the Federal Highway Administration ("FHWA") within a reasonable time period, not to exceed ninety (90) days, in order to implement Title VI compliance in accordance with INDOT's assurances and guidelines.
- H. During the performance of this Contract, the CONSULTANT, for itself, its assignees and successors in interest (hereinafter referred to as the "CONSULTANT") agrees as follows:
- (1) Compliance with Regulations: The CONSULTANT shall comply with the Regulation relative to nondiscrimination in Federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
 - (2) Nondiscrimination: The CONSULTANT, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
 - (3) Solicitations for SUBCONSULTANTS, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential SUBCONSULTANT or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
 - (4) Information and Reports: The CONSULTANT shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the LPA or INDOT to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information the CONSULTANT shall certify to the LPA, or INDOT as appropriate, and shall set forth what efforts it has made to obtain the information.
 - (5) Sanctions for Noncompliance: In the event of the CONSULTANT'S noncompliance with the nondiscrimination provisions of this contract, the LPA shall impose such contract sanctions as it or INDOT may determine to be appropriate, including, but not limited to:
 - (a) withholding of payments to the CONSULTANT under the Contract until the CONSULTANT complies, and/or
 - (b) cancellation, termination or suspension of the Contract, in whole or in part.
 - (6) Incorporation of Provisions: The CONSULTANT shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The CONSULTANT shall take such action with respect to any SUBCONSULTANT procurement as the LPA or INDOT may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a SUBCONSULTANT or supplier as a result of such direction, the CONSULTANT may request the LPA to enter into such litigation to protect the interests of the LPA, and, in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

13. Disputes.

- A. Should any disputes arise with respect to this Contract, the CONSULTANT and the LPA agree to act promptly and in good faith to resolve such disputes in accordance with this Section 13. Time is of the essence in the resolution of disputes.
- B. The CONSULTANT agrees that the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the CONSULTANT fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs (including reasonable attorneys' fees and expenses) incurred by the LPA or the CONSULTANT as a result of such failure to proceed shall be borne by the CONSULTANT.
- C. If a party to this Contract is not satisfied with the progress toward resolving a dispute, the party must notify the other party of this dissatisfaction in writing. Upon written notice, the parties have ten (10) business days, unless the parties mutually agree in writing to extend this period, following the written notification to resolve the dispute. If the dispute is not resolved within ten (10) business days, a dissatisfied party may submit the dispute in writing to initiate negotiations to resolve the dispute. The LPA may withhold payments on disputed items pending resolution of the dispute.

14. Drug-Free Workplace Certification.

- A. The CONSULTANT hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace, and that it will give written notice to the LPA within ten (10) days after receiving actual notice that an employee of the CONSULTANT in the State of Indiana has been convicted of a criminal drug violation occurring in the CONSULTANT's workplace. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of Contract payments, termination of this Contract and/or debarment of contracting opportunities with the LPA.
- B. The CONSULTANT certifies and agrees that it will provide a drug-free workplace by:
 - i. Publishing and providing to all of its employees a statement notifying their employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the CONSULTANT's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
 - ii. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the CONSULTANT'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;

- iii. Notifying all employees in the statement required by subparagraph 14.B.i above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the CONSULTANT of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- iv. Notifying in writing the LPA within ten (10) days after receiving notice from an employee under subdivision 14.B.iii(2) above, or otherwise receiving actual notice of such conviction;
- v. Within thirty (30) days after receiving notice under subdivision 14.B.iii(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
- vi. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs 14.B.i. through 14.B.v. above.

15. Employment Eligibility Verification. The CONSULTANT affirms under the penalties of perjury that he/she/it does not knowingly employ an unauthorized alien.

The CONSULTANT shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. The CONSULTANT is not required to participate should the E-Verify program cease to exist. Additionally, the CONSULTANT is not required to participate if the CONSULTANT is self-employed and does not employ any employees.

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

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

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

16. Force Majeure. In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of fire, natural disaster, acts of God, acts of war, terrorism, civil disorders, decrees of governmental bodies, strikes, lockouts, labor or supply disruptions or similar causes beyond the reasonable control of the affected party (hereinafter referred to as a Force Majeure Event), the party who has been so affected shall immediately give written notice to the other party of the occurrence of the Force Majeure Event (with a description in reasonable detail of the circumstances causing such Event) and shall do everything reasonably possible to resume performance. Upon receipt of such written notice, all obligations under this Contract shall be immediately suspended for as long as such Force Majeure Event continues and provided that the affected party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay. If the period of nonperformance exceeds thirty (30) days from the receipt of written notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

17. **Governing Laws.** This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and the suit, if any, must be brought in the State of Indiana. The CONSULTANT consents to the jurisdiction of and to venue in any court of competent jurisdiction in the State of Indiana.
18. **Liability.** If the CONSULTANT or any of its SUB-CONSULTANTS fail to comply with any federal requirement which results in the LPA's repayment of federal funds to INDOT the CONSULTANT shall be responsible to the LPA, for repayment of such costs to the extent such costs are caused by the CONSULTANT and/or its SUB-CONSULTANTS.
19. **Indemnification.** The CONSULTANT agrees to indemnify the LPA, and their agents, officials, and employees, and to hold each of them harmless, from claims and suits including court costs, attorney's fees, and other expenses caused by any negligent act, error or omission of, or by any recklessness or willful misconduct by, the CONSULTANT and/or its SUB-CONSULTANTS, if any, under this Contract, provided that if the CONSULTANT is a "contractor" within the meaning of I.C. 8-3-2-12.5, this indemnity obligation shall be limited by and interpreted in accordance with I.C. 8-23-2-12-5. The LPA shall not provide such indemnification to the CONSULTANT.
20. **Independent Contractor.** Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents or employees of the other party. The CONSULTANT shall be responsible for providing all necessary unemployment and workers' compensation insurance for its employees.
21. **Insurance - Liability for Damages.**
 - A. The CONSULTANT shall be responsible for the accuracy of the Services performed under this Contract and shall promptly make necessary revisions or corrections resulting from its negligence, errors or omissions without any additional compensation from the LPA. Acceptance of the Services by the LPA shall not relieve the CONSULTANT of responsibility for subsequent correction of its negligent act, error or omission or for clarification of ambiguities. The CONSULTANT shall have no liability for the errors or deficiencies in designs, drawings, specifications or other services furnished to the CONSULTANT by the LPA on which the Consultant has reasonably relied, provided that the foregoing shall not relieve the CONSULTANT from any liability from the CONSULTANT'S failure to fulfill its obligations under this Contract, to exercise its professional responsibilities to the LPA, or to notify the LPA of any errors or deficiencies which the CONSULTANT knew or should have known existed.
 - B. During construction or any phase of work performed by others based on Services provided by the CONSULTANT, the CONSULTANT shall confer with the LPA when necessary for the purpose of interpreting the information, and/or to correct any negligent act, error or omission. The CONSULTANT shall prepare any plans or data needed to correct the negligent act, error or omission without additional compensation, even though final payment may have been received by the CONSULTANT. The CONSULTANT shall give immediate attention to these changes for a minimum of delay to the project.
 - C. The CONSULTANT shall be responsible for damages including but not limited to direct and indirect damages incurred by the LPA as a result of any negligent act, error or omission of the CONSULTANT, and for the LPA's losses or costs to repair or remedy construction. Acceptance of the Services by the LPA shall not relieve the CONSULTANT of responsibility for subsequent correction.

- D. The CONSULTANT shall be required to maintain in full force and effect, insurance as described below from the date of the first authorization to proceed until the LPA's acceptance of the work product. The CONSULTANT shall list both the LPA and INDOT as insureds on any policies. The CONSULTANT must obtain insurance written by insurance companies authorized to transact business in the State of Indiana and licensed by the Department of Insurance as either admitted or non-admitted insurers.
- E. The LPA, its officers and employees assume no responsibility for the adequacy of limits and coverage in the event of any claims against the CONSULTANT, its officers, employees, sub-consultants or any agent of any of them, and the obligations of indemnification in Section 19 herein shall survive the exhaustion of limits of coverage and discontinuance of coverage beyond the term specified, to the fullest extent of the law.
- F. The CONSULTANT shall furnish a certificate of insurance and all endorsements to the LPA prior to the commencement of this Contract. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the CONSULTANT. Failure to provide insurance as required in this Contract is a material breach of Contract entitling the LPA to immediately terminate this Contract.
- I. Professional Liability Insurance
The CONSULTANT must obtain and carry professional liability insurance as follows: For INDOT Prequalification **Work Types** 1.1, 12.2-12.6 the CONSULTANTS shall provide not less than \$250,000.00 professional liability insurance per claim and \$250,000.00 aggregate for all claims for negligent performance. For **Work Types** 2.2, 3.1, 3.2, 4.1, 4.2, 5.5, 5.8, 5.11, 6.1, 7.1, 8.1, 8.2, 9.1, 9.2, 10.1 – 10.4, 11.1, 13.1, 14.1 – 14.5, the CONSULTANTS shall carry professional liability insurance in an amount not less than \$1,000,000.00 per claim and \$1,000,000.00 aggregate for all claims for negligent performance. The CONSULTANT shall maintain the coverage for a period ending two (2) years after substantial completion of construction.
- II. Commercial General Liability Insurance
The CONSULTANT must obtain and carry Commercial / General liability insurance as follows: For INDOT Prequalification **Work Types** 2.1, 6.1, 7.1, 8.1, 8.2, 9.1, 9.2, 10.1 -10.4, 11.1, 13.1, 14.1 - 14.5, the CONSULTANT shall carry \$1,000,000.00 per occurrence, \$2,000,000.00 general aggregate. Coverage shall be on an occurrence form and include contractual liability. The policy shall be amended to include the following extensions of coverage:
1. Exclusions relating to the use of explosives, collapse, and underground damage to property shall be removed.
 2. The policy shall provide thirty (30) days notice of cancellation to LPA.
 3. The CONSULTANT shall name the LPA as an additional insured.
- III. Automobile Liability
The CONSULTANT shall obtain automobile liability insurance covering all owned, leased, borrowed, rented, or non-owned autos used by employees or others on behalf of the CONSULTANT for the conduct of the CONSULTANT's business, for an amount not less than \$1,000,000.00 Combined Single Limit for Bodily Injury and Property Damage. The term "automobile" shall include private passenger autos, trucks, and similar type vehicles licensed for use on public highways. The policy shall be amended to include the following extensions of coverage:

1. Contractual Liability coverage shall be included.
2. The policy shall provide thirty (30) days notice of cancellation to the LPA.
3. The CONSULTANT shall name the LPA as an additional insured.

IV. Watercraft Liability (When Applicable)

1. When necessary to use watercraft for the performance of the CONSULTANT's Services under the terms of this Contract, either by the CONSULTANT, or any SUB-CONSULTANT, the CONSULTANT or SUB-CONSULTANT operating the watercraft shall carry watercraft liability insurance in the amount of \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage, including Protection & Indemnity where applicable. Coverage shall apply to owned, non-owned, and hired watercraft.
2. If the maritime laws apply to any work to be performed by the CONSULTANT under the terms of the agreement, the following coverage shall be provided:
 - a. United States Longshoremen & Harbor workers
 - b. Maritime Coverage - Jones Act
3. The policy shall provide thirty (30) days notice of cancellation to the LPA.
4. The CONSULTANT or SUB-CONSULTANT shall name the LPA as an additional insured.

V. Aircraft Liability (When Applicable)

1. When necessary to use aircraft for the performance of the CONSULTANT's Services under the terms of this Contract, either by the CONSULTANT or SUB-CONSULTANT, the CONSULTANT or SUB-CONSULTANT operating the aircraft shall carry aircraft liability insurance in the amount of \$5,000,000 Combined Single Limit for Bodily Injury and Property Damage, including Passenger Liability. Coverage shall apply to owned, non-owned and hired aircraft.
2. The policy shall provide thirty (30) days notice of cancellation to the LPA.
3. The CONSULTANT or SUB-CONSULTANT shall name the LPA as an additional insured.

22. **Merger and Modification.** This Contract constitutes the entire agreement between the parties. No understandings, agreements or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by all necessary parties.

23. **Notice to Parties:** Any notice, request, consent or communication (collectively a "Notice") under this Agreement shall be effective only if it is in writing and (a) personally delivered; (b) sent by certified or registered mail, return receipt requested, postage prepaid; or (c) sent by a nationally recognized overnight delivery service, with delivery confirmed and costs of delivery being prepaid, addressed as follows:

Notices to the LPA shall be sent to:

John Nail, P.E.
Director of Public Works
City of Westfield
2706 E. 171st Street
Westfield, IN 46074

Notices to the CONSULTANT shall be sent to:

Jeff Hill, P.E., PTOE
Vice President
A&F Engineering Co., LLC
8365 Keystone Crossing, Suite 201
Indianapolis, IN 46240

or to such other address or addresses as shall be furnished in writing by any party to the other party. Unless the sending party has actual knowledge that a Notice was not received by the intended recipient, a Notice shall be deemed to have been given as of the date (i) when personally delivered; (ii) three (3) days after the date deposited with the United States mail properly addressed; or (iii) the next day when delivered during business hours to overnight delivery service, properly addressed and prior to such delivery service's cut off time for next day delivery. The parties acknowledge that notices delivered by facsimile or by email shall not be effective.

24. **Order of Precedence; Incorporation by Reference.** Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) This Contract and attachments, (2) RFP document, (3) the CONSULTANT's response to the RFP document, and (4) attachments prepared by the CONSULTANT. All of the foregoing are incorporated fully by reference.
25. **Ownership of Documents and Materials.** All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by the CONSULTANT prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the CONSULTANT assigns and transfers any ownership claim to the LPA and all such materials ("Work Product") will be the property of the LPA. The CONSULTANT agrees to execute and deliver such assignments or other documents as may be requested by the LPA. Use of these materials, other than related to contract performance by the CONSULTANT, without the LPA's prior written consent, is prohibited. During the performance of this Contract, the CONSULTANT shall be responsible for any loss of or damage to any of the Work Product developed for or supplied by INDOT and used to develop or assist in the Services provided herein while any such Work Product is in the possession or control of the CONSULTANT. Any loss or damage thereto shall be restored at the CONSULTANT's expense. The CONSULTANT shall provide the LPA full, immediate, and unrestricted access to the Work Product during the term of this Contract. The CONSULTANT represents to the best of its knowledge and belief after diligent inquiry and other than as disclosed in writing prior to or contemporaneously with the execution of this Contract by the CONSULTANT, that the Work Product does not infringe upon or misappropriate the intellectual property or other rights of any third party. The CONSULTANT shall not be liable for the use of its deliverables described in Appendix "A" on other projects without the express written consent of the CONSULTANT or as provided in Appendix "A". The LPA acknowledges that it has no claims to any copyrights not transferred to INDOT under this paragraph.
26. **Payments.** All payments shall be made in arrears and in conformance with the LPA's fiscal policies and procedures.

27. **Penalties, Interest and Attorney's Fees.** The LPA will in good faith perform its required obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law in part, IC 5-17-5, I. C. 34-54-8, and I. C. 34-13-1.
28. **Pollution Control Requirements.** If this Contract is for \$100,000 or more, the CONSULTANT:
- i. Stipulates that any facility to be utilized in performance under or to benefit from this Contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended.
 - ii. Agrees to comply with all of the requirements of section 114 of the Clean Air Act and section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder; and
 - iii. Stipulates that, as a condition of federal aid pursuant to this Contract, it shall notify INDOT and the Federal Highway Administration of the receipt of any knowledge indicating that a facility to be utilized in performance under or to benefit from this Contract is under consideration to be listed on the EPA Listing of Violating Facilities.
29. **Severability.** The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.
30. **Status of Claims.** The CONSULTANT shall give prompt written notice to the LPA any claims made for damages against the CONSULTANT resulting from Services performed under this Contract and shall be responsible for keeping the LPA currently advised as to the status of such claims. The CONSULTANT shall send notice of claims related to work under this Contract to:
31. **Sub-consultant Acknowledgement.** The CONSULTANT agrees and warrants to the LPA, that the CONSULTANT will obtain signed Sub-consultant Acknowledgement forms, from all SUB-CONSULTANTS providing Services under this Contract or to be compensated for Services through this Contract. The CONSULTANT agrees to provide signed originals of the Sub-consultant Acknowledgement form(s) to the LPA for approval prior to performance of the Services by any SUB-CONSULTANT.
32. **Substantial Performance.** This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any modification or Amendment thereof.
33. **Taxes.** The LPA will not be responsible for any taxes levied on the CONSULTANT as a result of this Contract.
34. **Termination for Convenience.**
- A. The LPA may terminate, in whole or in part, whenever, for any reason, when the LPA determines that such termination is in its best interests. Termination or partial termination of Services shall be affected by delivery to the CONSULTANT of a Termination Notice at least fifteen (15) days prior to the termination effective date, specifying the extent to which performance of Services under such termination becomes effective. The CONSULTANT shall be compensated for Services properly rendered prior to the effective date of termination. The LPA will not be liable for Services performed after the effective date of termination.
 - B. If the LPA terminates or partially terminates this Contract for any reason regardless of whether it is for convenience or for default, then and in such event, all data, reports, drawings, plans, sketches, sections and models, all specifications, estimates, measurements and data pertaining to the project, prepared under the terms or in fulfillment of this Contract, shall be delivered within ten (10) days to the LPA. In the event of the failure by the CONSULTANT to make

such delivery upon demand, the CONSULTANT shall pay to the LPA any damage (including costs and reasonable attorneys' fees and expenses) it may sustain by reason thereof.

35. Termination for Default.

- A. With the provision of twenty (20) days written notice to the CONSULTANT, the LPA may terminate this Contract in whole or in part if
 - (i) the CONSULTANT fails to:
 - 1. Correct or cure any breach of this Contract within such time, provided that if such cure is not reasonably achievable in such time, the CONSULTANT shall have up to ninety (90) days from such notice to effect such cure if the CONSULTANT promptly commences and diligently pursues such cure as soon as practicable;
 - 2. Deliver the supplies or perform the Services within the time specified in this Contract or any amendment or extension;
 - 3. Make progress so as to endanger performance of this Contract; or
 - 4. Perform any of the other provisions of this Contract to be performed by the CONSULTANT; or
 - (ii) if any representation or warranty of the CONSULTANT is untrue or inaccurate in any material respect at the time made or deemed to be made.
- B. If the LPA terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the LPA considers appropriate, supplies or services similar to those terminated, and the CONSULTANT will be liable to the LPA for any excess costs for those supplies or services. However, the CONSULTANT shall continue the work not terminated.
- C. The LPA shall pay the contract price for completed supplies delivered and Services accepted. The CONSULTANT and the LPA shall agree on the amount of payment for manufactured materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause (see Section 13). The LPA may withhold from the agreed upon price for Services any sum the LPA determines necessary to protect the LPA against loss because of outstanding liens or claims of former lien holders.
- D. The rights and remedies of the LPA in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.
- E. **Default by the LPA.** If the CONSULTANT believes the LPA is in default of this Contract, it shall provide written notice immediately to the LPA describing such default. If the LPA fails to take steps to correct or cure any material breach of this Contract within sixty (60) days after receipt of such written notice, the CONSULTANT may cancel and terminate this Contract and institute the appropriate measures to collect monies due up to and including the date of termination, including reasonable attorney fees and expenses, provided that if such cure is not reasonably achievable in such time, the LPA shall have up to one hundred twenty (120) days from such notice to effect such cure if the LPA promptly commences and diligently pursues such cure as soon as practicable. The CONSULTANT shall be compensated for Services properly rendered prior to the effective date of such termination. The CONSULTANT agrees that it has no right of termination for non-material breaches by the LPA.

36. **Waiver of Rights.** No rights conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver or excuse is approved in writing and signed by the party claimed to have waived such right. Neither the LPA's review, approval or acceptance of, nor payment for, the Services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the CONSULTANT shall be and remain liable to the LPA in accordance with applicable law for all damages to the LPA caused by the CONSULTANT's negligent performance of any of the Services furnished under this Contract.
37. **Work Standards/Conflicts of Interest.** The CONSULTANT shall understand and utilize all relevant INDOT standards including, but not limited to, the most current version of the Indiana Department of Transportation Design Manual, where applicable, and other appropriate materials and shall perform all Services in accordance with the standards of care, skill and diligence required in Appendix "A" or, if not set forth therein, ordinarily exercised by competent professionals doing work of a similar nature.
38. **No Third-Party Beneficiaries.** This Agreement is solely for the benefit of the parties hereto. Other than the indemnity rights under this Contract, nothing contained in this Agreement is intended or shall be construed to confer upon any person or entity (other than the parties hereto) any rights, benefits or remedies of any kind or character whatsoever.
39. **No Investment in Iran.** As required by IC 5-22-16.5, the CONSULTANT certifies that the CONSULTANT is not engaged in investment activities in Iran. Providing false certification may result in the consequences listed in IC 5-22-16.5-14, including termination of this Contract and denial of future state contracts, as well as an imposition of a civil penalty.
40. **Assignment of Antitrust Claims.** The CONSULTANT assigns to the State all right, title and interest in and to any claims the CONSULTANT now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.
41. **Non-Appropriation.** The Parties acknowledge that the City is a governmental entity whose funds are subject to appropriation by its fiscal body. Therefore, if at any time during the initial term or subsequent term of this representation, the City's fiscal body should fail to appropriate sufficient funds to continue this representation, it will become null and void. The City shall not be obligated to perform unless and until sufficient funds are appropriated. The City agrees to seek funding for the continuation of the representation during each budget cycle during the initial term or subsequent term of this representation. The City agrees to inform the Contractor in writing of any such non-allocation of funds at the earliest possible date and shall pay for all services provided prior to exhaustion of the appropriated funds.

Non-Collusion.

The undersigned attests, subject to the penalties for perjury, that he/she is the CONSULTANT, or that he/she is the properly authorized representative, agent, member or officer of the CONSULTANT, that he/she has not, nor has any other member, employee, representative, agent or officer of the CONSULTANT, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract. **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 Contract, the Party attests to compliance with the disclosure requirements in IC §4-2-6-10.5.**

In Witness Whereof, the CONSULTANT and the LPA have, through duly authorized representatives, entered into this Contract. The parties having read and understand the forgoing terms of this Contract do by their respective signatures dated below hereby agree to the terms thereof.

CONSULTANT


 Signature

 Jeff Hill, Vice President

 (Print or type name and title)

Attest:

 Signature

 Marla Ailor, Clerk Treasurer

 (Print or type name and title)
LOCAL PUBLIC AGENCY

 Signature

 Scott Willis, Mayor

 (Print or type name and title)

 Signature

 Chuck Lehman, Member

 (Print or type name and title)

 Signature

 Nick Barbknecht, Member

 (Print or type name and title)

APPENDIX "A"

SERVICES TO BE FURNISHED BY CONSULTANT:

In fulfillment of this Contract, the CONSULTANT shall comply with the requirements of the appropriate regulations and requirements of the City of Westfield, and if applicable, the Indiana Department of Transportation and Federal Highway Administration.

The CONSULTANT shall be responsible for performing the following activities:

General Project Scope

The general project scope includes the various construction engineering and project management services for the roundabout intersection improvement at 161st Street and Spring Mill Road plus the installation of a pedestrian bridge on the east side of Spring Mill Road over the John Edwards legal drain in Westfield, Indiana.

The CONSULTANT shall be responsible for performing the following activities:

Project Management
Consultant Construction Inspection Services
Utility Coordination/Bundling Services

Additional details about these services are described below and on the following pages.

CONSULTANT PERSONNEL:

For the fulfillment of all services outlined below, the CONSULTANT will provide one full-time resident project representative, and inspectors, clerical and secretarial personnel as required for a period of time necessary to complete the construction project and final construction report.

The qualifications and experience of personnel provided by the CONSULTANT are subject to approval by the LOCAL PUBLIC AGENCY, and no personnel will be assigned to the project until LOCAL PUBLIC AGENCY approval is obtained.

The full-time resident project representative will take directions from and report to the LOCAL PUBLIC AGENCY on all matters concerning contract compliance and administration.

The full-time resident project representative will coordinate project activities with the LOCAL PUBLIC AGENCY.

UTILITY COORDINATION/BUNDLING SERVICES:

During the development of the project bid plans and construction documents, the CONSULTANT completed additional utility coordination to help avoid utility conflicts and to prosecute utility relocations to eliminate conflicts for the Contractor. The CONSULTANT also completed project bundling for plans, specifications, quantities, specifications, utility relocation plans for the road project of 161st Street/Spring Mill Road to be bid with the bridge project of Pedestrian Bridge carrying Spring Mill Road path over the John Edwards Legal Drain.

CONSTRUCTION INSPECTION SERVICES:

CONSTRUCTION SCHEDULE:

Review the construction schedule prepared by the contractor for compliance with the contract and give to the LOCAL PUBLIC AGENCY detailed documentation concerning its acceptability.

CONFERENCES:

Attend preconstruction conferences as directed by the LOCAL PUBLIC AGENCY, arrange a schedule of progress meetings and such other job conferences as are required for the timely and acceptable conduct of

the job, and submit such schedules prepared to the LOCAL PUBLIC AGENCY for notification to those who are expected to attend. Record for the LOCAL PUBLIC AGENCY, as directed, minutes of such meetings. The CONSULTANT shall be available for conferences as requested by the LOCAL PUBLIC AGENCY to review working details of the project. The LOCAL PUBLIC AGENCY may review and inspect the activities whenever desired during the life of the Agreement.

LIAISON:

Serve as the LOCAL PUBLIC AGENCY's liaison with the Contractor, working principally through the Contractor's field superintendent or such other person in authority as designated by the Contractor. Acting in liaison capacity, the resident project representative shall be thoroughly familiar with the plans and specifications applicable to the project to monitor the Contractor for compliance with provisions therein. Any deviation observed shall be promptly reported to the contractor and LOCAL PUBLIC AGENCY by the resident project representative.

Serve as the LOCAL PUBLIC AGENCY's liaison with the traveling public and nearby affected business owners and property owners. The resident project representative will offer information and provide field office numbers to interested parties. If necessary, the resident project representative will attend and participate in any public information meetings.

Cooperate with the LOCAL PUBLIC AGENCY in dealing with the various federal, state, and local agencies having jurisdiction over the project.

Assist the LOCAL PUBLIC AGENCY in obtaining from the contractor a list of his proposed suppliers and subcontractors. Assist the LOCAL PUBLIC AGENCY in obtaining from the contractor additional details or information when needed at the job site for proper execution of work.

SHOP DRAWINGS:

Receive shop drawings and falsework drawings. Check for completeness and then forward to design personnel for approval.

Review approved shop and falsework drawings, specifications, and other submissions. Record receipt of this data, maintain a file of all drawings and submissions, and check construction for compliance with the contract documents.

Alert the contractor's field superintendent when it is observed materials or equipment are being or about to be used or installed before approval of shop drawings or samples, where such are required, and advise the LOCAL PUBLIC AGENCY when CONSULTANT believes it is necessary to disapprove work as failing to conform to the contract documents.

REVIEW OF WORK, INSPECTION, AND VERIFICATION OF TESTING:

Conduct on-site inspections for the LOCAL PUBLIC AGENCY of the work in progress as a basis for determining whether the project is proceeding in accordance with the Contract Documents.

Accompany visiting inspectors representing local, state, or federal agencies having jurisdiction over the project, and report details of such inspection to the LOCAL PUBLIC AGENCY. Verify that the required testing has been accomplished.

Consider and evaluate the Contractor's suggestions for modifications in drawings and/or specifications and report them with recommendations to the LOCAL PUBLIC AGENCY.

RECORDS:

Prepare and maintain at the job site orderly files of correspondence, reports of job conferences, shop drawings and other submissions, reproductions of original contract documents, including all addenda, change orders, and additional drawings subsequent to the award of the contract, progress reports, and other project-related documents.

Keep a diary or logbook recording hours on the job site, weather conditions, a list of visiting officials, decisions, general observations, and specific observations with regard to test procedures. Upon request, furnish copies of such a diary or logbook to the LOCAL PUBLIC AGENCY.

Maintain for the LOCAL PUBLIC AGENCY a record of names, addresses, and telephone numbers of all subcontractors and major material suppliers.

Maintain a set of drawings on which authorized changes are noted and deliver to the LOCAL PUBLIC AGENCY upon request, but in any event at the completion of the project.

Prepare the Final Construction Record and Final Estimate as required by the LOCAL PUBLIC AGENCY. Provide a copy of the Final Construction Record to the LOCAL PUBLIC AGENCY.

REPORTS:

Furnish to the LOCAL PUBLIC AGENCY at periodic intervals, as required, progress reports of the project, including the Contractor's compliance with the approved construction schedule.

PROGRESS ESTIMATES:

Prepare progress estimates for periodic partial payments to the Contractor and deliver to the LOCAL PUBLIC AGENCY for review and processing. The payments to the Contractor will be based on estimates of the value of work performed and materials complete and in place in accordance with the contract.

PROJECT RESPONSIBILITY:

The resident project representative will be responsible for the documentation of pay quantities and estimates and the maintenance of appropriate records related to the construction of this project.

WORK SCHEDULE AND SUSPENSION:

The CONSULTANT's crew will be required to regulate their work week to conform to the Contractor's hours in accordance with the directions of the LOCAL PUBLIC AGENCY. If work on the construction project is suspended and all matters concerning contract compliance and administration are complete, the services of the CONSULTANT may also be suspended without cost to the project.

CONTRACT ADMINISTRATION:

The CONSULTANT will administer the contract in accordance with LOCAL PUBLIC AGENCY procedures.

ITEMS EXCLUDED FROM PROFESSIONAL SERVICES

CONSULTANT shall not at any time supervise, direct, or have control over Contractor's work, nor shall CONSULTANT have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety at the Site, for safety precautions and programs incident to the Contractor's work in progress, nor for any failure of Contractor to comply with laws and regulations applicable to Contractor's furnishing and performing the work. Work performed under this agreement shall be at the discretion of the LOCAL PUBLIC AGENCY project manager and may be modified at his discretion. Reduction of the scope of work shall not result in penalties due the CONSULTANT for such reduction. Increase of the scope of work shall require executed of a supplement to the original agreement by both the CONSULTANT and the LOCAL PUBLIC AGENCY.

Some work disciplines are excluded from the services provided by CONSULTANT to the LOCAL PUBLIC AGENCY. The following professional services that are excluded from this agreement: railroad coordination, right-of-way services or right-of-way acquisition, bridge design, environmental documentation for NEPA or SEPA, Waters of the US report, wetland studies, wetland mitigation, asbestos investigations, lead-based paint testing, geotechnical investigations, pavement design, HAWK or RRFB design, appraising, buying, title work, public hearing, final field check, construction inspection. These or other services could be added, if desired by the LOCAL PUBLIC AGENCY, by amendment to this agreement.

APPENDIX "B"**INFORMATION AND SERVICES TO BE FURNISHED BY THE LPA:**

The LPA shall furnish the CONSULTANT with the following:

1. Criteria for design and details for signs, signals, lighting, highway and structures such as grades, curves, sight distances, clearances, design loading, etc.
2. Standard Specifications and standard drawings applicable to the project
3. Plans of existing bridge within the project limits
4. All written views pertinent to the location and environmental studies that are received by INDOT
5. Traffic assignments, Traffic Signal Warrants (New Signal), Traffic Lighting Warrants (New Lighting)
6. Necessary permit forms and permit processing (US Army Corps of Engineers, US Coast Guard, and/or Indiana Department of Natural Resources)
7. Available data from the transportation planning process
8. Utility plans available to INDOT covering utility facilities govern the location of signals and underground conduits throughout the affected areas
9. Provide access to enter upon public and private lands as required for the CONSULTANT to perform work under this Contract
10. Aerial Survey information
11. Existing water quality data
12. Laboratory tests for pavement investigation
13. Pavement design analysis
14. Geotechnical investigation, if applicable

APPENDIX "C"

SCHEDULE:

No work under this Contract shall be performed by the CONSULTANT until the CONSULTANT receives a written notice to proceed from the LOCAL PUBLIC AGENCY.

All work by the CONSULTANT under this Contract shall be completed and delivered to the LOCAL PUBLIC AGENCY for review and approval within the approximate time periods shown in the following submission schedule:

The CONSULTANT will be prepared to begin services under this Contract within five days after a letter of proceed is received from the LOCAL PUBLIC AGENCY. The CONSULTANT shall complete and deliver the final construction record and final estimate to the LOCAL PUBLIC AGENCY within 45 days after the contractor's last day of work.

CONSULTANT fee assumes approximately 28 weeks of construction inspection activities.

[Remainder of Page Intentionally Left Blank]

APPENDIX "D"**COMPENSATION:****A. Amount of Payment**

1. The CONSULTANT shall receive as payment for the work performed under this Agreement the total fee not to exceed \$ 417,240.00 unless a modification of the Agreement is approved in writing by the LOCAL PUBLIC AGENCY.
2. The CONSULTANT will be paid for the work performed under this Agreement in accordance with the following schedule:
 - a. Utility Coordination/Project Bundling \$ 11,180.00
 - b. Construction Inspection Services/Project Mgmt \$ 406,060.00
3. The CONSULTANT shall be compensated for the services an amount equal to the cumulative hours charged to the project by each class of CONSULTANT's employees times the approved hourly rates for each applicable billing, plus CONSULTANT's subconsultant charges, if any. Hourly rates are as follows:

Resident Project Representative	\$190.00
Project Manager:	\$250.00
Principal	\$300.00
Senior Inspector	\$160.00
Lead Inspector	\$126.16
CAD Technician	\$135.00
Staff Engineer	\$165.00
Administrative Staff	\$135.00
Intern	\$ 90.00

Overtime rates for Inspection efforts may be compensated at a rate up to 1.5x the hourly rates noted in this agreement for hours worked above 40 hours in a calendar week.
4. Mileage will be reimbursed up to the maximum current federal rate (FAR).
5. The CONSULTANT will not be paid for any service performed by the LOCAL PUBLIC AGENCY or not required to properly develop the project.

B. Method of Payment

1. The CONSULTANT may submit a maximum of one invoice voucher per calendar month for work covered under this Agreement. The invoice voucher shall be submitted to the LOCAL PUBLIC AGENCY. The invoice voucher shall represent the value, to the LOCAL PUBLIC AGENCY, of the partially completed work as of the date of the invoice voucher.
2. The LOCAL PUBLIC AGENCY for and in consideration of the rendering of the engineering services provided for in Appendix "A", agrees to pay the CONSULTANT for rendering such services the fee established above upon completion of the work thereunder, acceptance thereof by the LOCAL PUBLIC AGENCY and upon the CONSULTANT submitting an invoice and claim voucher as described above.
3. In the event of a substantial change in the scope, character or complexity of the work on the project, the maximum fee payable and the specified fee shall be adjusted.

LPA - CONSULTING CONTRACT

This Contract ("this Contract") is made and entered into effective as of April 23, 2025 ("Effective Date") by and between City of Westfield, Indiana, acting by and through its proper officials ("LOCAL PUBLIC AGENCY" or "LPA"), and A & F Engineering Co., LLC ("the CONSULTANT"), [an individual residing in the State of Indiana] [a corporation/limited liability company organized under the laws of the State of Indiana].

Des. No.: N/A

Project Description: 191st Street Corridor Improvements between Grand Park Boulevard and Spring Mill Road, with roundabout intersections at Horton Road and 193rd Street

RECITALS

WHEREAS, the LPA has entered into an agreement to utilize federal monies with the Indiana Department of Transportation ("INDOT") for a transportation or transportation enhancement project ("the Project"), which Project Coordination Contract is herein attached as Attachment 1 and incorporated as reference; and

WHEREAS, the LPA wishes to hire the CONSULTANT to provide services toward the Project completion more fully described in Appendix "A" attached hereto ("Services");

WHEREAS, the CONSULTANT has extensive experience, knowledge and expertise relating to these Services; and

WHEREAS, the CONSULTANT has expressed a willingness to furnish the Services in connection therewith.

NOW, THEREFORE, in consideration of the following mutual covenants, the parties hereto mutually covenant and agree as follows:

The "Recitals" above are hereby made an integral part and specifically incorporated into this Contract.

SECTION I SERVICES BY CONSULTANT. The CONSULTANT will provide the Services and deliverables described in Appendix "A" which is herein attached to and made an integral part of this Contract.

SECTION II INFORMATION AND SERVICES TO BE FURNISHED BY THE LPA. The information and services to be furnished by the LPA are set out in Appendix "B" which is herein attached to and made an integral part of this Contract.

SECTION III TERM. The term of this Contract shall be from the date of the last signature affixed to this Contract to the completion of the construction contract which is estimated to be December 31, 2028. A schedule for completion of the Services and deliverables is set forth in Appendix "C" which is herein attached to and made an integral part of this Contract.

SECTION IV COMPENSATION. The LPA shall pay the CONSULTANT for the Services performed under this Contract as set forth in Appendix "D" which is herein attached to and made an integral part of this Contract. The maximum amount payable under this Contract shall not exceed \$ 1,177,130.00 .

SECTION V NOTICE TO PROCEED AND SCHEDULE. The CONSULTANT shall begin the work to be performed under this Contract only upon receipt of the written notice to proceed from the LPA and shall deliver the work to the LPA in accordance with the schedule contained in Appendix "C" which is herein attached to and made an integral part of this Contract.

SECTION VI GENERAL PROVISIONS

1. **Access to Records.** The CONSULTANT and any SUB-CONSULTANTS shall maintain all books, documents, papers, correspondence, accounting records and other evidence pertaining to the cost incurred under this Contract, and shall make such materials available at their respective offices at all reasonable times during the period of this Contract and for five (5) years from the date of final payment under the terms of this Contract, for inspection or audit by the LPA, INDOT and/or the Federal Highway Administration (“FHWA”) or its authorized representative, and copies thereof shall be furnished free of charge, if requested by the LPA, INDOT, and/or FHWA. The CONSULTANT agrees that, upon request by any agency participating in federally-assisted programs with whom the CONSULTANT has contracted or seeks to contract, the CONSULTANT may release or make available to the agency any working papers from an audit performed by the LPA, INDOT and/or FHWA of the CONSULTANT and its SUB-CONSULTANTS in connection with this Contract, including any books, documents, papers, accounting records and other documentation which support or form the basis for the audit conclusions and judgments.

2. **Assignment; Successors.**
 - A. The CONSULTANT binds its successors and assignees to all the terms and conditions of this Contract. The CONSULTANT shall not assign or subcontract the whole or any part of this Contract without the LPA’s prior written consent, except that the CONSULTANT may assign its right to receive payments to such third parties as the CONSULTANT may desire without the prior written consent of the LPA, provided that the CONSULTANT gives written notice (including evidence of such assignment) to the LPA thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.

 - B. Any substitution of SUB-CONSULTANTS must first be approved and receive written authorization from the LPA. Any substitution or termination of a Disadvantaged Business Enterprise (“DBE”) SUB-CONSULTANT must first be approved and receive written authorization from the LPA and INDOT’s Economic Opportunity Division Director.

3. **Audit.** The CONSULTANT acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with 48 CFR part 31 and audit guidelines specified by the State and/or in accordance with audit requirements specified elsewhere in this Contract.

4. **Authority to Bind Consultant.** The CONSULTANT warrants that it has the necessary authority to enter into this Contract. The signatory for the CONSULTANT represents that he/she has been duly authorized to execute this Contract on behalf of the CONSULTANT and has obtained all necessary or applicable approval to make this Contract fully binding upon the CONSULTANT when his/her signature is affixed hereto.

5. **Certification for Federal-Aid Contracts Lobbying Activities.**
 - A. The CONSULTANT certifies, by signing and submitting this Contract, to the best of its knowledge and belief after diligent inquiry, and other than as disclosed in writing to the LPA prior to or contemporaneously with the execution and delivery of this Contract by the CONSULTANT, the CONSULTANT has complied with Section 1352, Title 31, U.S. Code, and specifically, that:
 - i. No federal appropriated funds have been paid, or will be paid, by or on behalf of the CONSULTANT to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contracts, the making of any federal grant, the making of any federal loan, the

entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- ii. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- B. The CONSULTANT also agrees by signing this Contract that it shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

- 6. **Changes in Work.** The CONSULTANT shall not commence any additional work or change the scope of the work until authorized in writing by the LPA. The CONSULTANT shall make no claim for additional compensation or time in the absence of prior written approval and amendment executed by all signatories hereto. This Contract may be amended, supplemented or modified only by a written document executed in the same manner as this Contract. The CONSULTANT acknowledges that no claim for additional compensation or time may be made by implication, oral agreements, actions, inaction, or course of conduct.

7. **Compliance with Laws.**

- A. The CONSULTANT 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. If the CONSULTANT violates such rules, laws, regulations and ordinances, the CONSULTANT shall assume full responsibility for such violations and shall bear any and all costs attributable to the original performance of any correction of such acts. The enactment of any state or federal statute, or the promulgation of regulations thereunder, after execution of this Contract, shall be reviewed by the LPA and the CONSULTANT to determine whether formal modifications are required to the provisions of this Contract.
- B. The CONSULTANT represents to the LPA that, to the best of the CONSULTANT'S knowledge and belief after diligent inquiry and other than as disclosed in writing to the LPA prior to or contemporaneously with the execution and delivery of this Contract by the CONSULTANT:
 - i. *State of Indiana Actions.* The CONSULTANT has no current or outstanding criminal, civil, or enforcement actions initiated by the State of Indiana pending and agrees that it will immediately notify the LPA of any such actions. During the term of such actions, CONSULTANT agrees that the LPA may delay, withhold, or deny work under any supplement or amendment, change order or other contractual device issued pursuant to this Contract.
 - ii. *Professional Licensing Standards.* The CONSULTANT, its employees and SUBCONSULTANTS have complied with and shall continue to comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the CONSULTANT pursuant to this Contract.

- iii. *Work Specific Standards.* The CONSULTANT and its SUB-CONSULTANTS, if any, have obtained, will obtain and/or will 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 work activities for the LPA.
 - iv. *Secretary of State Registration.* If the CONSULTANT is an entity described in IC Title 23, it is properly registered and owes no outstanding reports with the Indiana Secretary of State.
 - v. *Debarment and Suspension of CONSULTANT.* Neither the CONSULTANT nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State and will immediately notify the LPA of such actions. The term “principal” for purposes of this Contract 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 CONSULTANT or who has managerial or supervisory responsibilities for the Services.
 - vi. *Debarment and Suspension of any SUB-CONSULTANTS.* The CONSULTANT’s SUB-CONSULTANTS are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State. The CONSULTANT shall be solely responsible for any recoupment, penalties or costs that might arise from the use of a suspended or debarred SUBCONSULTANT. The CONSULTANT shall immediately notify the LPA and INDOT if any SUB-CONSULTANT becomes debarred or suspended, and shall, at the LPA’s request, take all steps required by the LPA to terminate its contractual relationship with the SUB-CONSULTANT for work to be performed under this Contract.
- C. *Violations.* In addition to any other remedies at law or in equity, upon CONSULTANT’S violation of any of Section 7(A) through 7(B), the LPA may, at its sole discretion, do any one or more of the following:
- i. terminate this Contract; or
 - ii. delay, withhold, or deny work under any supplement or amendment, change order or other contractual device issued pursuant to this Contract.
- D. *Disputes.* If a dispute exists as to the CONSULTANT’s liability or guilt in any action initiated by the LPA, and the LPA decides to delay, withhold, or deny work to the CONSULTANT, the CONSULTANT may request that it be allowed to continue, or receive work, without delay. The CONSULTANT must submit, in writing, a request for review to the LPA. A determination by the LPA under this Section 7.D shall be final and binding on the parties and not subject to administrative review. Any payments the LPA may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest under IC 5-17-5.
8. **Condition of Payment.** The CONSULTANT must perform all Services under this Contract to the LPA’s reasonable satisfaction, as determined at the discretion of the LPA and in accordance with all applicable federal, state, local laws, ordinances, rules, and regulations. The LPA will not pay for work not performed to the LPA’s reasonable satisfaction, inconsistent with this Contract or performed in violation of federal, state, or local law (collectively, “deficiencies”) until all deficiencies are remedied in a timely manner.

9. Confidentiality of LPA Information.

- A. The CONSULTANT understands and agrees that data, materials, and information disclosed to the CONSULTANT may contain confidential and protected information. Therefore, the CONSULTANT covenants that data, material, and information gathered, based upon or disclosed to the CONSULTANT for the purpose of this Contract, will not be disclosed to others or discussed with third parties without the LPA's prior written consent.
- B. The parties acknowledge that the Services to be performed by the CONSULTANT for the LPA under this Contract may require or allow access to data, materials, and information containing Social Security numbers and maintained by the LPA in its computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the CONSULTANT and the LPA agree to comply with the provisions of IC 4-1-10 and IC 4-1-11. If any Social Security number(s) is/are disclosed by the CONSULTANT, the CONSULTANT agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this Contract.

- 10. Delays and Extensions.** The CONSULTANT agrees that no charges or claim for damages shall be made by it for any minor delays from any cause whatsoever during the progress of any portion of the Services specified in this Contract. Such delays, if any, shall be compensated for by an extension of time for such period as may be determined by the LPA subject to the CONSULTANT's approval, it being understood, however, that permitting the CONSULTANT to proceed to complete any services, or any part of them after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the LPA of any of its rights herein. In the event of substantial delays or extensions, or change of any kind, not caused by the CONSULTANT, which causes a material change in scope, character or complexity of work the CONSULTANT is to perform under this Contract, the LPA at its sole discretion shall determine any adjustments in compensation and in the schedule for completion of the Services. The CONSULTANT must notify the LPA in writing of a material change in the work immediately after the CONSULTANT first recognizes the material change.

11. DBE Requirements.

- A. Notice is hereby given to the CONSULTANT and any SUB-CONSULTANT, and both agree, that failure to carry out the requirements set forth in 49 CFR Sec. 26.13(b) shall constitute a breach of this Contract and, after notification and failure to promptly cure such breach, may result in termination of this Contract or such remedy as INDOT deems appropriate. The referenced section requires the following assurance to be included in all subsequent contracts between the CONSULTANT and any SUB-CONSULTANT:

The CONSULTANT, sub recipient or SUB-CONSULTANT shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as INDOT, as the recipient deems appropriate.

- B. The CONSULTANT shall make good faith efforts to achieve the DBE percentage goal that may be included as part of this Contract with the approved DBE SUB-CONSULTANTS identified on its Affirmative Action Certification submitted with its Letter of Interest, or with approved amendments. Any changes to a DBE firm listed in the Affirmative Action Certification must be requested in writing and receive prior approval by the LPA and INDOT's Economic Opportunity Division Director. After this Contract is completed and if a DBE SUB-CONSULTANT has performed services thereon, the CONSULTANT must complete, and return, a Disadvantaged Business Enterprise Utilization Affidavit ("DBE-3 Form") to INDOT's

Economic Opportunity Division Director. The DBE-3 Form requires certification by the CONSULTANT AND DBE SUB-CONSULTANT that the committed contract amounts have been paid and received.

12. Non-Discrimination.

- A. Pursuant to I.C. 22-9-1-10, the Civil Rights Act of 1964, and the Americans with Disabilities Act, the CONSULTANT shall not discriminate against any employee or applicant for employment, to be employed in the performance of work under this Contract, with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin, ancestry or status as a veteran. Breach of this covenant may be regarded as a material breach of this Contract. Acceptance of this Contract also signifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran.
- B. The CONSULTANT understands that the LPA is a recipient of federal funds. Pursuant to that understanding, the CONSULTANT agrees that if the CONSULTANT employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, the CONSULTANT will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The CONSULTANT shall comply with Section 202 of executive order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of Contract.

It is the policy of INDOT to assure full compliance with Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and Section 504 of the Vocational Rehabilitation Act and related statutes and regulations in all programs and activities. Title VI and related statutes require that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (INDOT's Title VI enforcement shall include the following additional grounds: sex, ancestry, age, income status, religion and disability.)

- C. The CONSULTANT shall not discriminate in its selection and retention of contractors, including without limitation, those services retained for, or incidental to, construction, planning, research, engineering, property management, and fee contracts and other commitments with persons for services and expenses incidental to the acquisitions of right-of-way.
- D. The CONSULTANT shall not modify the Project in such a manner as to require, on the basis of race, color or national origin, the relocation of any persons. (INDOT's Title VI enforcement will include the following additional grounds; sex, ancestry, age, income status, religion and disability).
- E. The CONSULTANT shall not modify the Project in such a manner as to deny reasonable access to and use thereof to any persons on the basis of race, color or national origin. (INDOT's Title VI enforcement will include the following additional grounds; sex, ancestry, age, income status, religion and disability).
- F. The CONSULTANT shall neither allow discrimination by contractors in their selection and retention of subcontractors, lessors and/or material suppliers, nor allow discrimination by their subcontractors in their selection of subcontractors, lessors or material suppliers, who participate in construction, right-of-way clearance and related projects.

- G. The CONSULTANT shall take appropriate actions to correct any deficiency determined by itself and/or the Federal Highway Administration ("FHWA") within a reasonable time period, not to exceed ninety (90) days, in order to implement Title VI compliance in accordance with INDOT's assurances and guidelines.
- H. During the performance of this Contract, the CONSULTANT, for itself, its assignees and successors in interest (hereinafter referred to as the "CONSULTANT") agrees as follows:
- (1) **Compliance with Regulations:** The CONSULTANT shall comply with the Regulation relative to nondiscrimination in Federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
 - (2) **Nondiscrimination:** The CONSULTANT, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
 - (3) **Solicitations for SUBCONSULTANTS, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential SUBCONSULTANT or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
 - (4) **Information and Reports:** The CONSULTANT shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the LPA or INDOT to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information the CONSULTANT shall certify to the LPA, or INDOT as appropriate, and shall set forth what efforts it has made to obtain the information.
 - (5) **Sanctions for Noncompliance:** In the event of the CONSULTANT'S noncompliance with the nondiscrimination provisions of this contract, the LPA shall impose such contract sanctions as it or INDOT may determine to be appropriate, including, but not limited to:
 - (a) withholding of payments to the CONSULTANT under the Contract until the CONSULTANT complies, and/or
 - (b) cancellation, termination or suspension of the Contract, in whole or in part.
 - (6) **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The CONSULTANT shall take such action with respect to any SUBCONSULTANT procurement as the LPA or INDOT may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a SUBCONSULTANT or supplier as a result of such direction, the CONSULTANT may request the LPA to enter into such litigation to protect the interests of the LPA, and, in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

13. Disputes.

- A. Should any disputes arise with respect to this Contract, the CONSULTANT and the LPA agree to act promptly and in good faith to resolve such disputes in accordance with this Section 13. Time is of the essence in the resolution of disputes.
- B. The CONSULTANT agrees that the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the CONSULTANT fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs (including reasonable attorneys' fees and expenses) incurred by the LPA or the CONSULTANT as a result of such failure to proceed shall be borne by the CONSULTANT.
- C. If a party to this Contract is not satisfied with the progress toward resolving a dispute, the party must notify the other party of this dissatisfaction in writing. Upon written notice, the parties have ten (10) business days, unless the parties mutually agree in writing to extend this period, following the written notification to resolve the dispute. If the dispute is not resolved within ten (10) business days, a dissatisfied party may submit the dispute in writing to initiate negotiations to resolve the dispute. The LPA may withhold payments on disputed items pending resolution of the dispute.

14. Drug-Free Workplace Certification.

- A. The CONSULTANT hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace, and that it will give written notice to the LPA within ten (10) days after receiving actual notice that an employee of the CONSULTANT in the State of Indiana has been convicted of a criminal drug violation occurring in the CONSULTANT's workplace. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of Contract payments, termination of this Contract and/or debarment of contracting opportunities with the LPA.
- B. The CONSULTANT certifies and agrees that it will provide a drug-free workplace by:
 - i. Publishing and providing to all of its employees a statement notifying their employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the CONSULTANT's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
 - ii. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the CONSULTANT'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;

- iii. Notifying all employees in the statement required by subparagraph 14.B.i above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the CONSULTANT of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- iv. Notifying in writing the LPA within ten (10) days after receiving notice from an employee under subdivision 14.B.iii(2) above, or otherwise receiving actual notice of such conviction;
- v. Within thirty (30) days after receiving notice under subdivision 14.B.iii(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
- vi. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs 14.B.i. through 14.B.v. above.

15. Employment Eligibility Verification. The CONSULTANT affirms under the penalties of perjury that he/she/it does not knowingly employ an unauthorized alien.

The CONSULTANT shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. The CONSULTANT is not required to participate should the E-Verify program cease to exist. Additionally, the CONSULTANT is not required to participate if the CONSULTANT is self-employed and does not employ any employees.

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

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

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

16. Force Majeure. In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of fire, natural disaster, acts of God, acts of war, terrorism, civil disorders, decrees of governmental bodies, strikes, lockouts, labor or supply disruptions or similar causes beyond the reasonable control of the affected party (hereinafter referred to as a Force Majeure Event), the party who has been so affected shall immediately give written notice to the other party of the occurrence of the Force Majeure Event (with a description in reasonable detail of the circumstances causing such Event) and shall do everything reasonably possible to resume performance. Upon receipt of such written notice, all obligations under this Contract shall be immediately suspended for as long as such Force Majeure Event continues and provided that the affected party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay. If the period of nonperformance exceeds thirty (30) days from the receipt of written notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

17. **Governing Laws.** This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and the suit, if any, must be brought in the State of Indiana. The CONSULTANT consents to the jurisdiction of and to venue in any court of competent jurisdiction in the State of Indiana.
18. **Liability.** If the CONSULTANT or any of its SUB-CONSULTANTS fail to comply with any federal requirement which results in the LPA's repayment of federal funds to INDOT the CONSULTANT shall be responsible to the LPA, for repayment of such costs to the extent such costs are caused by the CONSULTANT and/or its SUB-CONSULTANTS.
19. **Indemnification.** The CONSULTANT agrees to indemnify the LPA, and their agents, officials, and employees, and to hold each of them harmless, from claims and suits including court costs, attorney's fees, and other expenses caused by any negligent act, error or omission of, or by any recklessness or willful misconduct by, the CONSULTANT and/or its SUB-CONSULTANTS, if any, under this Contract, provided that if the CONSULTANT is a "contractor" within the meaning of I.C. 8-3-2-12.5, this indemnity obligation shall be limited by and interpreted in accordance with I.C. 8-23-2-12-5. The LPA shall not provide such indemnification to the CONSULTANT.
20. **Independent Contractor.** Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents or employees of the other party. The CONSULTANT shall be responsible for providing all necessary unemployment and workers' compensation insurance for its employees.
21. **Insurance - Liability for Damages.**
 - A. The CONSULTANT shall be responsible for the accuracy of the Services performed under this Contract and shall promptly make necessary revisions or corrections resulting from its negligence, errors or omissions without any additional compensation from the LPA. Acceptance of the Services by the LPA shall not relieve the CONSULTANT of responsibility for subsequent correction of its negligent act, error or omission or for clarification of ambiguities. The CONSULTANT shall have no liability for the errors or deficiencies in designs, drawings, specifications or other services furnished to the CONSULTANT by the LPA on which the Consultant has reasonably relied, provided that the foregoing shall not relieve the CONSULTANT from any liability from the CONSULTANT'S failure to fulfill its obligations under this Contract, to exercise its professional responsibilities to the LPA, or to notify the LPA of any errors or deficiencies which the CONSULTANT knew or should have known existed.
 - B. During construction or any phase of work performed by others based on Services provided by the CONSULTANT, the CONSULTANT shall confer with the LPA when necessary for the purpose of interpreting the information, and/or to correct any negligent act, error or omission. The CONSULTANT shall prepare any plans or data needed to correct the negligent act, error or omission without additional compensation, even though final payment may have been received by the CONSULTANT. The CONSULTANT shall give immediate attention to these changes for a minimum of delay to the project.
 - C. The CONSULTANT shall be responsible for damages including but not limited to direct and indirect damages incurred by the LPA as a result of any negligent act, error or omission of the CONSULTANT, and for the LPA's losses or costs to repair or remedy construction. Acceptance of the Services by the LPA shall not relieve the CONSULTANT of responsibility for subsequent correction.

- D. The CONSULTANT shall be required to maintain in full force and effect, insurance as described below from the date of the first authorization to proceed until the LPA's acceptance of the work product. The CONSULTANT shall list both the LPA and INDOT as insureds on any policies. The CONSULTANT must obtain insurance written by insurance companies authorized to transact business in the State of Indiana and licensed by the Department of Insurance as either admitted or non-admitted insurers.
- E. The LPA, its officers and employees assume no responsibility for the adequacy of limits and coverage in the event of any claims against the CONSULTANT, its officers, employees, sub-consultants or any agent of any of them, and the obligations of indemnification in Section 19 herein shall survive the exhaustion of limits of coverage and discontinuance of coverage beyond the term specified, to the fullest extent of the law.
- F. The CONSULTANT shall furnish a certificate of insurance and all endorsements to the LPA prior to the commencement of this Contract. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the CONSULTANT. Failure to provide insurance as required in this Contract is a material breach of Contract entitling the LPA to immediately terminate this Contract.
- I. Professional Liability Insurance
The CONSULTANT must obtain and carry professional liability insurance as follows: For INDOT Prequalification **Work Types** 1.1, 12.2-12.6 the CONSULTANTS shall provide not less than \$250,000.00 professional liability insurance per claim and \$250,000.00 aggregate for all claims for negligent performance. For **Work Types** 2.2, 3.1, 3.2, 4.1, 4.2, 5.5, 5.8, 5.11, 6.1, 7.1, 8.1, 8.2, 9.1, 9.2, 10.1 – 10.4, 11.1, 13.1, 14.1 – 14.5, the CONSULTANTS shall carry professional liability insurance in an amount not less than \$1,000,000.00 per claim and \$1,000,000.00 aggregate for all claims for negligent performance. The CONSULTANT shall maintain the coverage for a period ending two (2) years after substantial completion of construction.
- II. Commercial General Liability Insurance
The CONSULTANT must obtain and carry Commercial / General liability insurance as follows: For INDOT Prequalification **Work Types** 2.1, 6.1, 7.1, 8.1, 8.2, 9.1, 9.2, 10.1 -10.4, 11.1, 13.1, 14.1 - 14.5, the CONSULTANT shall carry \$1,000,000.00 per occurrence, \$2,000,000.00 general aggregate. Coverage shall be on an occurrence form and include contractual liability. The policy shall be amended to include the following extensions of coverage:
1. Exclusions relating to the use of explosives, collapse, and underground damage to property shall be removed.
 2. The policy shall provide thirty (30) days notice of cancellation to LPA.
 3. The CONSULTANT shall name the LPA as an additional insured.
- III. Automobile Liability
The CONSULTANT shall obtain automobile liability insurance covering all owned, leased, borrowed, rented, or non-owned autos used by employees or others on behalf of the CONSULTANT for the conduct of the CONSULTANT's business, for an amount not less than \$1,000,000.00 Combined Single Limit for Bodily Injury and Property Damage. The term "automobile" shall include private passenger autos, trucks, and similar type vehicles licensed for use on public highways. The policy shall be amended to include the following extensions of coverage:

1. Contractual Liability coverage shall be included.
2. The policy shall provide thirty (30) days notice of cancellation to the LPA.
3. The CONSULTANT shall name the LPA as an additional insured.

IV. Watercraft Liability (When Applicable)

1. When necessary to use watercraft for the performance of the CONSULTANT's Services under the terms of this Contract, either by the CONSULTANT, or any SUB-CONSULTANT, the CONSULTANT or SUB-CONSULTANT operating the watercraft shall carry watercraft liability insurance in the amount of \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage, including Protection & Indemnity where applicable. Coverage shall apply to owned, non-owned, and hired watercraft.
2. If the maritime laws apply to any work to be performed by the CONSULTANT under the terms of the agreement, the following coverage shall be provided:
 - a. United States Longshoremen & Harbor workers
 - b. Maritime Coverage - Jones Act
3. The policy shall provide thirty (30) days notice of cancellation to the LPA.
4. The CONSULTANT or SUB-CONSULTANT shall name the LPA as an additional insured.

V. Aircraft Liability (When Applicable)

1. When necessary to use aircraft for the performance of the CONSULTANT's Services under the terms of this Contract, either by the CONSULTANT or SUB-CONSULTANT, the CONSULTANT or SUB-CONSULTANT operating the aircraft shall carry aircraft liability insurance in the amount of \$5,000,000 Combined Single Limit for Bodily Injury and Property Damage, including Passenger Liability. Coverage shall apply to owned, non-owned and hired aircraft.
2. The policy shall provide thirty (30) days notice of cancellation to the LPA.
3. The CONSULTANT or SUB-CONSULTANT shall name the LPA as an additional insured.

22. **Merger and Modification.** This Contract constitutes the entire agreement between the parties. No understandings, agreements or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by all necessary parties.

23. **Notice to Parties:** Any notice, request, consent or communication (collectively a "Notice") under this Agreement shall be effective only if it is in writing and (a) personally delivered; (b) sent by certified or registered mail, return receipt requested, postage prepaid; or (c) sent by a nationally recognized overnight delivery service, with delivery confirmed and costs of delivery being prepaid, addressed as follows:

Notices to the LPA shall be sent to:

John Nail, P.E.
Director of Public Works
City of Westfield
2706 E. 171st Street
Westfield, IN 46074

Notices to the CONSULTANT shall be sent to:

Jeff Hill, P.E., PTOE
Vice President
A&F Engineering Co., LLC
8365 Keystone Crossing, Suite 201
Indianapolis, IN 46240

or to such other address or addresses as shall be furnished in writing by any party to the other party. Unless the sending party has actual knowledge that a Notice was not received by the intended recipient, a Notice shall be deemed to have been given as of the date (i) when personally delivered; (ii) three (3) days after the date deposited with the United States mail properly addressed; or (iii) the next day when delivered during business hours to overnight delivery service, properly addressed and prior to such delivery service's cut off time for next day delivery. The parties acknowledge that notices delivered by facsimile or by email shall not be effective.

24. **Order of Precedence; Incorporation by Reference.** Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) This Contract and attachments, (2) RFP document, (3) the CONSULTANT's response to the RFP document, and (4) attachments prepared by the CONSULTANT. All of the foregoing are incorporated fully by reference.
25. **Ownership of Documents and Materials.** All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by the CONSULTANT prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the CONSULTANT assigns and transfers any ownership claim to the LPA and all such materials ("Work Product") will be the property of the LPA. The CONSULTANT agrees to execute and deliver such assignments or other documents as may be requested by the LPA. Use of these materials, other than related to contract performance by the CONSULTANT, without the LPA's prior written consent, is prohibited. During the performance of this Contract, the CONSULTANT shall be responsible for any loss of or damage to any of the Work Product developed for or supplied by INDOT and used to develop or assist in the Services provided herein while any such Work Product is in the possession or control of the CONSULTANT. Any loss or damage thereto shall be restored at the CONSULTANT's expense. The CONSULTANT shall provide the LPA full, immediate, and unrestricted access to the Work Product during the term of this Contract. The CONSULTANT represents to the best of its knowledge and belief after diligent inquiry and other than as disclosed in writing prior to or contemporaneously with the execution of this Contract by the CONSULTANT, that the Work Product does not infringe upon or misappropriate the intellectual property or other rights of any third party. The CONSULTANT shall not be liable for the use of its deliverables described in Appendix "A" on other projects without the express written consent of the CONSULTANT or as provided in Appendix "A". The LPA acknowledges that it has no claims to any copyrights not transferred to INDOT under this paragraph.
26. **Payments.** All payments shall be made in arrears and in conformance with the LPA's fiscal policies and procedures.

27. **Penalties, Interest and Attorney's Fees.** The LPA will in good faith perform its required obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law in part, IC 5-17-5, I. C. 34-54-8, and I. C. 34-13-1.
28. **Pollution Control Requirements.** If this Contract is for \$100,000 or more, the CONSULTANT:
- i. Stipulates that any facility to be utilized in performance under or to benefit from this Contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended.
 - ii. Agrees to comply with all of the requirements of section 114 of the Clean Air Act and section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder; and
 - iii. Stipulates that, as a condition of federal aid pursuant to this Contract, it shall notify INDOT and the Federal Highway Administration of the receipt of any knowledge indicating that a facility to be utilized in performance under or to benefit from this Contract is under consideration to be listed on the EPA Listing of Violating Facilities.
29. **Severability.** The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.
30. **Status of Claims.** The CONSULTANT shall give prompt written notice to the LPA any claims made for damages against the CONSULTANT resulting from the Services performed under this Contract and shall be responsible for keeping the LPA currently advised as to the status of such claims. The CONSULTANT shall send notice of claims related to work under this Contract to:
31. **Sub-consultant Acknowledgement.** The CONSULTANT agrees and warrants to the LPA that the CONSULTANT will obtain signed Sub-consultant Acknowledgement forms, from all SUB-CONSULTANTS providing Services under this Contract or to be compensated for Services through this Contract. The CONSULTANT agrees to provide signed originals of the Sub-consultant Acknowledgement form(s) to the LPA for approval prior to performance of the Services by any SUB-CONSULTANT.
32. **Substantial Performance.** This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any modification or Amendment thereof.
33. **Taxes.** The LPA will not be responsible for any taxes levied on the CONSULTANT as a result of this Contract.
34. **Termination for Convenience.**
- A. The LPA may terminate, in whole or in part, whenever, for any reason, when the LPA determines that such termination is in its best interests. Termination or partial termination of Services shall be affected by delivery to the CONSULTANT of a Termination Notice at least fifteen (15) days prior to the termination effective date, specifying the extent to which performance of Services under such termination becomes effective. The CONSULTANT shall be compensated for Services properly rendered prior to the effective date of termination. The LPA will not be liable for Services performed after the effective date of termination.
 - B. If the LPA terminates or partially terminates this Contract for any reason regardless of whether it is for convenience or for default, then and in such event, all data, reports, drawings, plans, sketches, sections and models, all specifications, estimates, measurements and data pertaining to the project, prepared under the terms or in fulfillment of this Contract, shall be delivered within ten (10) days to the LPA. In the event of the failure by the CONSULTANT to make

such delivery upon demand, the CONSULTANT shall pay to the LPA any damage (including costs and reasonable attorneys' fees and expenses) it may sustain by reason thereof.

35. Termination for Default.

- A. With the provision of twenty (20) days written notice to the CONSULTANT, the LPA may terminate this Contract in whole or in part if
 - (i) the CONSULTANT fails to:
 - 1. Correct or cure any breach of this Contract within such time, provided that if such cure is not reasonably achievable in such time, the CONSULTANT shall have up to ninety (90) days from such notice to effect such cure if the CONSULTANT promptly commences and diligently pursues such cure as soon as practicable;
 - 2. Deliver the supplies or perform the Services within the time specified in this Contract or any amendment or extension;
 - 3. Make progress so as to endanger performance of this Contract; or
 - 4. Perform any of the other provisions of this Contract to be performed by the CONSULTANT; or
 - (ii) if any representation or warranty of the CONSULTANT is untrue or inaccurate in any material respect at the time made or deemed to be made.
- B. If the LPA terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the LPA considers appropriate, supplies or services similar to those terminated, and the CONSULTANT will be liable to the LPA for any excess costs for those supplies or services. However, the CONSULTANT shall continue the work not terminated.
- C. The LPA shall pay the contract price for completed supplies delivered and Services accepted. The CONSULTANT and the LPA shall agree on the amount of payment for manufactured materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause (see Section 13). The LPA may withhold from the agreed upon price for Services any sum the LPA determines necessary to protect the LPA against loss because of outstanding liens or claims of former lien holders.
- D. The rights and remedies of the LPA in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.
- E. **Default by the LPA.** If the CONSULTANT believes the LPA is in default of this Contract, it shall provide written notice immediately to the LPA describing such default. If the LPA fails to take steps to correct or cure any material breach of this Contract within sixty (60) days after receipt of such written notice, the CONSULTANT may cancel and terminate this Contract and institute the appropriate measures to collect monies due up to and including the date of termination, including reasonable attorney fees and expenses, provided that if such cure is not reasonably achievable in such time, the LPA shall have up to one hundred twenty (120) days from such notice to effect such cure if the LPA promptly commences and diligently pursues such cure as soon as practicable. The CONSULTANT shall be compensated for Services properly rendered prior to the effective date of such termination. The CONSULTANT agrees that it has no right of termination for non-material breaches by the LPA.

36. **Waiver of Rights.** No rights conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver or excuse is approved in writing and signed by the party claimed to have waived such right. Neither the LPA's review, approval or acceptance of, nor payment for, the Services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the CONSULTANT shall be and remain liable to the LPA in accordance with applicable law for all damages to the LPA caused by the CONSULTANT's negligent performance of any of the Services furnished under this Contract.
37. **Work Standards/Conflicts of Interest.** The CONSULTANT shall understand and utilize all relevant INDOT standards including, but not limited to, the most current version of the Indiana Department of Transportation Design Manual, where applicable, and other appropriate materials and shall perform all Services in accordance with the standards of care, skill and diligence required in Appendix "A" or, if not set forth therein, ordinarily exercised by competent professionals doing work of a similar nature.
38. **No Third-Party Beneficiaries.** This Agreement is solely for the benefit of the parties hereto. Other than the indemnity rights under this Contract, nothing contained in this Agreement is intended or shall be construed to confer upon any person or entity (other than the parties hereto) any rights, benefits or remedies of any kind or character whatsoever.
39. **No Investment in Iran.** As required by IC 5-22-16.5, the CONSULTANT certifies that the CONSULTANT is not engaged in investment activities in Iran. Providing false certification may result in the consequences listed in IC 5-22-16.5-14, including termination of this Contract and denial of future state contracts, as well as an imposition of a civil penalty.
40. **Assignment of Antitrust Claims.** The CONSULTANT assigns to the State all right, title and interest in and to any claims the CONSULTANT now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.
41. **Non-Appropriation.** The Parties acknowledge that the City is a governmental entity whose funds are subject to appropriation by its fiscal body. Therefore, if at any time during the initial term or subsequent term of this representation, the City's fiscal body should fail to appropriate sufficient funds to continue this representation, it will become null and void. The City shall not be obligated to perform unless and until sufficient funds are appropriated. The City agrees to seek funding for the continuation of the representation during each budget cycle during the initial term or subsequent term of this representation. The City agrees to inform the Contractor in writing of any such non-allocation of funds at the earliest possible date and shall pay for all services provided prior to the exhaustion of the appropriated funds.

Non-Collusion.

The undersigned attests, subject to the penalties for perjury, that he/she is the CONSULTANT, or that he/she is the properly authorized representative, agent, member or officer of the CONSULTANT, that he/she has not, nor has any other member, employee, representative, agent or officer of the CONSULTANT, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract. **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 Contract, the Party attests to compliance with the disclosure requirements in IC §4-2-6-10.5.**

In Witness Whereof, the CONSULTANT and the LPA have, through duly authorized representatives, entered into this Contract. The parties having read and understand the forgoing terms of this Contract do by their respective signatures dated below hereby agree to the terms thereof.

CONSULTANT


 Signature

 Jeff Hill, Vice President

 (Print or type name and title)

Attest:

 Signature

 Marla Ailor, Clerk Treasurer

 (Print or type name and title)
LOCAL PUBLIC AGENCY

 Signature

 Scott Willis, Mayor

 (Print or type name and title)

 Signature

 Chuck Lehman, Member

 (Print or type name and title)

 Signature

 Nick Barbknecht, Member

 (Print or type name and title)

APPENDIX "A"

SERVICES TO BE FURNISHED BY CONSULTANT:

In fulfillment of this Contract, the CONSULTANT shall comply with the requirements of the appropriate regulations and requirements of the City of Westfield, and if applicable, the Indiana Department of Transportation and Federal Highway Administration.

The CONSULTANT shall be responsible for performing the following activities:

General Project Scope

The general project scope includes the various engineering and project management services for 191st Street Phase 2, and installation of roundabout intersections at 191st Street/193rd Street/Horton Road, and 193rd Street/Spring Mill Road in Westfield, Indiana.

The CONSULTANT shall be responsible for performing the following activities:

Project Management
Topographic Survey
Roadway and Drainage Design and Plan Development
Utility Coordination
Public Involvement
Traffic: Lighting, Markings, Maintenance of Traffic
Waterway & Miscellaneous Permitting
Design Services During Construction

Additional details about these services are described below and on the following pages.

PROJECT MANAGEMENT

The CONSULTANT shall perform general and overall project management, quality management, project documentation, and support and coordinate the design and bidding of the project. This effort will include coordination with subconsultants, coordination with stakeholders, coordination with other municipal agencies, coordination with other LOCAL PUBLIC AGENCY partners such as right-of-way consultants, if needed.

Due to the nature of the intersection improvement being constructed near planned and potential site development projects, the CONSULTANT will make reasonable coordination efforts with adjacent project activities as directed by the LOCAL PUBLIC AGENCY.

Progress reports will be prepared, coordination meetings will be held and documented showing project progress and decisions made.

TOPOGRAPHIC SURVEY DATA COLLECTION

When directed, the CONSULTANT shall survey the project location. The CONSULTANT shall obtain deeds of record, subdivision plats, survey plats, section corner location information, highway plans, and commissioners records for all properties within the project limits. The CONSULTANT's survey shall be in accordance with the following, listed in order of precedence, and incorporated by reference:

- A. Title 865 IAC 1-12 et
sequential B. I.C. 25-21.5
- C. 865 I.A.C. 1-12
- D. INDOT Design Manual

ROAD DESIGN AND PLAN DEVELOPMENT

Preliminary

The CONSULTANT shall prepare the plans and preliminary estimates of cost, which shall be in accordance with the accepted standards for such work and in accordance with the following documents in effect at the time the plans or reports are submitted: City of Westfield Engineering design standards, INDOT 3-R Design Standards, American Association of State Highway and Transportation Officials "A Policy on Geometric Design of Highways and Streets", Indiana Department of Transportation's Standard Specifications, Road and Bridge Memoranda and Road and Bridge Design Manuals except as modified by supplemental specifications and special provisions, if any.

Final

Following preliminary field check, approval of the Preliminary Plans by the LOCAL PUBLIC AGENCY, and notice to proceed for the final design, the CONSULTANT shall prepare Final Plans for Roadway. The CONSULTANT shall prepare special provisions for the specifications, and final cost estimates for the construction of the project. The cost estimates for construction shall be prepared according to the current practices of the Indiana Department of Transportation and shall include all types of work required for the complete construction of the work, including all temporary work necessary in connection therewith, but shall not include the cost of such items of work for which the LOCAL PUBLIC AGENCY, through its own forces or through other party or parties will perform the actual construction, or engineering.

Following notification of receipt of Funding by the LPA, the CONSULTANT shall prepare construction bid documents for submittal to the LPA.

The CONSULTANT shall attend up to two meetings with the officials of the LOCAL PUBLIC AGENCY and other interested agencies as may be required in connection with the work and to make his services available to the LOCAL PUBLIC AGENCY during construction of the work for the interpretation of the plans where disagreement may arise and for consultation during construction in the even unforeseen or unusual conditions may arise.

DRAINAGE DESIGN AND PLAN DEVELOPMENT

Preliminary

The CONSULTANT shall prepare the plans and preliminary estimates of cost, which shall be in accordance with the accepted standards for such work and in accordance with the following documents in effect at the time the plans or reports are submitted: City of Westfield Engineering stormwater design standards and stormwater ordinance, Hamilton County stormwater guidance, or other applicable standards including Indiana Transportation's Standard Specifications, Road and Bridge Memoranda and Road and Bridge Design Manuals except as modified by supplemental specifications and special provisions, if any.

Final

Following preliminary field check, approval of the Preliminary Plans by the LOCAL PUBLIC AGENCY, and notice to proceed for the final design, the CONSULTANT shall prepare Final Plans for Drainage. The CONSULTANT shall prepare final specifications and a Drainage report and shall include all types of work required for the complete construction of the work, including all temporary work necessary in connection therewith, but shall not include the cost of such items of work for which the LOCAL PUBLIC AGENCY, through its own forces or through other party or parties will perform the actual construction, or engineering.

The CONSULTANT shall attend up to two meetings with the officials of the LOCAL PUBLIC AGENCY and other interested agencies as may be required in connection with the work and to make his services available to the LOCAL PUBLIC AGENCY during construction of the work for the interpretation of the plans where disagreement may arise and for consultation during construction in the even unforeseen or unusual conditions may arise.

UTILITY COORDINATION

The CONSULTANT shall perform utility coordination in accordance with the following:

- A. Utility coordination activities.
- B. 105 IAC 13 Utility Facility Relocations on Construction Contracts.
- C. Indiana Design Manual (IDM) Chapter 104 Utility Coordination INDOT Accommodation Policy.
- D. FHWA Program Guide: Utility Relocation and Accommodation on Federal Aid Highway Projects.

The CONSULTANT shall coordinate, review, and approve the utility relocation work plan; sign the utility coordination certificate, if applicable; and develop the utility special provision in accordance with the IDM.

At the start of a project, the CONSULTANT shall develop and thereafter maintain a schedule of activities to deliver the project. The CONSULTANT shall design the project to potentially avoid the relocation of utility facilities when feasible and to minimize the financial impact to the project and to the utilities.

PUBLIC INVOLVEMENT

The CONSULTANT shall support the LOCAL PUBLIC AGENCY in communication efforts to build consensus for the project. The conversion from rural two-lane roadways to multi-lane roads with roundabout intersections may require outreach, explanation, education, and other communication to gain support. The project will improve the experience for all users, but residents and business owners will need the information about the project. The CONSULTANT will prepare up to 2 color renderings/exhibits to use for sharing with the public, for website content, or for mailers and other outreach information to inform the public what the project outcomes will be. No public information meeting is anticipated.

TRAFFIC: LIGHTING, MARKINGS AND MAINTENANCE OF TRAFFIC

The CONSULTANT shall coordinate, review, and gain approvals for traffic design related elements for the roundabout including: lighting, signing, pavement markings, and maintenance of traffic. The work will be developed to meet local design standards or those of the Indiana Department of Transportation.

The CONSULTANT shall develop plans to meet IDM 14-2.01(03) completing signing and pavement marking sheets, traffic summary tables and details, lighting plan sheets, lighting summary tables, and voltage drop calculations. Two lights are anticipated at each pedestrian crossing locations, and no photometrics will be analyzed. Plans, details and specifications will be prepared to construct the project under a full road closure, while maintaining access to any land-locked property owners. A local detour route is anticipated to be utilized. The CONSULTANT shall prepare quantity calculations and opinions of probable cost for the LOCAL PUBLIC AGENCY.

ENVIRONMENTAL SERVICES

The CONSULTANT shall assist the LOCAL PUBLIC AGENCY in evaluating environmental constraints and issues, and to help mitigate any potential impacts.

The scope of Environmental Services listed below is anticipated based on Local Funding and currently known field conditions:

- Red Flag Investigation: The CONSULTANT will conduct a red flag investigation within one-half mile of the project area to determine if there are potential areas of concern.
- Waters of the U.S. Report: The CONSULTANT shall conduct the assessment conforming to the methodology outlined in 1987 US Army Corps of Engineers (USACE) Wetlands Delineation Manual and Regional Supplement to the Corps Wetland Delineation Manual. Data shall be collected via a handheld global positioning system (GPS) receiver capable of decimeter (10-75 cm) accuracy will be used to precisely map all wetlands and streams along the Project Corridor. The CONSULTANT shall collect and process all required data to complete a Water Resources Delineation Report.

- The report should be prepared according to USACE specifications and include data sheets, maps, and site photographs.
- An electronic CAD Drawings or GIS Shapefile of the wetlands, streams, and other potentially regulated water resource features will be provided to the LOCAL PUBLIC AGENCY via electronic mail, or as requested.

WATERWAY AND MISCELLANEOUS PERMITTING

The CONSULTANT shall assist the LOCAL PUBLIC AGENCY in securing the necessary environmental permits by developing permit-compliant drawings, drafting the permit applications, and coordinating, applying for, and tracking the status of the permits until it is received.

The following permits are expected to be necessary as a part of this project:

- CSGP: The CONSULTANT shall complete the Construction Stormwater General Permit (CSGP) as required for Project Corridor for disturbances over 1 acre. The CONSULTANT shall coordinate erosion and sediment control measures across the project that meets IDEM, Westfield, and Hamilton County requirements.
 - The CONSULTANT shall complete all CAD work across the Project Corridor and coordinate any updates with other team members and the LOCAL PUBLIC AGENCY.
 - The CONSULTANT shall prepare the Stormwater Pollution Prevention Plan (SWPPP) information and compile all permit documents. Permit documentation shall be submitted to the Hamilton County Soil and Water Conservation District (SWCD) for review and approval prior to submitting final documents to IDEM. This shall include all public notification required prior to submitting the documents to IDEM.
- Hamilton County Drainage Permit: The CONSULTANT complete a Hamilton County Drainage Permit as necessary for the project discharges into the George Seybold Drian and the Corvey Horney Drian. The CONSULTANT shall coordinate with other team members and the LOCAL PUBLIC AGENCY to obtain drainage calculations and plans necessary to complete the drainage permit application to the Hamilton County Surveyor's Office. The CONSULTANT shall coordinate with the Hamilton County Surveyor's office and will attend the Technical Advisory Committee (TAC) Meeting to present the project and answer any questions.
 - The CONSULTANT will continue to coordinate with Hamilton County throughout the permitting process to ensure the permitting continues through the approval process and any deficiencies are addressed in a timely fashion.
 - The CONSULTANT shall conduct up to two (2) meetings with the Hamilton County Surveyor's office to coordinate the project, discuss overall project scope, and coordinate the necessary project updates during the permitting process.

The CONSULTANT shall track the status of permits and permit expiration dates to determine if valid permits will be available for the current project construction schedule.

Only if needed, the agreement does not include the following permits and they could be supplemented at a later time. USACE 404 Permit and IDEM 401 Permit.

CONSTRUCTION PHASE SERVICES/POST-BID SERVICES DURING CONSTRUCTION

Following the award of the construction contract, the CONSULTANT shall be responsible for attending the pre-construction meeting. During construction, the CONSULTANT shall be available at reasonable times during normal working hours to respond to reasonable inquiries concerning the accuracy or intent of the CONSULTANT's plans. All such inquiries shall be made only by persons designated by LOCAL PUBLIC AGENCY to interpret the plans and Contract documents for the benefit of the contractors and subcontractors performing the work. The CONSULTANT shall not be required to respond to inquiries by persons other than

the LOCAL PUBLIC AGENCY's designated representative and shall not be required to engage in exhaustive or extensive analysis or interpretation of the plans.

The CONSULTANT shall review shop drawings as described in IDM 14-1.02(08).

If during the construction phase it is determined that unforeseen or unusual conditions arise, the CONSULTANT shall revise the plans with LOCAL PUBLIC AGENCY's approval.

ITEMS EXCLUDED FROM PROFESSIONAL SERVICES

Some work disciplines are generally excluded from the services provided by CONSULTANT to the LOCAL PUBLIC AGENCY. The following professional services that are excluded from this agreement: railroad coordination, right-of-way services or right-of-way acquisition, bridge design, environmental documentation for NEPA or SEPA, Waters of the US report, wetland studies, wetland mitigation, asbestos investigations, lead-based paint testing, geotechnical investigations, pavement design, HAWK or RRFB design, appraising, buying, title work, public hearing, final field check, construction inspection. These or other services could be added, if desired by the LOCAL PUBLIC AGENCY, by amendment to this agreement.

APPENDIX "B"**INFORMATION AND SERVICES TO BE FURNISHED BY THE LPA:**

The LPA shall furnish the CONSULTANT with the following:

1. Criteria for design and details for signs, signals, lighting, highway and structures such as grades, curves, sight distances, clearances, design loading, etc.
2. Standard Specifications and standard drawings applicable to the project
3. Plans of existing bridge within the project limits
4. All written views pertinent to the location and environmental studies that are received by INDOT
5. Traffic assignments, Traffic Signal Warrants (New Signal), Traffic Lighting Warrants (New Lighting)
6. Necessary permit forms and permit processing (US Army Corps of Engineers, US Coast Guard, and/or Indiana Department of Natural Resources)
7. Available data from the transportation planning process
8. Utility plans available to INDOT covering utility facilities govern the location of signals and underground conduits throughout the affected areas
9. Provide access to enter upon public and private lands as required for the CONSULTANT to perform work under this Contract
10. Aerial Survey information
11. Existing water quality data
12. Laboratory tests for pavement investigation
13. Pavement design analysis
14. Geotechnical investigation, if applicable

APPENDIX "C"**SCHEDULE:**

No work under this Contract shall be performed by the CONSULTANT until the CONSULTANT receives a written notice to proceed from the LPA.

All work by the CONSULTANT under this Contract shall be completed and delivered to the LPA for review and approval within the approximate time periods shown in the following submission schedule:

- | | |
|-----------------------|--|
| A. Topographic Survey | Within 150 calendar days after notice to proceed |
| B. Preliminary Design | Within 180 calendar days after receipt of survey |
| C. Final Design | Within 210 calendar days after receipt of comments on preliminary plans by LPA |

[Remainder of Page Intentionally Left Blank]

APPENDIX "D"**COMPENSATION:****A. Amount of Payment**

1. The CONSULTANT shall receive as payment for the work performed under this Agreement the total fee not to exceed \$ 1,177,130.00 unless a modification of the Agreement is approved in writing by the LOCAL PUBLIC AGENCY.
2. The CONSULTANT will be paid for the work performed under this Agreement in accordance with the following schedule:

a. Project Management (A&F Engr)	\$ <u>49,100.00</u>
b. Project Management (HWC Engr)	\$ <u>15,900.00</u>
c. Topographic Survey	\$ <u>92,000.00</u>
d. Road Design/Plan Development (A&F Engr)	\$ <u>366,310.00</u>
e. Road Design/Plan Development (HWC Engr)	\$ <u>161,100.00</u>
f. Drainage Design/Plan Development (A&F Engr)	\$ <u>98,810.00</u>
g. Drainage Design/Plan Development (HWC Engr)	\$ <u>97,500.00</u>
h. Public Involvement	\$ <u>5,580.00</u>
i. Environmental Services	\$ <u>7,300.00</u>
j. Permitting	\$ <u>18,000.00</u>
k. Utility Coordination	\$ <u>28,000.00</u>
l. Traffic: Lightings/Markings/Maint. of Traffic	\$ <u>69,480.00</u>
m. Bidding Phase Services/Procurement	\$ <u>10,030.00</u>
n. Construction Phase/Post-Bid Services (A&F Engr)	\$ <u>9,260.00</u>
o. Construction Phase/Post-Bid Services (HWC Engr)	\$ <u>20,000.00</u>
p. Road Design/Plan Development (Spring Mill: A&F)	\$ <u>128,760.00</u>

B. Method of Payment

1. The CONSULTANT may submit a maximum of one invoice voucher per calendar month for work covered under this Agreement. The invoice voucher shall be submitted to the LOCAL PUBLIC AGENCY. The invoice voucher shall represent the value, to the LOCAL PUBLIC AGENCY, of the partially completed work as of the date of the invoice voucher. The CONSULTANT shall attach thereto a summary of each pay item in Section A.2. of this Appendix, percentage completed and prior payments in a form acceptable to the LOCAL PUBLIC AGENCY.
2. The LOCAL PUBLIC AGENCY for and in consideration of the rendering of the engineering services provided for in Appendix "A", agrees to pay the CONSULTANT for rendering such services the fee established above upon completion of the work thereunder, acceptance thereof by the LOCAL PUBLIC AGENCY and upon the CONSULTANT submitting an invoice and claim voucher as described above.
3. In the event of a substantial change in the scope, character or complexity of the work on the project, the maximum fee payable and the specified fee shall be adjusted.

DEDICATION OF PUBLIC RIGHT OF WAY

THIS INDENTURE WITNESSETH: That iBeach Holding Partners LLC, an Indiana Limited Liability Company ("Grantor"), hereby gives and dedicates to the City of Westfield (hereinafter "Grantee"), for public right-of-way purposes only, the real estate situated in Hamilton County, Indiana, and described in Exhibit "A" attached hereto and made a part hereof.

This dedication is made subject to all existing easements and right-of-ways.

This conveyance of real estate is not subject to Indiana gross income tax.

IN WITNESS WHEREOF, Grantor has executed this Dedication as of the
25 day of MARCH, 2025.

By: Katie Conner Title: Partner
Printed: Katie Conner KC

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

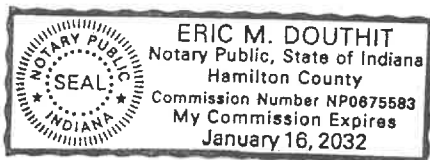
Before me, a Notary Public in and for said County and State, personally appeared Katie Conner, who acknowledged his authority and the execution of the foregoing Dedication of Public Right-of-Way.

WITNESS my hand and Notarial Seal this 25 day of March, 2025.

My Commission Expires:

01/16/2032

Eric M. Douthit
NOTARY PUBLIC, A resident of _____
County, Indiana
Printed: Eric Douthit



ACCEPTANCE

WHEREAS, the foregoing Grantor has this day filed with the City of Westfield Indiana, its dedication of certain real estate for the purpose of establishing City rights-of-way, which Dedication is hereinabove set forth:

AND WHEREAS, the City of Westfield, is of the opinion that said Dedication is desirable and necessary.

NOW THEREFORE, said City of Westfield, under and by virtue of the power conferred upon it by statutes of the State of Indiana, for and on behalf of the City, accepts said Dedication for the purpose of public rights-of-way, and orders that the Instrument of Dedication be recorded in the Recorder's Office of the County of Hamilton, State of Indiana, and said described real estate is hereby declared open and dedicated.

WESTFIELD BOARD OF PUBLIC WORKS AND SAFETY

Voting For

Voting Against

Abstain

Scott Willis

Scott Willis

Scott Willis

Chuck Lehman

Chuck Lehman

Chuck Lehman

Nick Barbknecht

Nick Barbknecht

Nick Barbknecht

ATTEST:

Patricia Leuteritz, Public Works Administrator

This document prepared by

EXHIBIT 1 - LAND DESCRIPTION

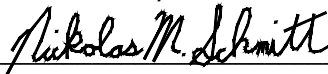
A part of the Northwest Quarter of Section 36, Township 19 North, Range 3 East, Washington Township, Hamilton County, Indiana and being part of Block "A" in the Grand Park Village Section Five Secondary Plat as recorded in Plat Cabinet 5, Slide 911 (Instrument Number 2018057176), as recorded in the Office of the Recorder of Hamilton County, Indiana, and as shown on the plat of a ALTA/NSPS Land Title Survey / Boundary Retracement Survey as certified by Nickolas M. Schmitt, P.S. No. LS21200004 (Fritz Engineering Services, LLC) project number 2201004 (all references to monuments and courses herein are as shown on said plat of survey) as recorded in Instrument Number 2025009246 is said Office of the Recorder and more particularly described as follows:

Commencing from the West Quarter corner of said Section 36; thence North 00 degrees 19 minutes 15 seconds East on and along the west line of said Northwest Quarter and the west line of said Grand Park Village Section Five Secondary Plat with the basis of bearing being NAD83 Indiana State Plane East (as per said Grand Park Village Section Five), 50.00 feet to the southwest corner of said Block "A" (said point being on the north platted right-of-way line per said Grand Park Village Section Five Plat) and the Point of Beginning of this description; thence continuing North 00 degrees 19 minutes 15 seconds East on and along said west line of said Northwest Quarter and said Block "A" 24.36 feet; thence South 45 degrees 41 minutes 53 seconds East 34.59 feet to the north right-of-way of 181st Street as dedicated per said Grand Park Village Section Five Secondary Plat; thence South 89 degrees 31 minutes 52 seconds West on and along said north right-of-way line, said line also being parallel to the south section line of said Northwest Quarter, 24.89 feet to the Point of Beginning, containing 0.007 acres (303 square feet), more or less.

AFFIRMATION STATEMENT:

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

PREPARED BY:
NICKOLAS M. SCHMITT
FRITZ ENGINEERING SERVICES, LLC
14020 MISSISSINAWA DRIVE
CARMEL DRIVE, IN 46033
(P) 317-324-8695
www.Fritz-Eng.com

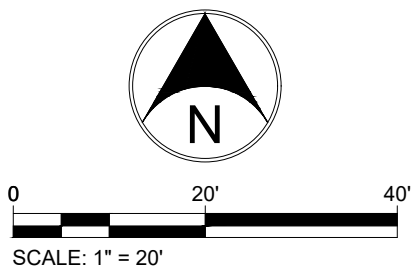
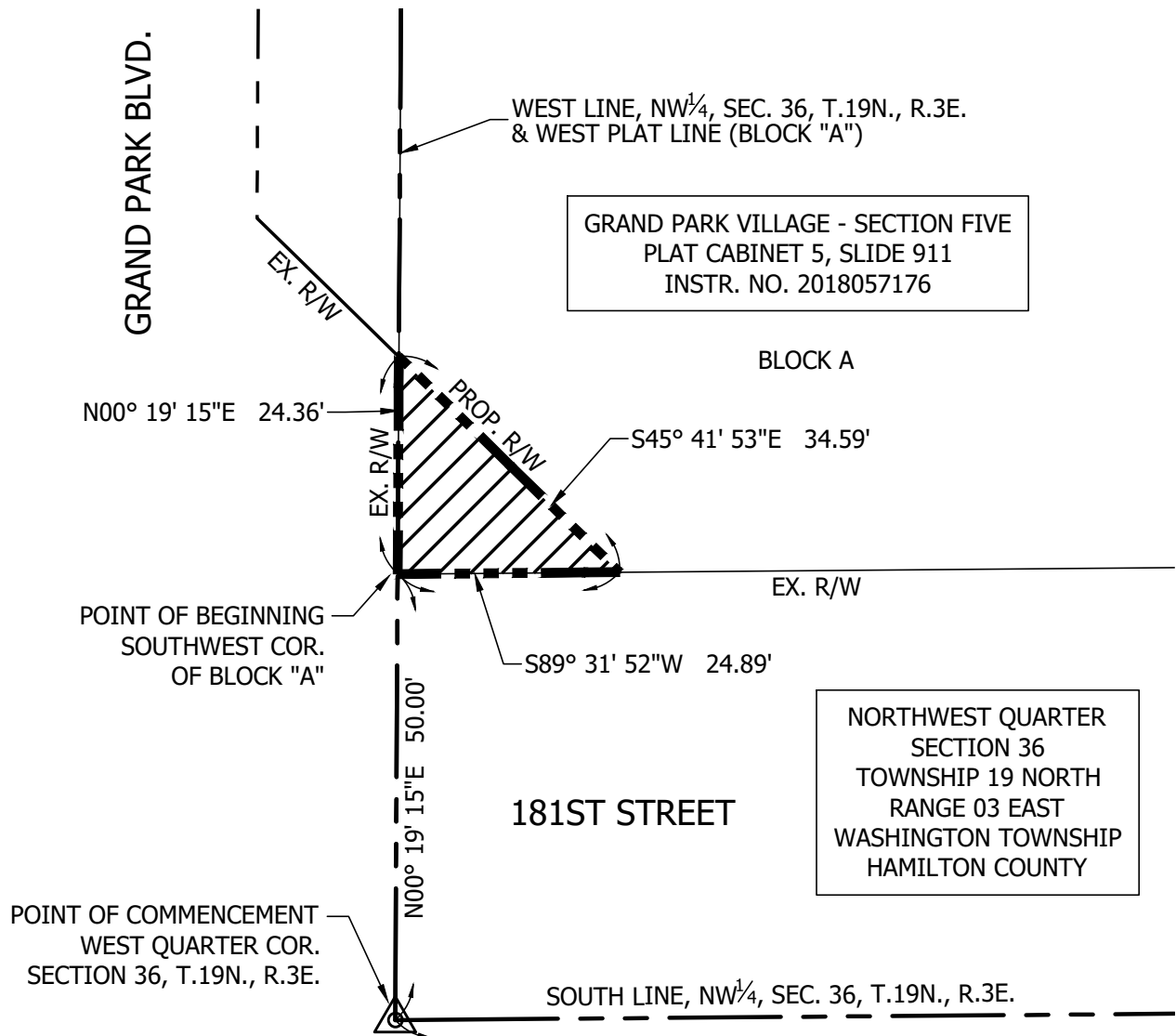
Signature: 

Printed Name: NICKOLAS M. SCHMITT

**Fritz Engineering
Services, LLC**

PROJECT NUMBER: 2411005
DATE: 03/19/2025

EXHIBIT 2 - RIGHT-OF-WAY DIAGRAM



PREPARED BY:
 NICKOLAS M. SCHMITT
 FRITZ ENGINEERING SERVICES, LLC
 14020 MISSISSINAWA DRIVE
 CARMEL DRIVE, IN 46033
 (P) 317-324-8695
 www.Fritz-Eng.com

LEGEND



RIGHT-OF-WAY
LIMITS

**Fritz Engineering
Services, LLC**

PROJECT NUMBER: 2411005
DATE: 03/19/2025

QUITCLAIM DEED

THIS INDENTURE WITNESSETH, That **WESTFIELD PROPERTIES, LLC**, an Indiana limited liability company ("**Grantor**"), QUITCLAIMS to the **CITY OF WESTFIELD, INDIANA** ("**Grantee**"), for no consideration the real estate in Hamilton County, Indiana more particularly described as Block B in the Australian Pine Pud Secondary Plat recorded October 8, 2020 in the office of the Recorder of Hamilton County, Indiana as Instrument Number 2020071558, PC 6 Slide 3. **No monetary consideration has been exchanged in connection with this transfer, and the transfer is consequently exempt from the filing of a Sales Disclosure Form under Ind. Code § 6-1.1-5.5.**

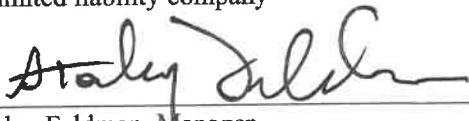
Parcels #09-09-02-00-00-004.311 and #09-09-02-00-00-004.411

The undersigned person executing this Quitclaim Deed on behalf of Grantor represents and certifies that such person is the Manager of Grantor and has been fully empowered, by the Operating Agreement of Grantor, to execute and deliver this Quitclaim Deed; that Grantor has capacity to convey the real estate described herein; and that all necessary organizational action for the making of such conveyance has been taken and done.

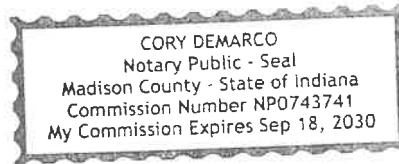
IN WITNESS WHEREOF, Grantor has executed this deed to be effective as of the 1 day of OCTOBER, 2024.

WESTFIELD PROPERTIES, LLC,
an Indiana limited liability company

By:


Stanley Feldman, Manager

STATE OF INDIANA)
) SS:
COUNTY OF MARION)



Before me, a Notary Public in and for said County and State, personally appeared Stanley Feldman, Manager, of Westfield Properties, LLC, an Indiana limited liability company, who acknowledged execution of the foregoing Quitclaim Deed for and on behalf of such limited liability company.

Witness my hand and Notarial Seal this 1 day of Oct, 2024.

My Commission Expires:

09/18/2030

Notary Public Residing in MADISON County,
Indiana

[Signature]
(Printed Signature)

Address of Real Estate: _____

The mailing address to which statements should be mailed under Indiana Code 6-1.1-22-8.1 is:

City of Westfield, Indiana
130 Penn St.
Westfield, IN 46074

After recording return to:

City of Westfield, Indiana
130 Penn St.
Westfield, IN 46074

I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. Jeffrey A. Abrams

This instrument prepared by Jeffrey A. Abrams

AUSTRIAN PINE PUD SECONDARY PLAT

SEC. 2-T18N-R3E
WASHINGTON TWP., HAMILTON CO., IN

LEGEND:

- ⊕ REPRESENTS A 5/8 INCH DIAMETER REBAR WITH ALUMINUM CAP TO BE SET TO MARK STREET CENTERLINE CONTROL AT INTERSECTIONS, POINTS OF CURVATURE AND POINTS OF TANGENCY.
- REPRESENTS A HARRISON MONUMENT FOUND
- REPRESENTS A MAG NAIL SET WITH A WASHER STAMPED WEIHE ENGR. 0012.
- ⊠ REPRESENTS AN EXISTING CONCRETE RIGHT OF WAY MARKER.
- ALL OTHER LOT CORNERS TO BE MARKED WITH A 5/8 INCH DIAMETER REBAR WITH A PLASTIC CAP STAMPED WEIHE ENGR. 0012.
- ROW - RIGHT-OF-WAY
- BSL - BUILDING SETBACK LINE

AUSTRIAN PINE PUD (ORD. 19-12) & GB: GENERAL BUSINESS UNDERLYING ZONING

SECTION 8: GENERAL REGULATIONS

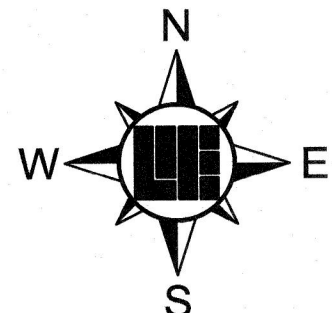
- A. MINIMUM LOT FRONTAGE: 0 FEET
- B. MINIMUM LOT AREA: NO MINIMUM
- C. MINIMUM LOT WIDTH: NO MINIMUM
- D. MINIMUM SETBACK LINES
 - I. FRONT YARD - STATE ROAD 32/MIDLAND TRACE TRAIL CORRIDOR: 0 FEET
 - II. FRONT YARD - AUSTRIAN PINE WAY: 30 FEET
 - III. SIDE YARD (INTERNAL): 0 FEET
 - IV. SIDE YARD (ABUTTING DISTRICT PERIMETER): 20 FEET
 - V. REAR YARD (INTERNAL): 0 FEET

SECTION 9: OVERLAY DISTRICTS

- A. A MINIMUM OF TWO (2) BUILDINGS SHALL AND NO MORE THAN TWO-THIRDS OF THE BUILDINGS (ONCE THREE OR MORE BUILDINGS ARE CONSTRUCTED) MAY EXCEED THE MAXIMUM SETBACK TO PROVIDE FOR STAGGERED BUILDING SETBACKS EXCEPT AS REQUIRED BY ORD. 19-12

CURVE TABLE

CURVE #	ARC LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD DISTANCE
C1	7.45'	48.58'	8°46'53"	S84°13'55"W	7.44'
C2	133.34'	693.62'	11°00'53"	S89°20'40"W	133.14'
C3	112.84'	45.98'	140°36'19"	N24°50'32"W	86.59'
C4	60.88'	79.48'	43°53'18"	N67°25'11"E	59.40'
C5	73.24'	45.74'	91°44'45"	S44°25'22"E	65.66'
C6	45.19'	48.58'	53°18'02"	S29°05'09"W	43.58'



SCALE: 1"=50'

0 25 50 100

Sheet 1 of 3

This instrument prepared for:

BELLE TIRE DISTRIBUTORS
WAYNE A. SHOTWELL
1000 ENTERPRISE DR
ALLEN PARK, MI 48101
313-203-2195

SOURCE OF TITLE:
INST. #9709707522

This instrument prepared by: Brady Kuhn

WEIHE
ENGINEERS

Land Surveying | Civil Engineering
Landscape Architecture

10505 N. College Avenue
Indianapolis, Indiana 46280
weihe.net
317 | 846 - 6611
800 | 452 - 6408
317 | 843 - 0546 fax
ALLAN B. WEIHE, P.E., L.S. - FOUNDER

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer
8 day of October, 2020

Robin M. Keith Auditor of Hamilton County
Parcel #

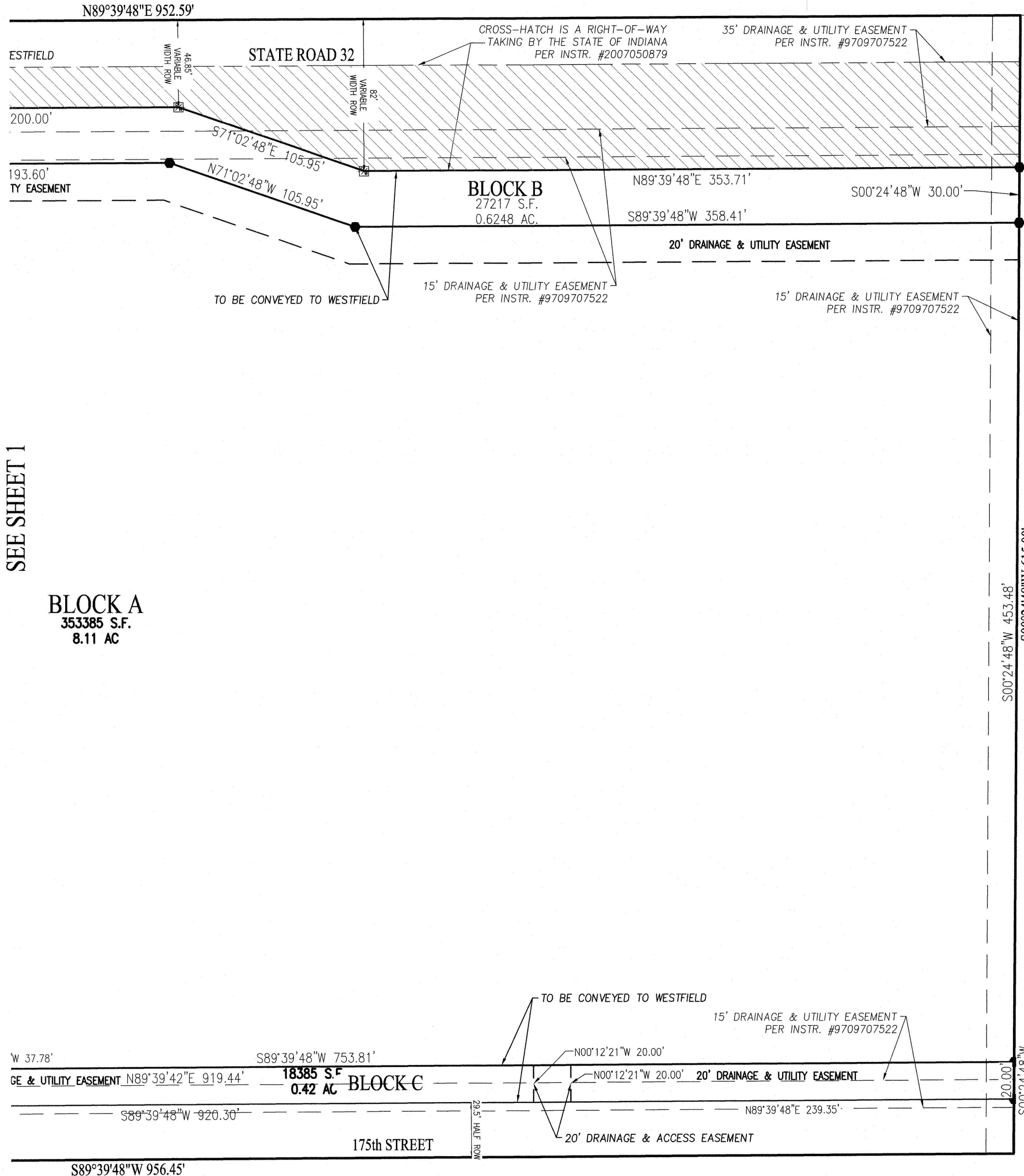
EXCEPTION
CROSS-HATCH IS A RIGHT-OF-WAY
TAKING BY THE STATE OF INDIANA
PER INSTR. #2007050879

DELTA=4°49'49"
R=1000.00'
T=42.18'
L=84.30'
CH BRG=N02°51'26"E
CH LEN=84.28'

Δ=002°01'49"
R=966.00'
T=17.12'
L=34.23'
CH BRG=N01°23'26"E
CH LEN=34.23'
Δ=001°11'12"
R=966.00'
T=10.00'
L=20.01'
CH BRG=N02°53'35"E
CH LEN=20.01'

AUSTRIAN PINE PUD SECONDARY PLAT

SEC. 2-T18N-R3E
WASHINGTON TWP., HAMILTON CO., IN

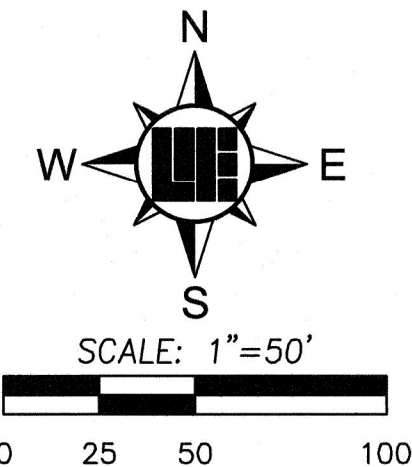


LEGEND:

- ⊕ REPRESENTS A 5/8 INCH DIAMETER REBAR WITH ALUMINUM CAP TO BE SET TO MARK STREET CENTERLINE CONTROL AT INTERSECTIONS, POINTS OF CURVATURE AND POINTS OF TANGENCY.
- ⊙ REPRESENTS A HARRISON MONUMENT FOUND
- REPRESENTS A MAG NAIL SET WITH A WASHER STAMPED WEIHE ENGR. 0012.
- ⊠ REPRESENTS AN EXISTING CONCRETE RIGHT OF WAY MARKER.
- ALL OTHER LOT CORNERS TO BE MARKED WITH A 5/8 INCH DIAMETER REBAR WITH A PLASTIC CAP STAMPED WEIHE ENGR. 0012.
- ROW - RIGHT-OF-WAY
- BSL - BUILDING SETBACK LINE

AUSTRIAN PINE PUD (ORD. 19-12) & GB: GENERAL BUSINESS UNDERLYING ZONING

- SECTION 8: GENERAL REGULATIONS
- A. MINIMUM LOT FRONTAGE: 0 FEET
 - B. MINIMUM LOT AREA: NO MINIMUM
 - C. MINIMUM LOT WIDTH: NO MINIMUM
 - D. MINIMUM SETBACK LINES
 - I. FRONT YARD - STATE ROAD 32/MIDLAND TRACE TRAIL CORRIDOR: 0 FEET
 - II. FRONT YARD - AUSTRIAN PINE WAY: 30 FEET
 - III. SIDE YARD (INTERNAL): 0 FEET
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- SECTION 9: OVERLAY DISTRICTS
- A. A MINIMUM OF TWO (2) BUILDINGS SHALL AND NO MORE THAN TWO-THIRDS OF THE BUILDINGS (ONCE THREE OR MORE BUILDINGS ARE CONSTRUCTED) MAY EXCEED THE MAXIMUM SETBACK TO PROVIDE FOR STAGGERED BUILDING SETBACKS EXCEPT AS REQUIRED BY ORD. 19-12



Sheet 2 of 3

SOURCE OF TITLE:
INST. #9709707522

This instrument prepared for:

BELLE TIRE DISTRIBUTORS
WAYNE A. SHOTWELL
1000 ENTERPRISE DR
ALLEN PARK, MI 48101
313-203-2195

This instrument prepared by: Brady Kuhn

WEIHE
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weihe.net

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800 | 452 - 6408
317 | 843 - 0546 fax

ALLAN B. WEIHE, P.E., L.S. - FOUNDER

LAND DESCRIPTION

PART OF THE NORTHEAST AND NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 18 NORTH, RANGE 3 EAST IN WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE SOUTH 89 DEGREES 39 MINUTES 48 SECONDS WEST ALONG THE NORTH LINE OF SAID SECTION 2, 1862.55 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 24 MINUTES 48 SECONDS WEST, 615.00 FEET; THENCE SOUTH 89 DEGREES 39 MINUTES 48 SECONDS WEST, 956.45 FEET TO A NON-TANGENT CURVE WITH A RADIUS OF 1000 FEET; THENCE 84.30 FEET ALONG THE CURVE TO THE LEFT WITH A CHORD BEARING NORTH 02 DEGREES 51 MINUTES 26 SECONDS EAST, 84.28 FEET; THENCE NORTH 00 DEGREES 26 MINUTES 32 SECONDS EAST, 530.85 FEET TO A POINT ON THE NORTH LINE OF SAID SECTION; THENCE NORTH 89 DEGREES 39 MINUTES 48 SECONDS EAST ALONG SAID NORTH LINE PASSING THROUGH THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER, 952.59 FEET TO THE POINT OF BEGINNING, CONTAINING 12.52 ACRES MORE OR LESS.

REGISTERED LAND SURVEYOR'S CERTIFICATE

I, BRADY KUHN, HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, LICENSED IN COMPLIANCE WITH THE LAWS OF THE STATE OF INDIANA:

THIS PLAT IS BASED ON A SURVEY PREPARED BY WEIHE ENGINEERS, INC. RECORDED AS INSTRUMENT NO. _____ IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA. THERE HAS BEEN NO CHANGE FROM MATTERS OF SURVEY REVEALED BY THE CROSS-REFERENCED SURVEY, OR ANY PRIOR SUBDIVISION PLATS CONTAINED THEREIN, ON ANY LINES THAT ARE COMMON WITH THIS SUBDIVISION AND THAT ALL MONUMENTS SHOWN HEREON ACTUALLY EXIST OR BOND HAS BEEN POSTED TO COVER THE LATER INSTALLATION OF THESE MONUMENTS AND THAT ALL OTHER REQUIREMENTS SPECIFIED HEREIN, DONE BY ME, HAVE BEEN MET.

DATED July 23, 2020



Brady Kuhn
BRADY KUHN, REGISTERED LAND SURVEYOR NO. 20500007
STATE OF INDIANA

THIS INSTRUMENT WAS PREPARED BY: BRADY KUHN, WEIHE ENGINEERS, INC.

"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" BRADY KUHN

BOARD OF PUBLIC WORKS AND SAFETY CERTIFICATE

THIS PLAT AND THE ACCEPTANCE OF ANY PUBLIC RIGHTS-OF-WAY DEDICATED HEREIN IS HEREBY APPROVED ON THE 8 DAY OF September, 2020 BY THE DIRECTOR OF THE PUBLIC WORKS DEPARTMENT OF THE CITY OF WESTFIELD, INDIANA, ON BEHALF OF THE BOARD OF PUBLIC WORKS AND SAFETY, PURSUANT TO RESOLUTION 15-120 ENACTED BY THE BOARD OF PUBLIC WORKS AND SAFETY ON AUGUST 26, 2015, AND ARTICLE 7.4(B) OF THE UNIFIED DEVELOPMENT ORDINANCE.

Jeremy Dollar
JEREMY DOLLAR, DIRECTOR
PUBLIC WORKS DEPARTMENT

DEED OF DEDICATION :

WE THE UNDERSIGNED OWNERS OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN, DO HEREBY CERTIFY THAT WE HAVE LAID OFF, PLATTED AND SUBDIVIDED, AND DO HEREBY LAY OFF, PLAT AND SUBDIVIDE, SAID REAL ESTATE IN ACCORDANCE WITH THE WITHIN PLAT.

THIS SUBDIVISION CONSISTS OF ONE LOT, 3 BLOCKS, AND SHALL BE KNOWN AND DESIGNATED AS AUSTRIAN PINE PUD, AN ADDITION TO CITY OF WESTFIELD, INDIANA. ALL RIGHTS-OF-WAY SHOWN AND NOT HERETOFORE DEDICATED ARE HEREBY DEDICATED TO THE PUBLIC.

FRONT AND SIDE YARD BUILDING SETBACK LINES ARE HEREBY ESTABLISHED AS SHOWN ON THIS PLAT, UNLESS OTHERWISE PERMITTED BY APPLICABLE ZONING ORDINANCES, BETWEEN WHICH LINES AND THE PROPERTY LINES OF THE STREET, THERE SHALL BE ERRECTED OR MAINTAINED NO BUILDING OR STRUCTURE. THE STRIPS OF GROUND SHOWN ON THE PLAT AND MARKED "DRAINAGE AND UTILITY EASEMENT", "SEWER, DRAINAGE, AND UTILITY EASEMENT" ARE RESERVED FOR THE USE OF UTILITIES FOR THE INSTALLATION OF WATER MAINS, POLES, DUCTS, LINES AND WIRES, AND DRAINAGE FACILITIES, SAID STRIPS ARE ALSO RESERVED FOR THE CITY OF WESTFIELD OR SUCCESSORS IN THE CITY'S INTEREST FOR THE INSTALLATION AND MAINTENANCE OF SANITARY SEWER AND WATER MAINS AND APPURTENANCES SUBJECT AT ALL TIMES TO PROPER AUTHORITIES AND TO THE EASEMENT HEREIN RESERVED. THE STRIPS OF GROUND SHOWN ON THE PLAT AND MARKED

PRIVATE DRIVE LANES CONSTRUCTED UPON LOT 1 (AS THE SAME MAY BE RELOCATED AND RECONFIGURED BY THE OWNER OF LOT 1 FROM TIME TO TIME) SHALL ALLOW FOR VEHICULAR INGRESS AND EGRESS BETWEEN THE RIGHT-OF-WAY OF 175TH STREET AND PRIVATE DRIVE LANES ADJACENT TO LOT 1 WHICH MAY IN THE FUTURE BE CONSTRUCTED UPON BLOCK A AS SHOWN ON THIS PLAT.

WITNESSED OUR HANDS AND SEALS THIS 27 DAY OF July, 2020.

Stanley Feldman
WESTFIELD PROPERTIES LLC
NAME: STANLEY FELDMAN
TITLE: MANA PARTNER

STATE OF INDIANA)
)SS:
COUNTY OF Hamilton)

BEFORE ME THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR THE COUNTY AND STATE, PERSONALLY APPEARED Stanley Feldman AND ACKNOWLEDGED THE EXECUTION OF THE FOREGOING INSTRUMENT AS HIS/ HER VOLUNTARY ACT AND DEED, FOR THE PURPOSES THEREIN EXPRESSED.

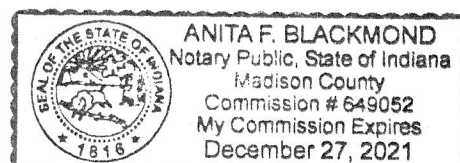
WITNESSED MY HAND AND NOTARY SEAL THIS 27th DAY OF July, 2020.

WRITTEN SIGNATURE Anita Blackmond, NOTARY PUBLIC

PRINTED NAME: Anita Blackmond

MY COMMISSION EXPIRES: 12/27/21

MY COUNTY OF RESIDENCE: Madison



SOURCE OF TITLE:
INST. #9709707522

This instrument prepared for:
BELLE TIRE DISTRIBUTORS
WAYNE A. SHOTWELL
1000 ENTERPRISE DR
ALLEN PARK, MI 48101
313-203-2195

This instrument prepared by: Brady Kuhn
WEIHE ENGINEERS
Land Surveying | Civil Engineering
Landscape Architecture
10505 N. College Avenue
Indianapolis, Indiana 46280
weihe.net
317 | 846 - 6611
800 | 452 - 6408
317 | 843 - 0546/fax
ALLAN H. WEIHE, P.E., L.S. - FOUNDER

AUSTRIAN PINE PUD SECONDARY PLAT

SEC. 2-T18N-R3E
WASHINGTON TWP., HAMILTON CO., IN

COMMISSION CERTIFICATE:

UNDER AUTHORITY PROVIDED BY IC 36-7, ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF INDIANA, AND ALL ACTS AMENDATORY THERETO, AND AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF WESTFIELD AS FOLLOWS:

APPROVAL DELEGATED TO THE ECONOMIC AND COMMUNITY DEVELOPMENT DIRECTOR OF THE CITY OF WESTFIELD, INDIANA BY WESTFIELD ORDINANCE 11-06, ENACTED BY THE WESTFIELD CITY COUNCIL ON MARCH 14, 2011.

APPROVED BY THE WESTFIELD ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT ON THE 31 DAY OF July, 2020.

Kevin M. Todd
BY KEVIN M. TODD, DIRECTOR
COMMUNITY DEVELOPMENT DEPARTMENT

EXECUTED AND DELIVERED IN MY PRESENCE

Bobbie Jackson
(WITNESS SIGNATURE)

WITNESS: Bobbie Jackson
(WITNESS'S PRINTED NAME)

STATE OF INDIANA)
)SS:
COUNTY OF Hamilton)

BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED Bobbie Jackson, BEING KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED AS WITNESS TO THE FOREGOING INSTRUMENT. INSTRUMENT WAS EXECUTED AND DELIVERED BY _____ IN THE ABOVE-NAMED SUBSCRIBING WITNESS'S PRESENCE.

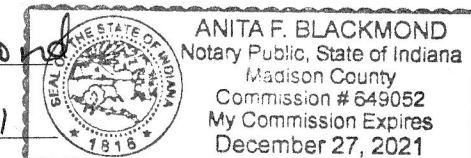
WITNESS MY HAND AND NOTARIAL SEAL THIS 27th DAY OF July, 2020.

SIGNATURE: Anita Blackmond

PRINTED NAME: Anita Blackmond

MY COMMISSION EXPIRES: 12/27/21

MY COUNTY OF RESIDENCE: Madison



OSBORNE TRAILS SECTION 15 PERIMETER TRAIL DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (“**Agreement**”), dated as of April ___, 2025, is entered into by and among the CITY OF WESTFIELD, INDIANA (the “**City**”), and Lennar Corporation (the “**Developer**”) (collectively the City and Developer shall be referred as “**Parties**”).

RECITALS

1. The Developer plans to construct Section 15 of the Osborne Trails development (“the **Project**”). The City of Westfield Unified Development Ordinance and the City of Westfield Construction Standards for the Project require constructing eight-foot perimeter trails along the future 193rd Street and future Horton Road connector (the “**Project Site**”). Due to development of Osborne Trails Section 15 occurring prior to the design for the future 193rd Street and Horton Road connectors, the City has agreed to include installation of these perimeter trails as part of the future 193rd Street and Horton Road connector construction projects provided the Developer pays a fee to the City in-lieu of these improvements.

2. The City is willing to permit the development of the Project under certain conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the promises and mutual obligations and covenants of the parties hereto contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Developer and the City agree as follows:

ARTICLE I **Term**

This Agreement shall be effective on the date set forth in the first paragraph of this Agreement. This Agreement will terminate upon completion of the Project.

ARTICLE II **Covenants of Parties**

- 2.1 Developer shall contribute a total of \$76,940.00 to the Westfield Road Impact Fee Fund.
- 2.2 Developer is responsible for constructing portions of the path that fall outside of this agreement as shown in the Osborne Trails Section 15 approved construction documents.

- 2.3 Developer shall comply in all material respects with (and shall cooperate with the City to enable the City to comply in all material respects with) statutes, regulations and rules applicable to the Project.

ARTICLE III **Miscellaneous**

- 3.1 **Assignment.** The rights and obligations contained in this Agreement may be assigned by the Developer to a related or affiliated entity with the express prior written consent of each of the City. Developer expressly acknowledges that this Agreement touches and concerns the Project and is, except as provided otherwise herein, binding upon and enforceable against the Developer, its respective successors and assigns and all persons claiming under or through the Developer collectively or individually.
- 3.2 **Amendments.** No modification or amendment of any provision of this Agreement shall be effective unless made in writing and duly executed by the City and the Developer.
- 3.3 **Disclaimer of Relationship.** Nothing contained in this Agreement, nor any act of the City or of the Developer, or of any other person, shall be deemed or construed by any person to create any relationship of third-party beneficiary, employer and employee, principal and agent, limited or general partners or joint ventures. The Developer is and will remain an “independent contractor” with respect to performance under this Agreement. The Developer is responsible for and shall pay all amounts and benefits owing to or for the account of its employees, if any, including unemployment compensation, FICA, retirement, life and medical insurance and worker’s compensation insurance.
- 3.4 **Survival of Covenants, Etc.** All representations, warranties, covenants and agreements made by the City and the Developer in this Agreement shall survive the execution of this Agreement and the completion of the Project. No other person is entitled to rely upon any such representations, warranties, covenants and agreements.
- 3.5 **Notices.** Any and all notices or other communications required or permitted under this Agreement shall be in writing and shall be sufficiently given when delivered in person to, or sent by certified mail, postage prepaid, addressed as follows (provided that if mailed, any applicable time period will commence upon receipt by the addressee; and provided further that if the addressee refuses delivery, the notice will be deemed to have been given three days after the mailing of such notice or other communication):

To the City: City of Westfield, Indiana
Westfield City Hall
2706 E. 171st Street
Westfield, Indiana 46074
Attn: Michael Pearce, City Engineer

To the Developer: Lennar Corporation
11555 N. Meridian Street, #400
Carmel, IN 46032
Attn: Stuart Huckelberry

or to such other address or person as shall be designated from time to time by notice as contemplated by this Section 3.5.

- 3.6 **Governing Law.** Except to the extent preempted by federal law, the laws of the State of Indiana shall govern all aspects of this Agreement, including execution, interpretation, performance and enforcement. All exhibits attached hereto are incorporated by reference.
- 3.7 **Dispute Resolution.** Any lawsuit arising out of or relating to this Agreement must be brought in Hamilton County, Indiana Circuit or Superior Courts. The City and the Developer consent to the jurisdiction of such court and irrevocably waive any objections they may have to such jurisdiction or venue.
- 3.8 **No Waiver.** Neither failure nor delay on the part of the City or the Developer in exercising any right under this Agreement shall operate as a waiver of such right, nor shall any single or partial exercise of any such right preclude any further exercise thereof or the exercise of any other right. No waiver of any provision of this Agreement or consent to any departure by the Developer or the City therefrom shall be effective unless the same shall be in writing, signed on behalf of the City or the Developer by a duly authorized officer thereof, and the same shall be effective only in the specific instance for which it is given. No notice to or demand on the City or the Developer shall entitle the City or the Developer to any other or further notices or demands in similar or other circumstances, or constitute a waiver of any of the City's or the Developer's right to take other or further action in any circumstances without notice or demand.
- 3.9 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original for all purposes and each of which shall constitute one and the same.

- 3.10 **Binding of Successors, Assigns.** Subject to the further provisions of this Agreement, the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the City and the Developer and their respective successors and assigns.
- 3.11 **Further Assurances.** Subject to the further provisions of this Agreement, the Developer and the City shall, at such party's expense, upon request of the other such party, duly execute and deliver, or cause to be executed and delivered, such further instruments and perform or cause to be performed such further acts as may be reasonably necessary or proper in the reasonable opinion of the City or the Developer to carry out the provisions and purposes of this Agreement.
- 3.12 **Severability.** The invalidity, illegality, or unenforceability of any one or more of the terms and conditions of this Agreement shall not affect the validity, legality, or enforceability of the remaining terms and conditions hereof. All Exhibits to this Agreement are attached hereto and incorporated herein by reference. Time is of the essence in this Agreement. If any provision of this Agreement or application to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, then the remainder of this Agreement or the application of such provision to such person or circumstances, other than those as to which it is so determined invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law; provided that, in lieu of such invalid or unenforceable provision, there will be added to this Agreement a provision as similar to the invalid or unenforceable provision as is possible to reflect the intent of the parties and still be valid and enforceable. The captions in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of this Agreement or the scope or content of any of its provisions. Nothing contained in this Agreement shall be construed to create a partnership or joint venture between the Developer and the City or their successors in interest. Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday for national banks in the location where the Project Site is located, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday.
- 3.13 **Headings.** The headings of the articles, sections and paragraphs used in this Agreement are for convenience only and shall not be read or construed to affect the meaning or construction of any provision.

- 4.14 **Entire Agreement.** Except as otherwise expressly provided herein, this Agreement constitutes the entire agreement by and between the City and the Developer and supersedes all prior agreements, written or verbal, between the City and the Developer pertaining to the Project. No statements, promises or agreements whatsoever, in writing or verbally, in conflict with the terms of this Agreement have been made by the City or the Developer that in any way modify, vary, alter, enlarge or invalidate any of the provisions and obligations of this Agreement.
- 3.15 **No Third Party Beneficiaries.** There are no third-party beneficiaries of this Agreement.
- 3.16 **Indemnification.**
- (a) **Developer Indemnification.** The Developer will pay, and protect, indemnify and save the City (including members, directors, officials, officers, agents, attorneys and employees thereof) harmless from and against, all liabilities, losses, damages, costs, expenses (including attorneys' fees and expenses of the City), causes of actions, suits, claims, demands and judgments of any nature arising from or relating to:
- (i) Violation by the Developer of any agreement or condition of this Agreement;
 - (ii) Violation of any contract, agreement or restriction by the Developer relating to the Project, or any part thereof, in connection with the implementation of or effectuation of this Agreement;
 - (iii) Violation of any law, ordinance or regulation by the Developer arising out of the ownership, occupancy or use of the Project, or a part thereof;
 - (iv) Any act, failure to act, or misrepresentation by the Developer, or any of the Developer's agents, contractors, servants, employees or licensees related to this Agreement; and
- (b) **City Indemnification.** To the extent permitted by law, the City will pay, and protect, indemnify and save the Developer (including members, directors, officials, officers, agents, attorneys and employees thereof) harmless from and against, all liabilities, losses, damages, costs, expenses (including attorneys' fees and expenses of the Developer), causes of actions, suits, claims, demands and judgments of any nature arising from or relating to:

- (i) Violation by the City or other City Party of any agreement or condition of this Agreement;
- (ii) Violation of any contract, agreement or restriction by the City relating to the Project, or any part thereof, in connection with the implementation of or effectuation of this Agreement;
- (iii) Any act, failure to act, or misrepresentation by the City, or any of the City's agents, contractors, servants, employees or licensees related to this Agreement;

3.17 **Force Majeure.** Notwithstanding anything to the contrary set forth herein, each party shall be excused for any failure or delay in performing any of its obligations under this Agreement, if such failure or delay is caused by an event of Force Majeure. "Force Majeure" means any act of God; any accident (including equipment failure, electricity outage for extended periods of time, destruction or damage to equipment not caused by the party relying upon such circumstance or event); any explosion; any fire, flood, ice, earthquake, lightning, tornado, hurricane or other severe weather condition or calamity; any civil disturbance, labor dispute or labor or material shortage; any sabotage or act (or specific, imminent threatened act) of terrorism; any act of a public enemy, uprising, insurrection, civil unrest, war or rebellion; any action or restraint by court order or public or governmental authority or lawfully established civilian authorities; a material adverse change in the national financial economic situation in the United States; or any other circumstance or event beyond the reasonable control of the party relying upon such circumstance or event. Each party shall diligently make efforts to perform any obligations delayed under this Section 3.17, immediately upon the event of Force Majeure no longer preventing such obligation from being performed, then: (a) the party asserting Force Majeure shall deliver written notice to the other party; (b) such observation, performance, or satisfaction shall be excused for the period of days that such observation, performance, or satisfaction is delayed or prevented; and (c) the deadlines for observation, performance, and satisfaction, as applicable, shall be extended for the same period.

3.18 **Interpretation.** Unless the context requires otherwise, (i) the singular includes the plural and vice versa, (ii) RECITALS and EXHIBITS form a part of this Agreement, (iii) any reference in this Agreement to any particular Article, Section, subsection, RECITAL or EXHIBIT shall be deemed to refer to an Article, Section or RECITAL of, or EXHIBIT to, this Agreement, (iv) the word "including" or any variation thereof means "including, without limitation" and shall not be construed to limit any general statement that it follows to the specific or similar items or matters

immediately following it, and (v) where a term is defined, another part of speech or grammatical form of that term shall have a corresponding meaning.

Effective Date. Notwithstanding anything herein to the contrary, this Agreement shall not be effective until all parties hereto have executed this Agreement.

* * *

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed on or as of the day and year first above written.

“DEVELOPER”

Lennar Corporation

By: _____

Stuart Huckelberry

Title: Senior Land Development Manager

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for the State of Indiana, personally appeared. _____, the _____ of Lennar Corporation, who, being first duly sworn, acknowledged the execution of the foregoing Agreement for and on behalf of said limited liability company.

Witness my hand and Notarial Seal this day of _____, 2024.

My Commission Expires:

My County of Residence:

NOTARY PUBLIC

Printed

“CITY”

CITY OF WESTFIELD

By: _____

STATE OF INDIANA)
)SS:
COUNTY OF HAMILTON)

Before me, a Notary Public in and for the State of Indiana, personally appeared. _____, the _____ of the City of Westfield, Indiana, who, being first duly sworn, acknowledged the execution of the foregoing Agreement for and on behalf of the City of Westfield, Indiana.

Witness my hand and Notarial Seal this _____ day of _____, 2024.

My Commission Expires:

My County of Residence:

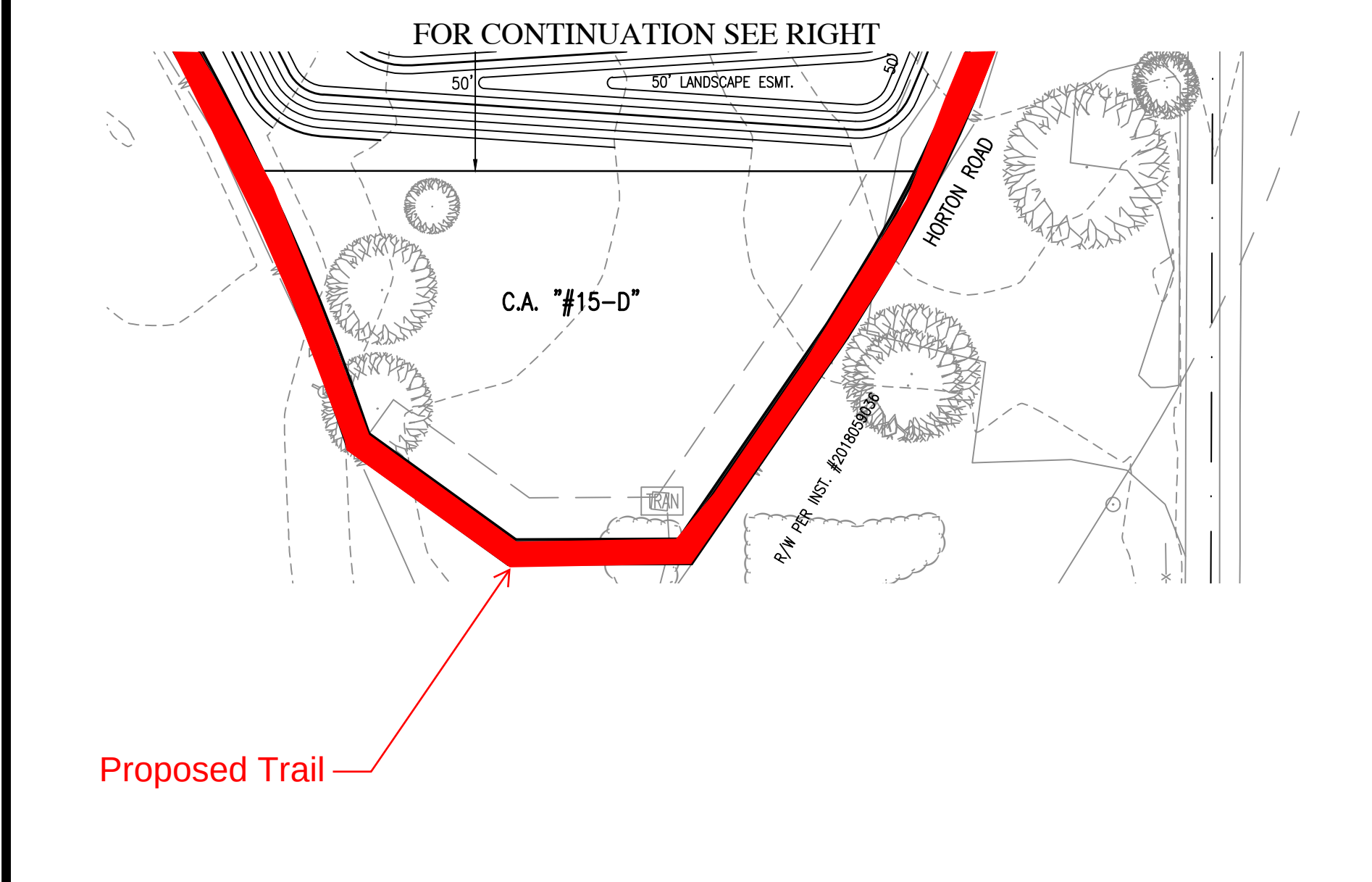
NOTARY PUBLIC

Printed

This instrument prepared by Chad Mills, City of Westfield, 2728 E 171st St, Westfield, Indiana, 46074.

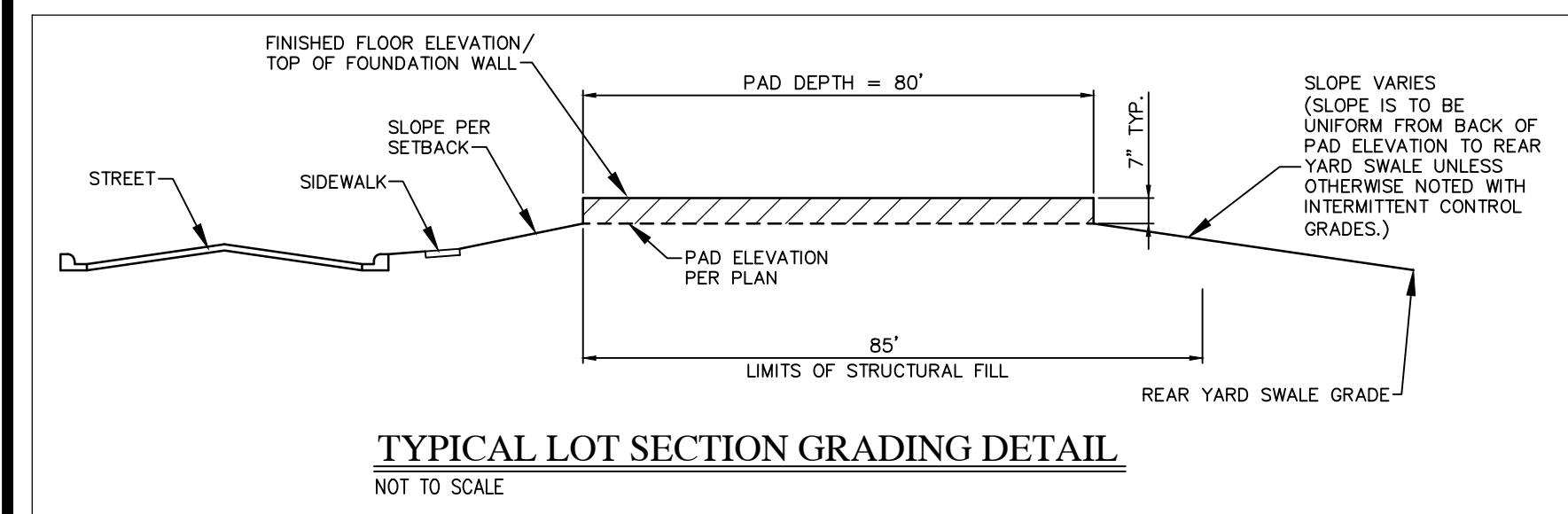
I affirm, under penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law. *Chad Mills*.

Exhibit A



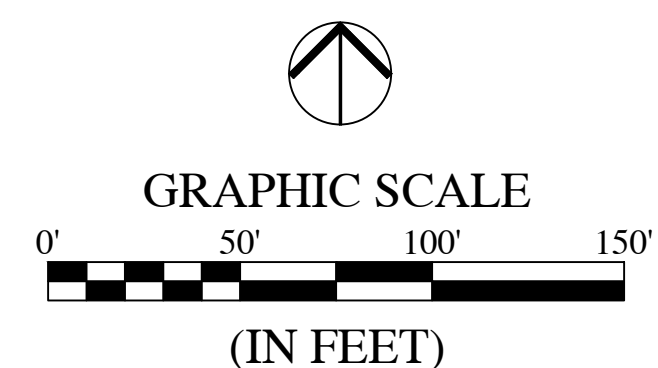
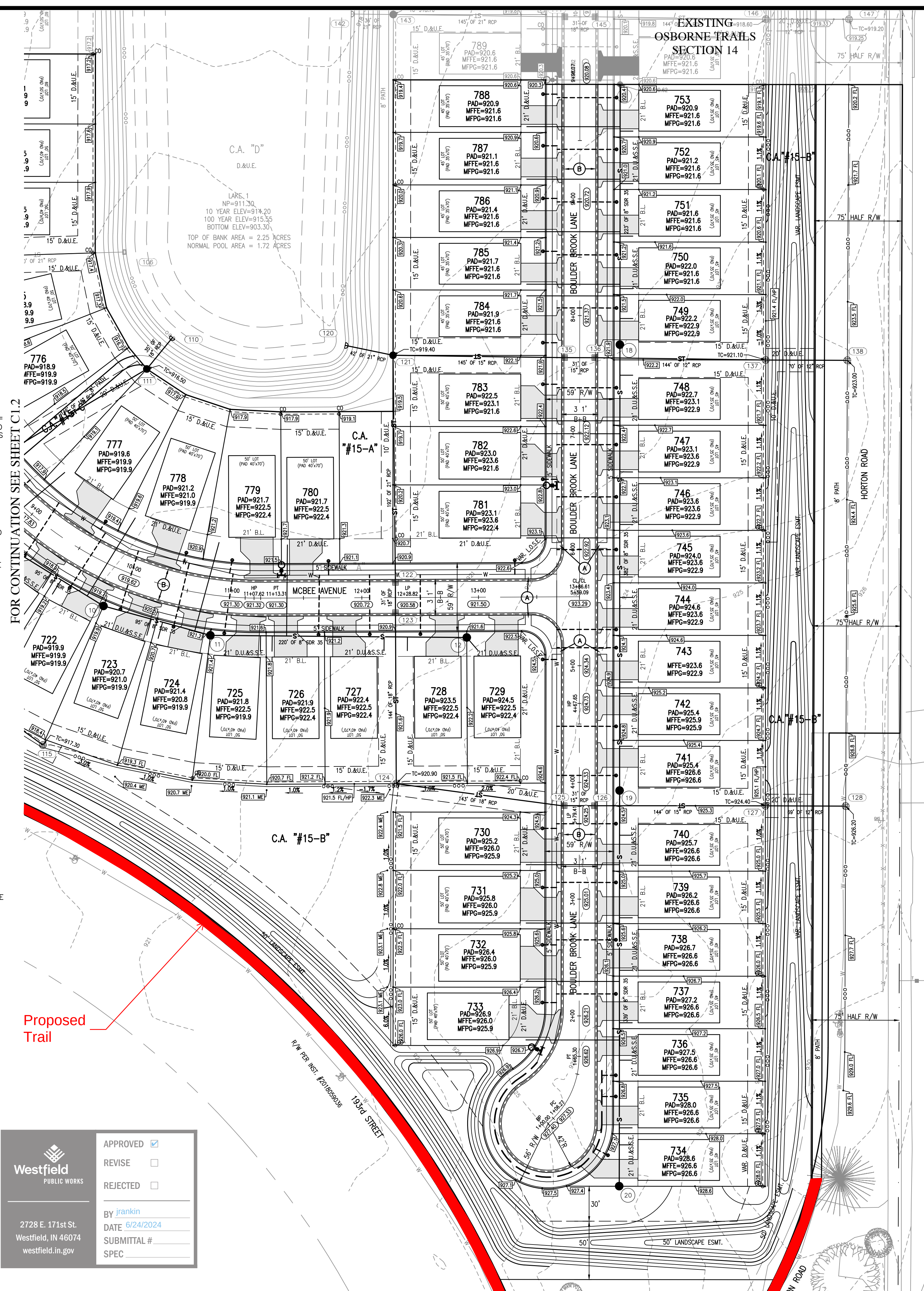
OVERALL GENERAL PROJECT NOTES

1. NOT ALL GAS, POWER, OR TELEPHONE LINES, WHETHER ABOVE OR BELOW GROUND, HAVE BEEN SHOWN ON THE DRAWINGS. ANY UNDERGROUND INFORMATION SHOWN ON THE DRAWINGS HAS BEEN DETERMINED FROM THE BEST AVAILABLE INFORMATION AND IS GIVEN FOR THE CONTRACTOR'S BENEFIT. THE CONTRACTOR SHALL ASSUME ALL RESPONSIBILITY FOR PROTECTING ALL UTILITIES IN HIS WORK AREA WHETHER SHOWN OR NOT, AND MUST REALIZE THAT THE ACTUAL LOCATION OF THE UTILITIES MAY BE DIFFERENT FROM THAT SHOWN ON THE DRAWINGS. ALL EXISTING UTILITIES ENCOUNTERED IN THE WORK, WHETHER IN PUBLIC RIGHTS OF WAY OR ON PRIVATE PROPERTY, SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO MAINTAIN IN SERVICE ANY UTILITIES WHICH CAN BE REMOVED DURING CONSTRUCTION WITHOUT UNDUE INTERRUPTION TO SERVICE MAY BE REMOVED AND REPLACED BY THE CONTRACTOR WITH THE PERMISSION OF THE UTILITY. IF MINOR CONFLICTS ARISE, THE CONTRACTOR MAY SHIFT THE PROPOSED LOCATION OF THE INSTALLATION OF THE WORK. BEFORE WORKING WITH OR AROUND UTILITIES, THE APPLICABLE UTILITY COMPANY SHALL BE NOTIFIED BY THE CONTRACTOR.
2. SAFETY PROVISIONS FOR THE WORK SHALL BE IN FULL COMPLIANCE WITH ALL APPLICABLE RULES AND REGULATIONS OF THE INDIANA OSHA AND ANY OTHER LOCAL STATE OR FEDERAL AGENCY HAVING JURISDICTION. IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, THE CONTRACTOR WILL BE SOLELY AND COMPLETELY RESPONSIBLE FOR CONDITIONS OF THE JOB SITE, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY DURING PERFORMANCE OF THE WORK. CONTRACTOR SHALL AT MINIMUM, PROVIDE TRAFFIC CONTROL AS REQUIRED TO SAFELY PROTECT THE GENERAL PUBLIC, THE CONTRACTOR'S WORK FORCES AND THE WORK. TRAFFIC CONTROL SHALL CONFORM TO THE REQUIREMENTS OF THE LATEST EDITION OF THE INDIANA MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS, AND THE INDIANA DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS, SPECIAL PROVISIONS, STANDARD DETAILS AND GENERAL INSTRUCTIONS TO FIELD EMPLOYEES. THE REQUIREMENT WILL APPLY CONTINUOUSLY AND NOT TO BE LIMITED TO NORMAL WORKING HOURS. THE OPTION OF THE OWNER AND/OR ENGINEER TO CONDUCT CONSTRUCTION REVIEW OF THE CONTRACTOR'S PERFORMANCE IS NOT INTENDED TO INCLUDE REVIEW OF THE ADEQUACY OF THE CONTRACTOR'S SAFETY MEASURES, IN, ON OR NEAR THE CONSTRUCTION SITE. CONTRACTOR WILL BE RESPONSIBLE FOR PROVIDING ALL NECESSARY TRAFFIC CONTROL, SAFETY MEASURES, SPECIAL PROVISIONS, STANDARD DETAILS AND GENERAL INSTRUCTIONS TO FIELD EMPLOYEES. CONTRACTOR TO COMPLY WITH ALL OSHA REGULATIONS, REQUIREMENTS, SAFETY MEETING REQUIREMENTS AND REQUIREMENTS FOR TRAFFIC CONTROL AND SAFETY PRECAUTIONS, THERE WILL BE NO SEPARATE OR ADDITIONAL PAYMENT FOR THIS WORK.
3. WHERE PROPERTY MARKERS, SECTION CORNERS, SURVEY MARKS OR BENCHMARKS, SUCH AS STONES, PIPES, OR OTHER SUCH MONUMENTS ARE ENCOUNTERED AND CONFLICT WITH THE WORK, THE ENGINEER SHALL BE NOTIFIED BEFORE THEY ARE DISTURBED. THE MARKERS SHALL BE PROTECTED AFTER THE OWNER, ENGINEER, AND AUTHORIZED SURVEYOR OR AGENT HAS WITNESSED OR REFERENCED THEIR LOCATIONS.
4. ALL MATERIALS DENOTED "SALVAGED" SHALL BE STORED AND PROTECTED AT THE SITE FOR THE OWNER TO COLLECT OR FOR THE CONTRACTOR TO RE-USE AS INDICATED.
5. THERE SHALL BE NO CHANGES WITHOUT WRITTEN APPROVAL OF ENGINEER.
6. ALL GRADES AT BOUNDARY SHALL MEET EXISTING GRADES.
7. CONTRACTOR SHALL MINIMIZE DAMAGE TO EXISTING TREES.
8. REMOVE AND BACKFILL ALL AREAS WHERE ANY FIELD TILE CROSSES PROPOSED HOUSE PADS. ALL FIELD TILES INTERCEPTED TO BE PERPETUATED INTO STORM SEWER SYSTEM OR LAKE. THE SUBCONTRACTOR SHALL NOTIFY IN WRITING THE OWNER AND THE ENGINEER IN ANY CIRCUMSTANCES WHERE THIS CANNOT BE ACCOMPLISHED.
9. IT IS THE CONTRACTOR'S RESPONSIBILITY TO FIELD VERIFY ALL UTILITY LOCATIONS.
10. CONTRACTOR SHALL STAMP THE LETTER "S" IN THE CURB PERPENDICULAR TO THE LATERAL MARKER.
11. STRUCTURES RECEIVING SUB-SURFACE DRAIN (SSD) SHALL HAVE BOTH PORTS CORE DRILLED. "1" OR "Y" BLIND CONNECTIONS ARE NOT ALLOWED.
12. ALL STORM SEWER CASTINGS SHALL BE LABELED "DUMP NO WASTE-DRAINS TO WATERWAY".
13. STRUCTURAL FILL: SHALL BE COMPACTED TO AT LEAST 95% STANDARD PROCTOR MAXIMUM DRY DENSITY (ASTM D-698). SHALL BE FREE OF ORGANIC MATERIAL, DEBRIS, DELETERIOUS MATERIALS AND FROZEN SOLIDS.
14. ALL ROADS MUST BE BROUGHT BACK TO ORIGINAL OR BETTER CONDITION, INCLUDING BUT NOT LIMITED TO STRIPING, STONE SHOULDERS AND SIGNAGE. REPAIRS (i.e. STRIPING) SHALL COINCIDE WITH THE ADJOINING ROAD.
15. ALL COMMON AREA SIDEWALKS OR PATHS ARE TO BE CONSTRUCTED AS PART OF THE SITE INFRASTRUCTURE. INDIVIDUAL LOT SIDEWALKS TO BE CONSTRUCTED AT THE TIME OF HOME CONSTRUCTION.
16. ANY EXISTING FIELD/ DRAINAGE TILES DISCOVERED DURING CONSTRUCTION SHALL EITHER BE ROUTED INTO THE NEAREST PROPOSED STORM SEWER STRUCTURE OR CAPPED OFF (IF THE END OF THE TILE) PER LOCAL JURISDICTIONAL STANDARDS.



BENCHMARK INFORMATION:

A DEPARTMENT OF NATURAL RESOURCES BRASS TABLET,
STAMPED "LEE 12", SET IN THE TOP OF A CONCRETE POST.
LOCATED AT THE NORTHWEST CORNER OF 186TH STREET &
CASEY ROAD, WASHINGTON TOWNSHIP, HAMILTON COUNTY,
INDIANA.
ELEVATION= 910.25 (NAVD88)



LEGEND:

EXISTING		RIGHT-OF-WAY LINE		PROPOSED
		EASEMENT LINE		
		SETBACK LINE		
		CENTERLINE		
		SWALE / FLOWLINE		
		SUBSURFACE DRAIN		
		SANITARY SEWER		
		STORM SEWER		
		STORM CULVERT		
		WATER MAIN		
		CONTOUR, MAJOR		
		CONTOUR, MINOR		
		FENCE		
		TREE LINE		
		SANITARY MANHOLE		
		STORM MANHOLE		
		STORM INLET		
		STORM END SECTION		
		FIRE HYDRANT		
		CLEAN-OUT		
		FLOW ALARM		
		SPOT ELEVATION		
		PAVEMENT ELEVATION		
		A.D.A. HANDICAP RAMP		
		2' ROLL CURB		
		STREET LIGHT		
		SSD RISER		

ABBREVIATIONS:

BC	- BACK OF CURB	R/W	- RIGHT-OF-WAY
CL	- CENTERLINE	SF	- SQUARE FEET
FG	- FINISHED GRADE	PT	- POINT OF TANGENCY
FL	- FLOW LINE	PVC	- POLYVINYL CHLORIDE PIPE
HP	- HIGH POINT	RCP	- REINFORCED CONCRETE PIPE
INV	- INVERT ELEVATION	R/W	- RIGHT-OF-WAY
LP	- LOW POINT	TB	- TOP OF BANK GRADE
ME	- MATCH EXISTING GRADE	TC	- TOP OF CASTING GRADE
NP	- NORMAL POOL (ELEVATION)	PAD	- PAD GRADE
PC	- POINT OF CURVATURE	MFGP	- MINIMUM FLOOD PROTECTION GRADE
D.E.	- DRAINAGE EASEMENT	MFFE	- MINIMUM FINISH FLOOR ELEVATION
D.&U.E.	- DRAINAGE & UTILITY EASEMENT		
D.U.&S.E.	- DRAINAGE, UTILITY & SEWER EASEMENT		
B.S.L.	- BUILDING SETBACK LINE		
D.U.&S.E.	- DRAINAGE, UTILITY & SANITARY SEWER EASEMENT		
C.A.	- COMMON AREA		
S.S.E.	- SANITARY SEWER EASEMENT		
P.S.E.	- PERPETUAL STORMWATER EASEMENT		
L.M.A.E.	- LANDSCAPE, MAINTENANCE ACCESS EASEMENT		

NOTE: ALL UTILITY CROSSINGS UNDER PAVEMENT SHALL BE JACK & BORED OR DIRECTIONAL DRILLED, AVOID OPEN CUTS.

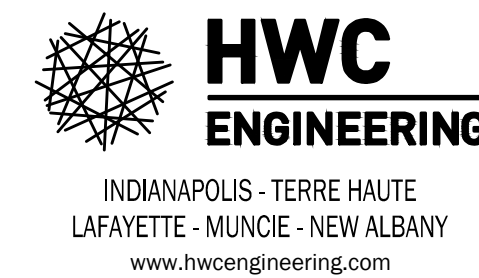
STREET TREES SHALL NOT BE WITHIN
FOUR (4) FEET OF ANY PAVEMENT.

THE DESIGN AND CONSTRUCTION SHALL COMPLY WITH ALL ADA REQUIREMENTS.

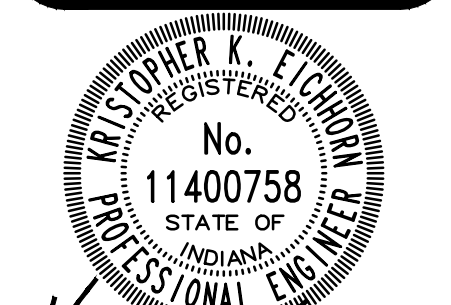
ALL STREET TREES ARE TO MATCH THE CURRENT CITY OF WESTFIELD MASTER TREE LIST.

THERE SHALL BE NO TREES WITHIN TEN (10) FEET OF ANY STORM SEWER INCLUDING SSD.

THE DESIGN AND CONSTRUCTION SHALL COMPLY WITH THE CURRENT CITY OF WESTFIELD CONSTRUCTION SPECIFICATIONS AND STANDARD CONSTRUCTION DETAILS. THE OMISSION OF ANY CURRENT STANDARD DETAIL DOES NOT RELIEVE THE CONTRACTOR FROM THIS REQUIREMENT.

[illegible]

**OSBORNE TRAILS SECTION 15
WESTFIELD, INDIANA
DEVELOPMENT PLAN**



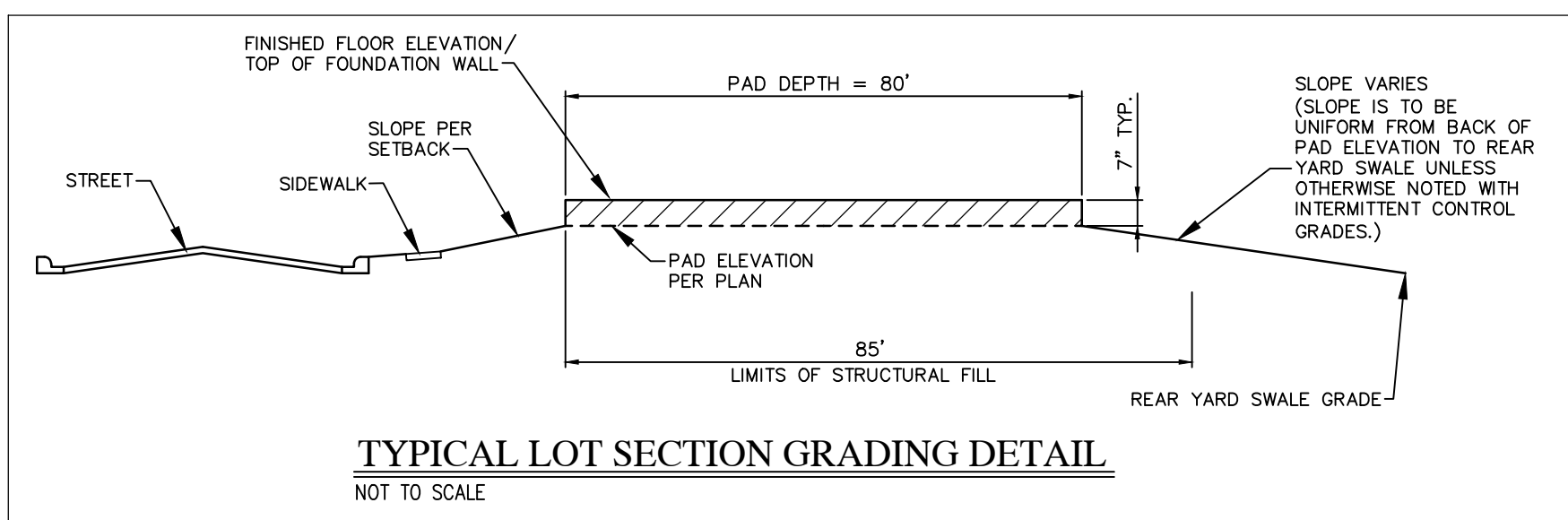
DRAWN BY TS/TD/GM		JOB NUMBER 2022-144-B
CHECKED BY KE		
DATE MARCH 1, 2024		
SCALE AS SHOWN		
SHEET		

C1.1

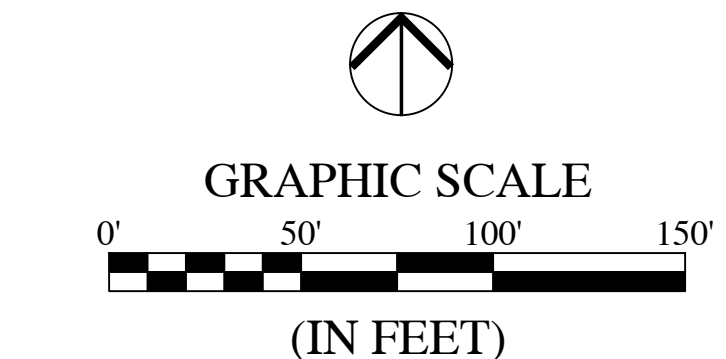
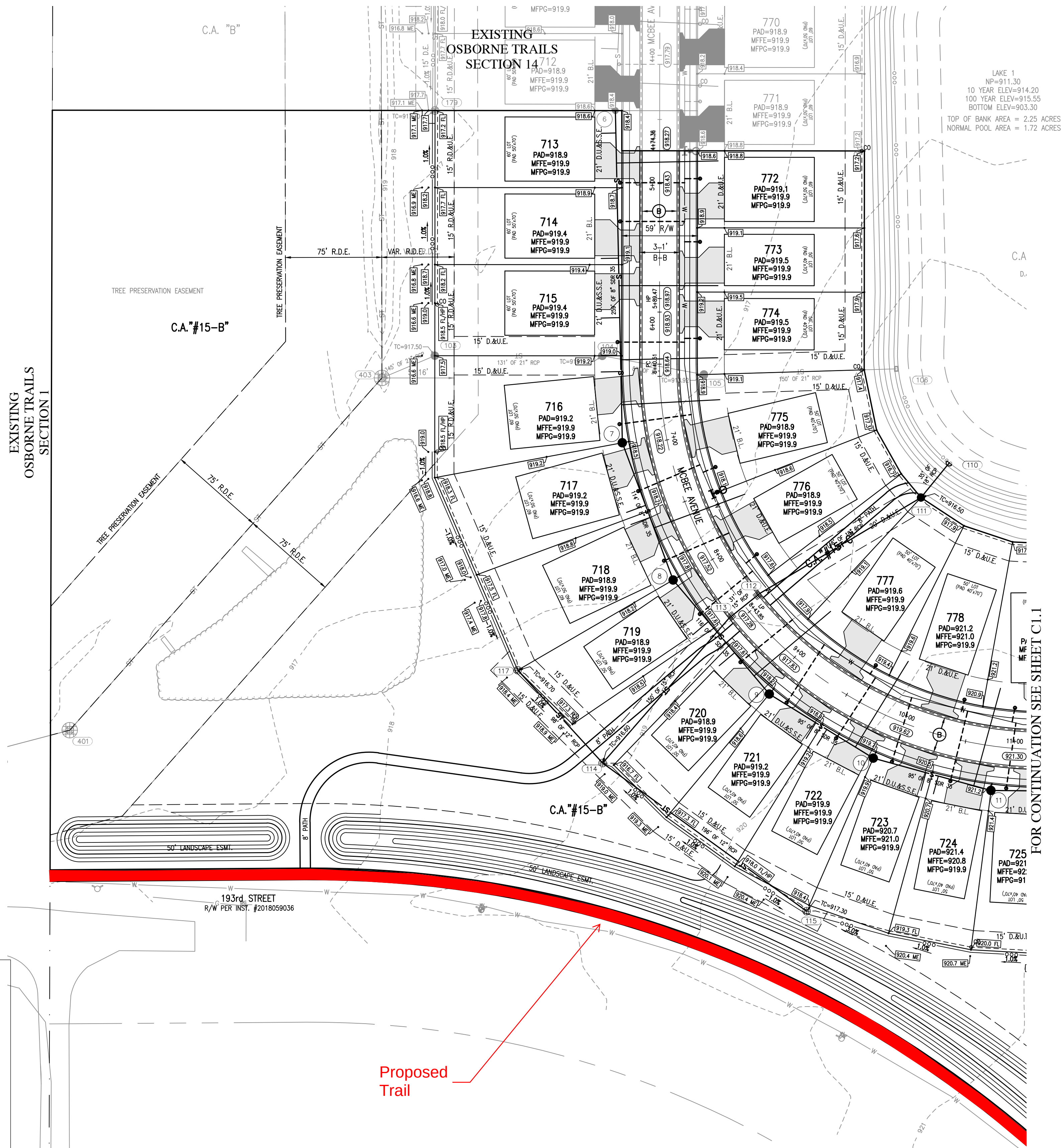
DEVELOPMENT PLAN

1. NOT ALLOW GAS, POWER, OR TELEPHONE LINES, WHETHER ABOVE OR BELOW GROUND, HAVE BEEN SHOWN ON THE DRAWINGS. ANY UNDERGROUND INFORMATION SHOWN ON THE DRAWINGS HAS BEEN OBTAINED FROM THE RECORD DRAWINGS AND HAS NOT BEEN GIVEN FOR THE CONTRACTORS BENEFIT. THE CONTRACTOR SHALL ASSUME ALL RESPONSIBILITY FOR PROTECTING ALL UTILITIES IN HIS WORK AREA. WHETHER SUCH UTILITIES ARE SHOWN OR NOT ON THE ACTUAL LOCATION OF THE UTILITIES MAY BE DIFFERENT FROM THAT SHOWN ON THE DRAWINGS. ALL EXISTING UTILITIES ENCOUNTERED IN THE WORK, WHETHER IN PUBLIC RIGHTS OF WAY OR ON PRIVATE PROPERTY, SHALL BE PROTECTED AND MAINTAINED. THE CONTRACTOR SHALL MAINTAIN IN SERVICE ANY UTILITIES WHICH CAN BE REMOVED DURING CONSTRUCTION WITHOUT UNDUE INTERRUPTION TO SERVICE MAY BE REMOVED AND REPLACED BY THE CONTRACTOR AT HIS OWNERS PERMITION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING THE PERMISSION OF THE UTILITIES COMPANY IN ADVANCE OF ANY CONFLICT ARISING. THE CONTRACTOR MAY SHIFT THE PROPOSED LOCATION OF THE INSTALLATION OF THE WORK, BEFORE WORKING WITH OR AROUND THE SAME. THE APPLICABLE UTILITY COMPANY SHALL BE NOTIFIED BY THE CONTRACTOR.

- SAFETY PROVISIONS FOR THE WORK SHALL BE IN FULL COMPLIANCE WITH ALL APPLICABLE RULES AND REGULATIONS OF THE INDIANA OSHA AND ANY OTHER LOCAL STATE OR FEDERAL AGENCY HAVING JURISDICTION, IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES. THE CONTRACTOR WILL BE SOLELY AND COMPLETELY RESPONSIBLE FOR CONDITIONS OF THE JOB SITE, INCLUDING THE SAFETY OF PERSONS AND PROPERTY. TO MAINTAIN THE PERFORMANCE OF THE WORK, THE CONTRACTOR SHALL AT MINIMUM, PROVIDE TRAFFIC CONTROL AS REQUIRED TO SAFELY PROTECT THE GENERAL PUBLIC, THE CONTRACTOR'S WORK FORCES AND THE WORK PROGRESS. THE CONTRACTOR SHALL CONFORM TO THE REQUIREMENTS OF THE LATEST EDITION OF THE INDIANA MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS, AND THE INDIANA DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS, WHICH PROVIDE FOR CONSTRUCTION DETAILS AND GENERAL INSTRUCTIONS TO FIELD EMPLOYEES. THE REQUIREMENT WILL APPLY CONTINUOUSLY AND NOT TO BE LIMITED TO NORMAL WORKING CONDITIONS. THE OBLIGATION OF THE OWNER AND/OR ENGINEER TO CONDUCT CONSTRUCTION REVIEW OF THE CONTRACTOR'S PERFORMANCE IS NOT INTENDED TO INCLUDE REVIEW OF THE ADEQUACY OF THE CONTRACTOR'S SAFETY MEASURES, IN, ON OR NEAR THE CONSTRUCTION SITE. THE CONTRACTOR WILL BE RESPONSIBLE FOR PROVIDING AND MAINTAINING ALL BARRICADES, FENCES, WARNING SIGNS, FLASHING LIGHTS, TEMPORARY WALKWAYS, AND TRAFFIC CONTROL DURING CONSTRUCTION. THE CONTRACTOR TO COMPLY WITH ALL OSHA REGULATIONS, REQUIREMENTS, SAFETY MEETING REQUIREMENTS AND AGENCY REQUIREMENTS FOR TRAFFIC CONTROL AND SAFETY PRECAUTIONS, THERE WILL BE NO SEPARATE OR ADDITIONAL PAYMENT FOR THIS WORK.
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12. ALL STORM SEWER CASTINGS SHALL BE LABELED "DUMP NO WASTE--DRAINS TO WATERWAY".
13. STRUCTURAL FILL: SHALL BE COMPACTED TO AT LEAST 95% STANDARD PROCTOR MAXIMUM DRY DENSITY (ASTM D-998). SHALL BE FREE OF ORGANIC MATERIAL, DEBRIS, DELETERIOUS MATERIALS AND LOOSELY COMPACTED SOLIDS.
14. ALL ROADS MUST BE BROUGHT BACK TO ORIGINAL OR BETTER CONDITION, INCLUDING BUT NOT LIMITED TO STRIPING, STONE SHOULDERS AND SIGNAGE. REPAIRS (I.E. STRIPING) SHALL COINCIDE WITH THE ADJOINING ROAD.
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A DEPARTMENT OF NATURAL RESOURCES BRASS TABLE,
STAMPED "LEE 12", SET IN THE TOP OF A CONCRETE POST.
LOCATED AT THE NORTHWEST CORNER OF 186TH STREET &
CASEY ROAD, WASHINGTON TOWNSHIP, HAMILTON COUNTY,
INDIANA.
ELEVATION= 910.25 (NAVVD88)



EXISTING		RIGHT-OF-WAY LINE		PROPOSED
		EASEMENT LINE		
		SETBACK LINE		
		CENTERLINE		
		SWALE / FLOWLINE		
		SUBSURFACE DRAIN		
		SANITARY SEWER		
		STORM SEWER		
		STORM CULVERT		
		WATER MAIN		
		CONTOUR, MAJOR		
		CONTOUR, MINOR		
		FENCE		
		TREE LINE		
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		CLEAN-OUT		
		FLOW ARROW		
		SPOT ELEVATION		
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		A.D.A. HANDICAP RAMP		
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ALL STREET TREES ARE TO MATCH THE CURRENT CITY OF WESTFIELD MASTER TREE LIST.

THERE SHALL BE NO TREES WITHIN TEN (10) FEET OF ANY STORM SEWER INCLUDING SSD.

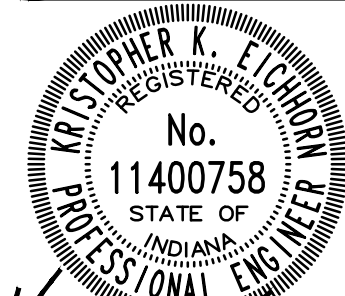
THE DESIGN AND CONSTRUCTION SHALL COMPLY WITH THE CURRENT CITY OF WESTFIELD CONSTRUCTION SPECIFICATIONS AND STANDARD CONSTRUCTION DETAILS. THE OMISSION OF ANY CURRENT STANDARD DETAIL DOES NOT RELIEVE THE CONTRACTOR FROM THIS REQUIREMENT.

DATE	DESCRIPTION	BY
/6/24	REVISED PER TAC COMMENTS	KE



**OSBORNE TRAILS SECTION 15
WESTFIELD, INDIANA
DEVELOPMENT PLAN**

DEVELOPMENT PLAN



		JOB NUMBER 2022-144-R
DRAWN BY		
TS/TD/GM		
CHECKED BY		
KE		
DATE		
MARCH 1, 2024		
SCALE		
AS SHOWN		
SHEET		

C1.2

EXHIBIT B

“Right-of-Way Improvements Cost Estimate”

OSBORNE TRAILS / 193RD STREET

193rd. Path Improvements Required							
193rd Asphalt Path	Description	Width	Length	SY	Tons	Price	Total
	3" HMA Surface	8	1570	1396	230	\$98.20	\$22,612
	6" -#53 Agg. Base	8	1570	1396	488	\$40.80	\$19,910
	Cement Stabilization	8	1570	1396		\$10.10	\$14,095
	Earthwork / Grading	20	1570	3489		\$3.95	\$13,781
	Erosion Control	30	1570	5233		\$1.25	\$6,542
							\$76,940

MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT (the "Agreement") is made and entered into this ____ day of _____, 2025 (the "Effective Date"), by and between the City of Westfield, acting by and through its proper officials, hereinafter referred to as "CLIENT" with its principal address at 2728 East 171st Street, Westfield, Indiana 46074, and Lochmueller Group, Inc., with its principals place of business at 6200 Vogel Road, Evansville, Indiana 47715, hereinafter referred to as "CONSULTANT".

WITNESSETH

WHEREAS, CLIENT wishes to retain the CONSULTANT to provide certain Construction Inspection Services and Roadway Design Services on an "as-needed" basis. The CONSULTANT agrees to undertake and perform these certain services (SERVICES) as may be requested by the CLIENT, all in accordance with the terms and conditions contained herein.

The SERVICES to be performed, the schedule for performance, and the compensation due the CONSULTANT shall be described in TASK ORDERS issued by the CLIENT to the CONSULTANT, the form of which is attached hereto as Attachment "A". Each TASK ORDER shall be duly executed by both parties and shall be subject to the terms and conditions of this Master Services Agreement, except as modified expressly by the TASK ORDER. The total compensation for this MASTER SERVICES AGREEMENT and all subsequent TASK ORDERS shall not exceed Two Hundred Ninety-Three Thousand Dollars (\$293,000.00), unless an amendment to this MASTER SERVICES AGREEMENT is executed by the parties.

This Agreement consists of this document together with Attachment "A" – TASK ORDER FORM and Attachment "B" – Terms and Conditions. This Master Services Agreement between the CLIENT and CONSULTANT supersedes all prior written and oral understandings. This Master Services Agreement may only be amended, supplemented, modified, or cancelled by a duly executed written instrument.

In executing this Master Services Agreement, the undersigned also acknowledge their authority to bind the parties to all terms and conditions.

IN WITNESS WHEREOF, the parties hereto have made and executed this Master Services Agreement as of the day and year first written.

CITY OF WESTFIELD

LOCHMUELLER GROUP, INC.

Name:

Title:

David A. Henkel, PE, PTOE

Regional Leader – Central Indiana

Name:

Title:

Name:

Title:

ATTEST:

Name:

Title:

TASK ORDER No. 1

In accordance with the Master Services Agreement between _____, (CLIENT), and Lochmueller Group, Inc. (CONSULTANT), dated this ____ day of _____, this TASK ORDER, with an effective date of _____, 2020, is the written authorization to the CONSULTANT to provide the services described herein, in accordance with the attached schedule, and fee.

SCOPE OF SERVICES: The TASK scope of services shall be as described in Section "A" of this TASK ORDER. CONSULTANT shall furnish all labor, materials, supplies, equipment, supervision and services necessary for and incident to the performance of the TASK. CONSULTANT represents that it has thoroughly reviewed the TASK and the Master Services Agreement and that it accepts the TASK and the conditions under which the TASK is to be performed.

CLIENT RESPONSIBILITIES: The CLIENT responsibilities shall be as set forth in Section "B" of this TASK ORDER.

SCHEDULE: The Schedule shall be set forth in Section "C" of this TASK ORDER.

PAYMENT TERMS: Payments to the CONSULTANT shall be as described in Section "D" of this TASK ORDER.

TERMS AND CONDITIONS: The terms and conditions of the Master Services Agreement referenced above shall apply to this TASK ORDER. This TASK ORDER also incorporates all of the terms and conditions required to be included in it by the Master Services Agreement.

CLIENT

LOCHMUELLER GROUP, INC.

Signature

David A. Henkel, PE, PTOE
Regional Leader – Central Indiana

Print Name and Title

ATTACHMENT "A"

SCOPE OF SERVICES

SECTION "A" – DESCRIPTION OF THE WORK

SECTION "B" – OWNER RESPONSIBILITIES

SECTION "C" – SCHEDULE

All work shall be completed within _____ calendar days unless modified in writing by the **CLIENT** and the **CONSULTANT**.

SECTION "D" – PAYMENTS TERMS

ATTACHMENT "B"

TERMS AND CONDITIONS

1.0 WORK OFFICE

CONSULTANT shall perform the Services at its offices or at such other locations as may be necessary or appropriate.

2.0 SUBCONSULTANTS

If CLIENT requests that CONSULTANT subcontract certain geotechnical services on behalf of the CLIENT, CONSULTANT agrees to do so only as an accommodation to the CLIENT and in reliance upon the CLIENT's assurance that the CLIENT will make no claim to bring any action at law or in equity against CONSULTANT as a result of this subcontracted service. The CLIENT understands that CONSULTANT is neither trained nor knowledgeable in the procedures or results of the subconsultant's services and the CLIENT shall not rely upon CONSULTANT to check the quality or accuracy of their services. In addition, the CLIENT agrees to the fullest extent permitted by law to indemnify and hold CONSULTANT harmless from any damage, liability or cost (including attorneys' fees and costs of defense) arising from the services performed by any subconsultant's that CLIENT requests CONSULTANT to contract with on behalf of CLIENT except only those damages, liabilities or costs caused by the sole negligence or willful misconduct of CONSULTANT.

3.0 STANDARDS OF PERFORMANCE

3.1 The standard of care for all professional services performed or furnished by CONSULTANT under this Master Services Agreement shall be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time and in the same or similar locality. Notwithstanding any clause in this Agreement to the contrary, nothing shall be construed as imposing on the CONSULTANT any greater obligation than to exercise the Standard of Care. The CONSULTANT shall not be liable for the cost of any omission that adds value to the Project. CONSULTANT makes no warranties, express or implied, under this or otherwise, in connection with CONSULTANT's Services.

3.2 CONSULTANT shall be responsible for the technical accuracy of its Services and documents resulting therefrom, and CLIENT shall not be responsible for discovering deficiencies therein. CONSULTANT shall correct any deficiencies CLIENT discovers without additional compensation except to the extent such action is directly attributable to deficiencies in CLIENT-furnished information.

3.3 CONSULTANT shall perform or furnish professional services for the Projects to

which this Master Services Agreement applies pursuant to the applicable Task Order. With the CLIENT's consent, CONSULTANT may employ such subconsultants as CONSULTANT deems necessary to assist in the performance or furnishing of the Services. CONSULTANT shall not be required to employ any subconsultants unacceptable to CONSULTANT.

- 3.4 CONSULTANT and CLIENT shall comply with applicable laws and regulations as generally applied to the services rendered in the locale of the project as of its Effective Date. Changes to these requirements after the effective date of the applicable Task Order may be the basis for modifications to CLIENT's responsibilities or to CONSULTANT's scope of services, time of performance, or compensation.
- 3.5 CLIENT shall be responsible for, and CONSULTANT may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by CLIENT to CONSULTANT pursuant to this Master Services Agreement. CONSULTANT may use such requirements, reports, data, and information in performing or furnishing services under this Master Services Agreement.
- 3.6 CONSULTANT shall not be required to sign any documents, no matter by whom requested, that would result in CONSULTANT's having to certify, guarantee or warrant the existence of conditions whose existence CONSULTANT cannot ascertain. CLIENT agrees not to make resolution of any dispute with CONSULTANT or payment of any amount due to CONSULTANT in any way contingent upon CONSULTANT's signing any such certification.
- 3.7 CONSULTANT shall not be responsible for the acts or omissions of any contractor(s), subcontractor or supplier, or any of the contractor's agents or employees or any other persons (except CONSULTANT's own employees) at the site or otherwise furnishing or performing any of the contractor's work; or for any decision made on interpretations or clarifications of any contract for construction, general conditions, supplemental conditions, change orders, and related documents (the "Contract Documents") given by CLIENT without consultation and advice of CONSULTANT.

All opinions of probable construction cost to be provided by CONSULTANT shall represent the professional judgment of CONSULTANT based upon the information currently available and upon CONSULTANT's background and experience with respect to projects of this nature. It is recognized, however, that neither CONSULTANT nor the CLIENT has control over the cost of labor, materials or equipment, over contractor's method of determining cost of services, or over competitive bidding, market or negotiating conditions.

Accordingly, CONSULTANT cannot and does not warrant or represent that the proposals or construction bids received will not vary from the cost estimates provided pursuant to this Master Services Agreement.

4.0 AUTHORIZED PROJECT REPRESENTATIVES

Contemporaneous with the execution of this Master Services Agreement, CONSULTANT and CLIENT shall designate specific individuals to act as CONSULTANT's and CLIENT's representatives with respect to the Services to be performed or furnished by CONSULTANT and responsibilities of CLIENT under this Master Services Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of each respective party.

5.0 OWNERSHIP OF DOCUMENTS

The CLIENT acknowledges the CONSULTANT's documents, including tracings, drawings, reports, estimates, specifications, field notes, investigations, studies, etc., as the work papers of CONSULTANT's and the CONSULTANT's instruments of professional services. Nevertheless, the final documents prepared under this Master Services Agreement shall become the property of the CLIENT upon completion of the services and payment in full of all monies due to CONSULTANT. During the performance of the Services herein provided for, CONSULTANT shall be responsible for any loss or damage to the documents which it caused, herein enumerated, while they are in its possession and any such loss or damage shall be restored at its expense. Full access to the Services during the progress of the Services shall be available to the CLIENT. The CLIENT agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless the CONSULTANT, its officers, directors, employees and subconsultants (collectively, "CONSULTANT") against any damages, liabilities or costs, including reasonable attorneys' fees and defense costs arising from, or allegedly arising from or in any way connected with, the unauthorized reuse or modification of the documents by CLIENT or any person or entity that acquires or obtains the documents from or through the CLIENT without the written authorization of CONSULTANT.

Under no circumstances shall the transfer of ownership of CONSULTANT's drawings, specifications, electronic files or other instruments of service be deemed a sale by CONSULTANT, and CONSULTANT makes no warranties, either express or implied, of merchantability and fitness for any particular purpose, except for the purpose for which it was intended, nor shall such transfer be construed or regarded as any waiver or other relinquishment of CONSULTANT's copyrights in any of the foregoing, full ownership of which shall remain with CONSULTANT, absent CONSULTANT's express prior written consent.

6.0 ELECTRONIC MEDIA

Data, words, graphical representations, and drawings that are stored on electronic

media such as computer disks and magnetic tapes, or which are transmitted electronically, may be subject to uncontrollable alteration. CLIENT agrees it may only justifiably rely upon the final hardcopy materials bearing the consultant's original signature and seal.

7.0 ACCESS TO RECORDS

CONSULTANT and its subconsultants shall maintain all books, documents, papers, accounting records and other evidence pertaining to the cost incurred and shall make such materials available at its respective offices at all reasonable times during the period of this Master Services Agreement and for three (3) years from the date of final payment under the terms of this Master Services Agreement, for inspection by the CLIENT and copies thereof shall be furnished if requested.

8.0 ALLOCATION OF RISKS – INDEMNIFICATION

8.1 To the fullest extent permitted by law, CONSULTANT shall indemnify and hold harmless CLIENT, CLIENT's officers, directors, partners, and employees from and against any and all costs, losses, and damages (including but not limited to all reasonable fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by the negligent acts or omissions of CONSULTANT or CONSULTANT's officers, directors, partners, employees, and its subconsultants in the performance and furnishing of CONSULTANT's services under this Master Services Agreement.

8.2 RESERVED

8.3 To the fullest extent permitted by law, CONSULTANT's total liability to CLIENT and anyone claiming by, through, or under CLIENT for any cost, loss, or damages caused in part by the negligence of CONSULTANT and in part by the negligence of CLIENT or any other negligent entity or individual, shall not exceed the percentage share that CONSULTANT's negligence bears to the total negligence of CLIENT, CONSULTANT, and all other negligent entities and individuals and shall not exceed the appropriate insurance coverage limits set forth under Item 12.0 this Master Services Agreement.

8.4 CONSULTANT shall not be responsible for the means, methods, and techniques of any construction contractor in the prosecution of its work on a project for which CONSULTANT provides services, nor for the construction contractor(s)' and their subcontractor's safety programs, training or compliance with safety requirements of any federal or state agency.

8.5 Notwithstanding any other provisions of this Master Services Agreement to the contrary, CONSULTANT's officers, directors, shareholders, partners, employees, or agents shall not be personally liable, regardless of the cause of action asserted

including breach of contract, warranty guarantee, products liability, negligence, tort, strict liability, or any other cause pertaining to CONSULTANT's performance or non-performance of the Master Services Agreement . CLIENT will look solely to CONSULTANT for its remedy for any claim arising out of or related to this Master Services Agreement.

9.0 WAIVER OF CONSEQUENTIAL DAMAGES

CLIENT and CONSULTANT further agree to waive, on behalf of their assigns, employees, agents, and successors-in-interest, any and all consequential damages arising out of their responsibilities hereunder. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation and any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty.

10.0 STATUS OF CLAIMS

CONSULTANT shall be responsible for keeping the CLIENT currently advised as to the status of any claims made for damages against CONSULTANT which are known resulting from services performed under this Master Services Agreement. CONSULTANT shall send notice of claims related to Services under this Master Services Agreement to CLIENT within thirty (30) days.

11.0 DISPUTE RESOLUTION - JURISDICTION AND VENUE

If disputes arise between CLIENT and CONSULTANT during the course of the Project, or following completion of the Project, which are not resolved within three (3) weeks after a demand for direct negotiation, the parties agree that all disputes between them arising out or relating to this Master Services Agreement or the Project shall be submitted to non-binding mediation pursuant to A.D.R. Rule 2 of the Indiana Rules for Alternative Dispute Resolution. If the parties are not able to settle the dispute through mediation, the parties shall submit the dispute to litigation before a Private Judge in accordance with the then current Indiana Rules for Alternative Dispute Resolution as they apply to Private Judge litigation.

12.0 INSURANCE

12.1 CONSULTANT - CONSULTANT shall procure and maintain, until final payment by CLIENT for the Services covered by this Master Services Agreement, insurance of the kinds and in the amounts hereinafter provided in insurance companies authorized to do such business in the State of Indiana covering all operations under this Master Services Agreement whether performed by it or by its subconsultant. CONSULTANT shall furnish a certificate or certificates in a form satisfactory to CLIENT, showing that this section has been complied with. During the term of this Master Services Agreement, CONSULTANT shall furnish CLIENT

with certificates showing that the required insurance coverage is maintained. The certificate or certificates shall provide that the policies shall not be changed or canceled until ten (10) days written notice has been given to the CLIENT. In the event that such written notice of change or cancellation is given, CLIENT may, at its option, terminate this Master Services Agreement and no further compensation shall, in such case, be made to CONSULTANT.

The kinds and amounts of insurance required are as follows:

- 12.1.1 Policy covering the obligations of CONSULTANT in accordance with the provisions of the Worker's Compensation law. This Master Services Agreement shall be void and of no effect unless CONSULTANT procures such policy and maintains it until acceptance of the Services.
- 12.1.2 Commercial General Liability Insurance (naming the CLIENT as an additional insured) with limits of liability to be not less than \$1,000,000 per occurrence, including bodily injury and property damage, and not less than \$2,000,000 aggregate.
- 12.1.3 Commercial Automobile Liability Insurance, including hired or non-owned vehicles with limits of liability of not less than \$1,000,000 for each accident.
- 12.1.4 Professional Liability Insurance in the amount of at least \$1,000,000 per claim and aggregate.

12.2 CLIENT - The CLIENT shall make arrangements for Builder's Risk, Protective Liability, Pollution Prevention, Comprehensive General Liability including property damage, and other specific insurance coverage warranted for the Project in amounts appropriate to the Project value and risks. CONSULTANT shall be named as additional insured on those policies where CONSULTANT may be at risk. The CLIENT shall obtain the counsel of others in setting insurance limits for construction contracts.

13.0 CHANGES IN THE SERVICES

In the event the CLIENT requires a change in the Services, after the Services have progressed as directed by the CLIENT, adjustments in compensation to CONSULTANT, and in time for performance of the Services as modified, shall be determined by the CLIENT in consultation with CONSULTANT and CONSULTANT shall not commence the change of scope of the Services until an amendment to this Master Services Agreement is executed and CONSULTANT is authorized to proceed with the changes of scope in writing by the CLIENT.

14.0 TERMINATION

The obligation to provide further services under this Master Services Agreement may be terminated by either party upon thirty (30) days written notice from receipt in the event

of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. If the services of this Master Services Agreement are terminated, CONSULTANT shall, upon final payment of compensation due to the CONSULTANT, deliver to the CLIENT all data, reports, drawings, specifications and estimates completed or partially completed and these shall become the property of the CLIENT. The earned value of the Services performed shall be based upon an estimate of the portions of the total services as have been rendered by CONSULTANT to the date of termination and which estimate shall be as made by the CLIENT in consultation with CONSULTANT for all Services to be paid for on a lump sum basis.

15.0 RESERVED

16.0 SUCCESSORS AND ASSIGNEES

The CLIENT, insofar as authorized by law, binds itself and its successors, and CONSULTANT binds its successors, executors, administrators, and assignees, to the other party of this Master Services Agreement and to the successors, executors, administrators, and assignees of such other party, as the case may be insofar as authorized by law, in respect to all covenants of this Master Services Agreement. CLIENT may not assign this Master Services Agreement, or any right, interests, claim, chose in action, defense or privilege under this Master Services Agreement without the written consent of the other party. Subcontracting to subconsultants, normally contemplated by the CONSULTANT as a generally accepted business practice, shall not be considered an assignment for purposes of this Master Services Agreement.

17.0 ENTIRE MASTER SERVICES AGREEMENT – AMENDMENTS

This Master Services Agreement, together with the Appendices attached hereto, constitutes the entire Master Services Agreement between the parties. This Master Services Agreement may only be amended, supplemented, or modified by a written document executed in the same manner as this Master Services Agreement.

18.0 NON-WAIVER

It is agreed and acknowledged that no action or failure to act by CLIENT or CONSULTANT as to a breach, act or omission of the other shall constitute a waiver of any right or duty afforded either of them under this Master Services Agreement, as to any subsequent breach, act or omission of the other nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereof, except as may be specifically agreed in writing. No right conferred on either party under this Master Services Agreement shall be deemed waived and no breach of this Master Services Agreement excused unless such a waiver or excuse shall be in writing and signed by the party claimed to have waived such right.

19.0 DURATION OF MASTER SERVICES AGREEMENT

If the basic Services covered in this Master Services Agreement have not been

completed in accordance with the Schedule set forth in Appendix "C" of this Master Services Agreement, through no fault of CONSULTANT, extension of CONSULTANT's services beyond that time shall be revised, through mutual Master Services Agreement, to include compensation for inflationary adjustments.

20.0 FORCE MAJEURE

Neither party to this Master Services Agreement shall be liable to the other party for delays in performing the Scope of Services, or for the direct or indirect cost resulting from such delays, that may result from labor strikes, riots, war, acts of governmental authorities, extraordinary weather conditions or other natural catastrophe, or any other cause beyond the reasonable control or contemplation of either party.

21.0 E-VERIFY

Pursuant to Ind. Code § 22-5-1.7-11, CONSULTANT, by entering into this Master Services Agreement with the CLIENT, is required to enroll in and verify the work eligibility status of all of its newly hired employees through the E-Verify program. CONSULTANT is not required to verify the work eligibility status of all of its newly hired employees through the E-Verify program if the E-Verify program no longer exists. CONSULTANT states that it does not knowingly employ an unauthorized alien and further affirms that, prior to entering into the agreement with the CLIENT, it will enroll in and agrees to verify the work eligibility status of all its newly hired employees through the E-Verify program.

22.0 NON-APPROPRIATION

The Parties acknowledge that the CLIENT is a governmental entity whose funds are subject to appropriation by its fiscal body. Therefore, if at any time during the initial term or subsequent term of this representation, the CLIENT's fiscal body should fail to appropriate sufficient funds to continue this representation, it will become null and void. The CLIENT shall not be obligated to perform unless and until sufficient funds are appropriated. The CLIENT agrees to seek funding for the continuation of the representation during each budget cycle during the initial term or subsequent term of this representation. The CLIENT agrees to inform CONSULTANT in writing of any such non-allocation of funds at the earliest possible date, and shall pay for all services provided prior to exhaustion of the appropriated funds.

23.0 Non-Discrimination

Consistent with Ind. Code §22-9-1-10, CONSULTANT agrees that it, and its subconsultants, will not discriminate against any employee or applicant for employment to be employed in the performance of this representation, with respect to the employee's hire, tenure, terms, conditions or privileges or employment, or any matter directly or indirectly related to employment, because of the employee's race, religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of Master Services Agreement.

24.0 GOVERNING LAW

Where permitted by law, this Master Services Agreement shall be interpreted and enforced according to the laws of the State of which the project resides, without resort to its conflict of laws rules.

25.0 RESERVED

26.0 INDEPENDENT CONTRACTOR STATUS

During the entire term of this Master Services Agreement, CONSULTANT shall be an independent contractor, and in no event shall any of its personnel, agents or subconsultants be construed to be, or represent themselves to be, employees of the CLIENT.

27.0 SEVERABILITY

The invalidity, illegality or unenforceability of any section, subsection, clause, or provision of this Master Services Agreement shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Master Services Agreement.

28.0 HEADINGS

Headings in this Master Services Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants, and conditions of this Master Services Agreement.



Mayor
Scott Willis

City Council
Jon Dartt
Victor McCarty
Joe Duepner
Patrick Tamm
Noah Herron
Chad Huff
Kurt Wanninger

Clerk Treasurer
Marla Ailor

TO: Westfield Board of Public Works & Safety

Date: 04/23/25

RE: Selection of Waypoint Strategies as Facilities Consultant

The City of Westfield Facilities and Events Department is requesting that the Board of Public Works and Safety grant Matthew Deck, Director of Facilities and Events, signing authority to select Waypoint Strategies as a Facilities Consultant. In that capacity they will perform a facility condition assessment of all city facilities, help develop a capital investment plan and facilities operational strategy. This amount shall not exceed \$105,000 with \$60,000 payable in 2025 and the balance due in 2026.

Scott Willis

Chuck Lehman

Nick Barbknecht

**Facilities & Events
Department**

(317) 804-3100 office
(317) 804-3190 fax

2706 East 171st Street
Westfield, IN 46074
westfield.in.gov



April 23, 2025

Consent Agenda Item:

Performance Bond Acceptance

The Westfield Public Works Department is recommending that the Board of Public Works and Safety accept the following Performance Bonds for the requested developments:

- Lennar Homes of Indiana, LLC, Towns at Chatham, Section 1, Bond #024283979, \$50,553.00, Erosion Control
- CCD Ackerson, Midland, Section 5, Bond #101454346, \$1,170,061.20, Streets/Curbs
- CCD Ackerson, Midland, Section 5, Bond #101454347, \$1,291,286.70, Storm
- CCD Ackerson, Midland, Section 5, Bond #101454348, \$75,816.35, Sidewalks
- CCD Ackerson, Midland, Section 5, Bond #101454349, \$31,631.60, Trail
- CCD Ackerson, Midland, Section 5, Bond #101454350, \$93,040.48, Erosion Control
- Epcon Cielo Ranch, LLC, Cielo Ranch, Section 1, Bond #2362709, \$138,289.80, ROW
- Joseph Development, LLC, Westfield Retail Meijer Shops, Bond #2357384, \$83,585.00, Storm Sewer, Sidewalk, Erosion Control, & ROW Improvements.
- iBeach Holding Partners, LLC, Westfield Collective, Bond #101454080, \$342,621.74, Streets/Curbs, Storm Sewer, Trail, Erosion Control

Performance Bond Release

The Westfield Public Works Department is recommending that the Board of Public Works and Safety consider the following Performance Bonds for release by the requested developer:

- CND Woods Robinson, LLC, Harvest Trail, Section 1, Bond #024264493, \$1,239,605.40, Storm Sewer
- Summit Construction Company, Inc., Grand Millennium Medical Office Building, Bond #107226993, \$30,997.23, Erosion Control
- Alt Construction, LLC, Grassy Branch Marketplace, Lot 3, Bond #INC61083, \$55,046.24, Storm Sewer
- Alt Construction, LLC, Grassy Branch Marketplace, Lot 3, Bond #INC61084, \$21,392.05, Erosion Control
- Alt Construction, LLC, Grassy Branch Marketplace, Lot 3, Bond #INC61085, \$183,370.00, Pavement

- Alt Construction, LLC, Grassy Branch Marketplace, Lot 3, Bond #INC61086, \$46,434.30, Concrete Sidewalk
- Alt Construction, LLC, Grassy Branch Marketplace, Lot 3, Bond #INC61087, \$4,494.60, Right-of-Way
- Raising Cane's Restaurants, LLC, Raising Cane's #1068, Bond & Rider #SU1195656, \$21,822.35, Erosion Control
- Lennar Homes of Indiana, LLC, Westgate, Section 1, Bond #CMS0342954, \$206,195.00, Concrete Curb
- Lennar Homes of Indiana, LLC, Westgate, Section 1, Bond #CMS0342956, \$102,387.00, Common Area Walks
- Lennar Homes of Indiana, LLC, Westgate, Section 1, Bond #CMS0342955, \$920,243.00, Storm
- Lennar Homes of Indiana, LLC, Westgate, Section 5, Bond #72BSBIV7903, \$596,051.00, Asphalt Streets
- Westfield Commercial Ventures, LLC, Legends Crossing, Phase 1, Bond & Rider #CBE1004562, \$26,573.00, Sidewalks
- Westfield Commercial Ventures, LLC, Legends Crossing, Phase 1, Bond & Rider #CBE1004563, \$136,275.00, Storm Sewer
- Westfield Commercial Ventures, LLC, Legends Crossing, Phase 1, Bond & Rider #CBE1004558, \$226,557.00, Street/Curbs
- Westfield Commercial Ventures, LLC, Legends Crossing, Phase 1, Bond & Rider #CBE1004561, \$76,233.00, Erosion Control

Maintenance Bond Acceptance

The Westfield Public Works Department is recommending that the Board of Public Works and Safety accept the following Maintenance Bonds for the requested developments:

- CCD Ackerson, Midland Pool Site, Bond #101454338, \$415.36, Sidewalks
- CCD Ackerson, Midland Pool Site, Bond #101454337, \$8,583.90, Storm
- CCD Ackerson, Midland Towns & Flats, Phase 1, Bond #101454340, \$6,709.12, Sidewalks
- CCD Ackerson, Midland Towns & Flats, Phase 1, Bond #101454341, \$2,769.63, Erosion Control
- CCD Ackerson, Midland Towns & Flats, Phase 1, Bond #101454339, \$30,190.10, Storm
- Valenti-Held Contractor/Developer, Inc., Harvest Trail, Section 1, Bond #30235630, \$123,960.54, Storm Sewer & SSD
- Alt Construction, LLC, Grassy Branch Marketplace, Lot 3, Bond #101257156, \$29,915.84, Streets/Curbs, Storm Sewer, Sidewalk, Trail & Erosion Control
- Lennar Homes of Indiana, LLC, Westgate, Section 1, Bond #CMS0342954M, \$18,750.00, Concrete Curbs
- Lennar Homes of Indiana, LLC, Westgate, Section 1, Bond #CMS0342956M, \$9,308.00, Common Walks
- Lennar Homes of Indiana, LLC, Westgate, Section 1, Bond #CMS0342955M, \$93,421.00, Storm
- Lennar Homes of Indiana, LLC, Westgate, Section 5, Bond #72BSBIV7903M, \$54,187.00, Asphalt Streets

- Midwest Design Group, LLC, Legends Crossing, Phase 1, Bond #30245671, \$46,563.80, Streets/Curbs, Storm Sewer, Sidewalks, Erosion Control & ROW

Maintenance Bond Release

The Westfield Public Works Department is recommending that the Board of Public Works and Safety release the following Maintenance Bonds for the requested developments:

- Westfield BF BTS Retail, LLC, Firestone, Bond #30147048, \$2,157.00, Storm Sewer
- Platinum Properties Management Company, Inc., Lancaster, Section 5, Bond #3740009, \$3,690.50, Erosion Control

Letter of Credit Release

The Westfield Public Works Department is recommending that the Board of Public Works and Safety release the following Letter of Credit for the requested developments:

- NONE

Cash in Lieu

The Westfield Public Works Department is recommending that the Board of Public Works and Safety accept the following Developer Agreement (Cash in Lieu) for the requested developments:

- NONE



**City of Westfield Fire Department
Board of Public Works & Safety Report
March 2025 Report**

Contact: Fire Chief

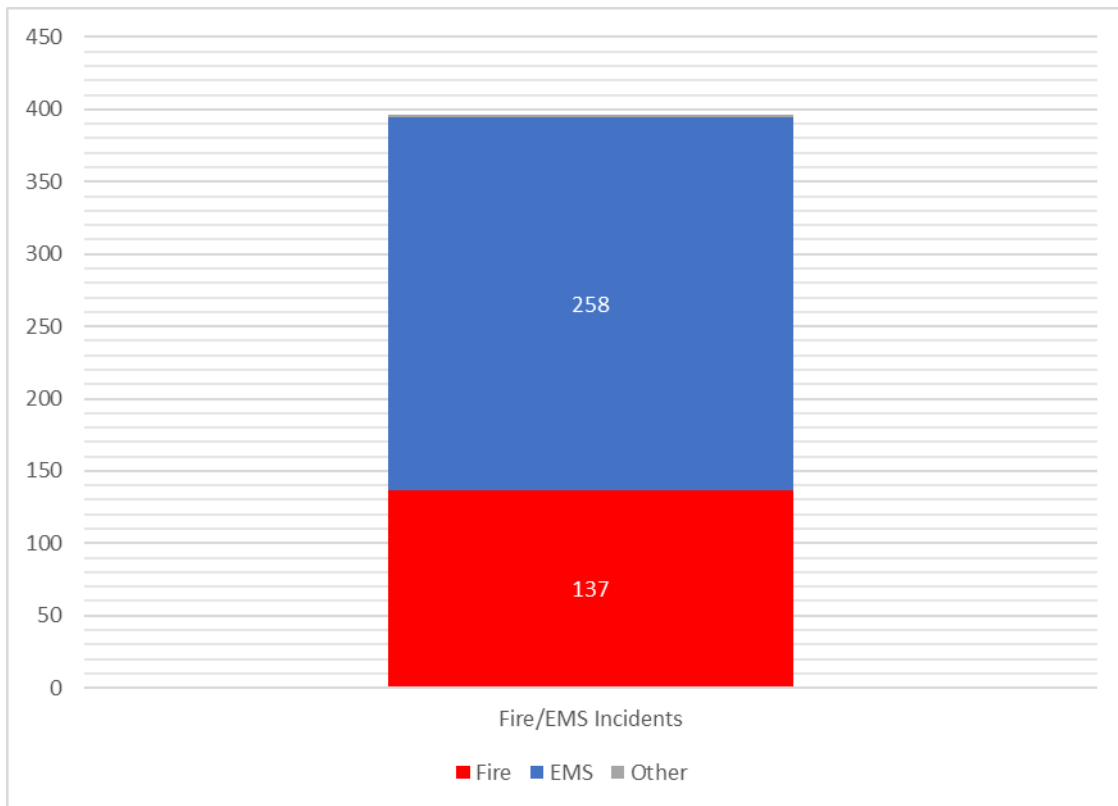
Rob Gaylor

Or Nikki Hartman

804-3304



Westfield Fire March 2025 Incident Statistics

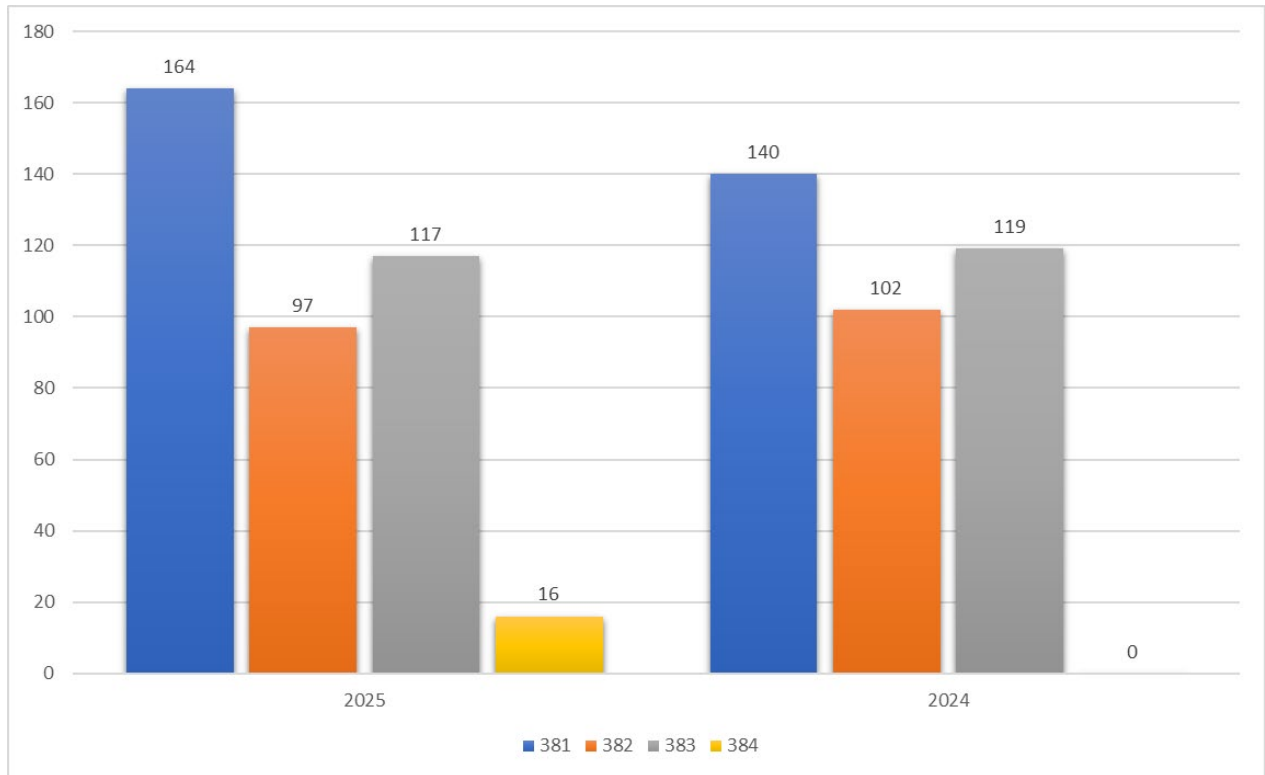


Fire/EMS Incidents		
Incident Type	Incident Counts	Percent of Total
EMS	258	65%
Fire	137	35%
Other	1	0%
Total:	396	

Average 13.20 response per day. Average turnout time 1:08. And a total of 956 apparatus response.



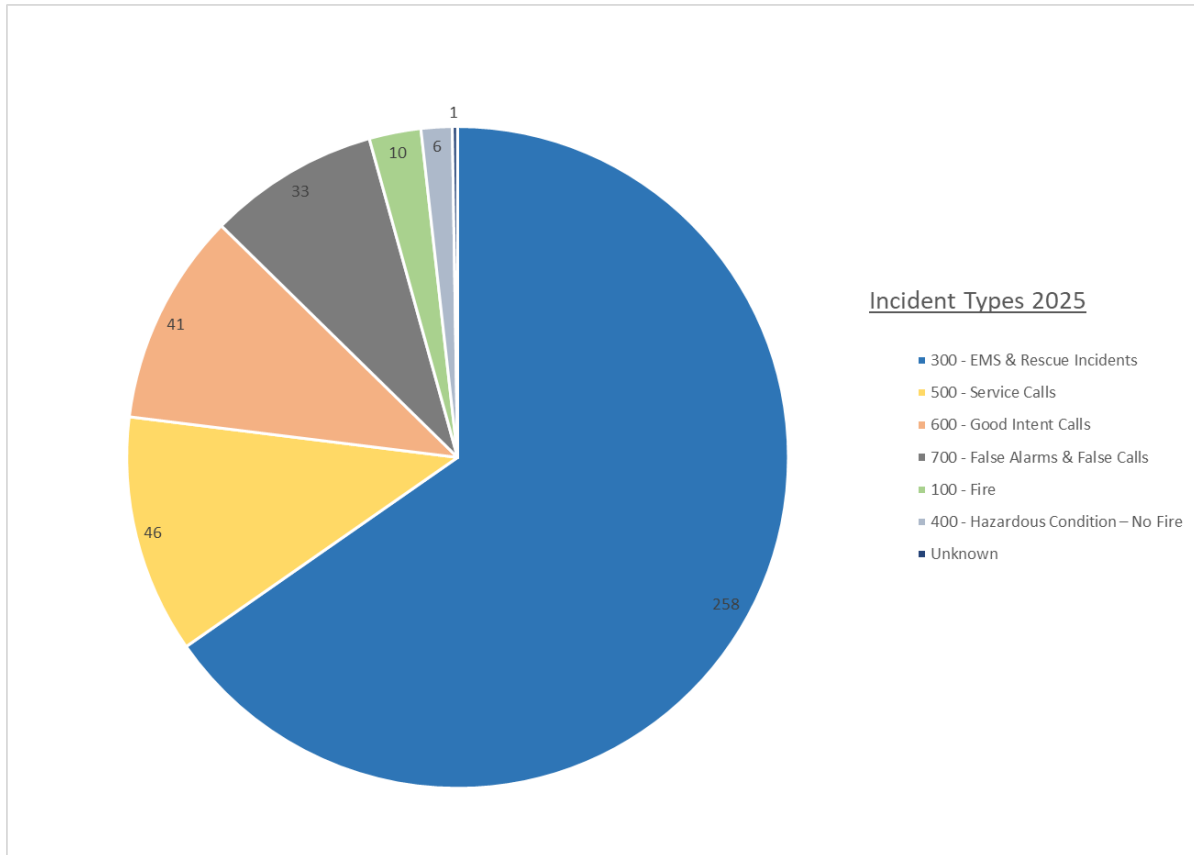
Westfield Fire March 2025 Incident Statistics



District Comparison - Month				
District	2025	2024	Difference	%
381	164	140	24	15%
382	97	102	-5	-5%
383	117	119	-2	-2%
384	16	0	16	100%
Unknown	1	2	-1	-100%
Total:	395	363	32	8.10%



Westfield Fire March 2025 Incident Statistics

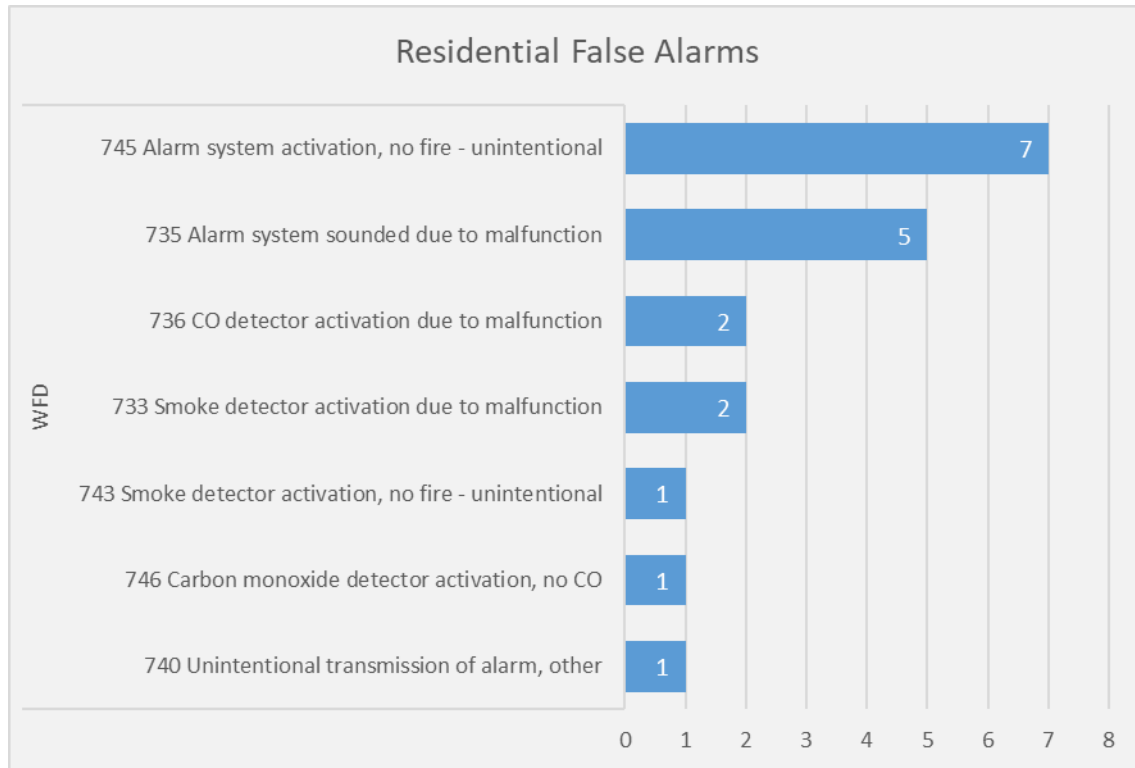


Incident Type	Count	Percent of calls
300 - EMS & Rescue Incidents	258	65%
500 - Service Calls	46	12%
600 - Good Intent Calls	41	10%
700 - False Alarms & False Calls	33	8%
100 - Fire	10	3%
400 - Hazardous Condition – No Fire	6	2%
Unknown	1	0%



Westfield Fire March 2025 Incident Statistics

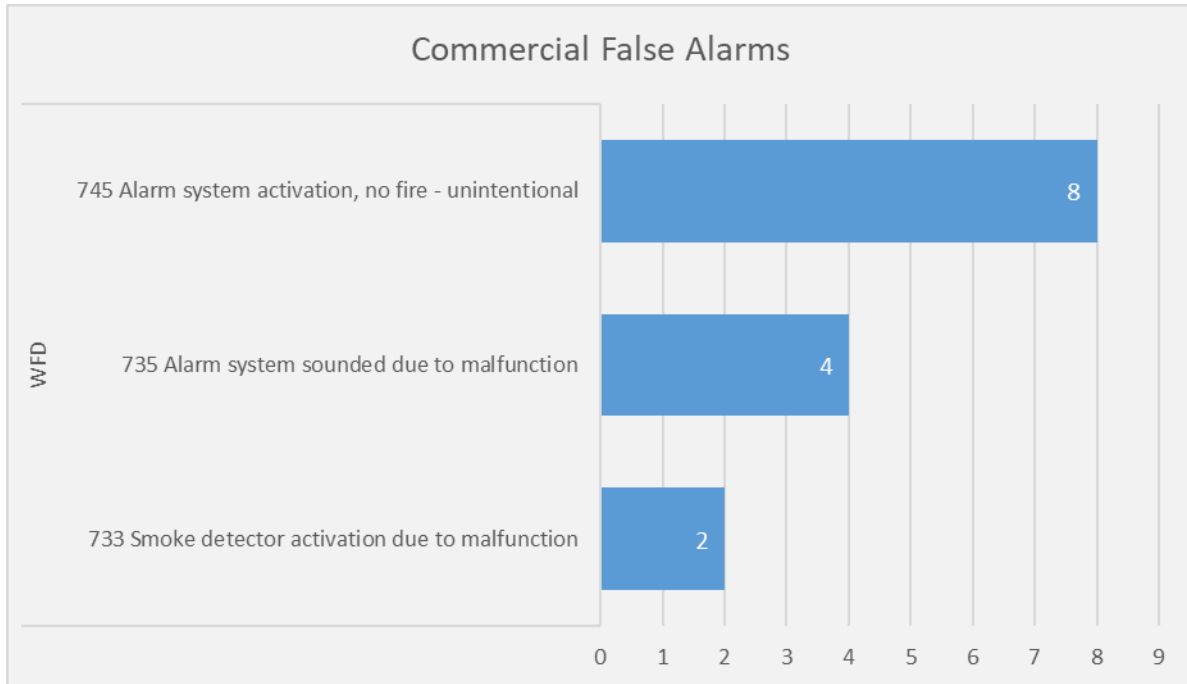
False Alarm Calls



19 Residential Alarms



Westfield Fire March 2025 Incident Statistics False Commercial Fire Alarm Calls

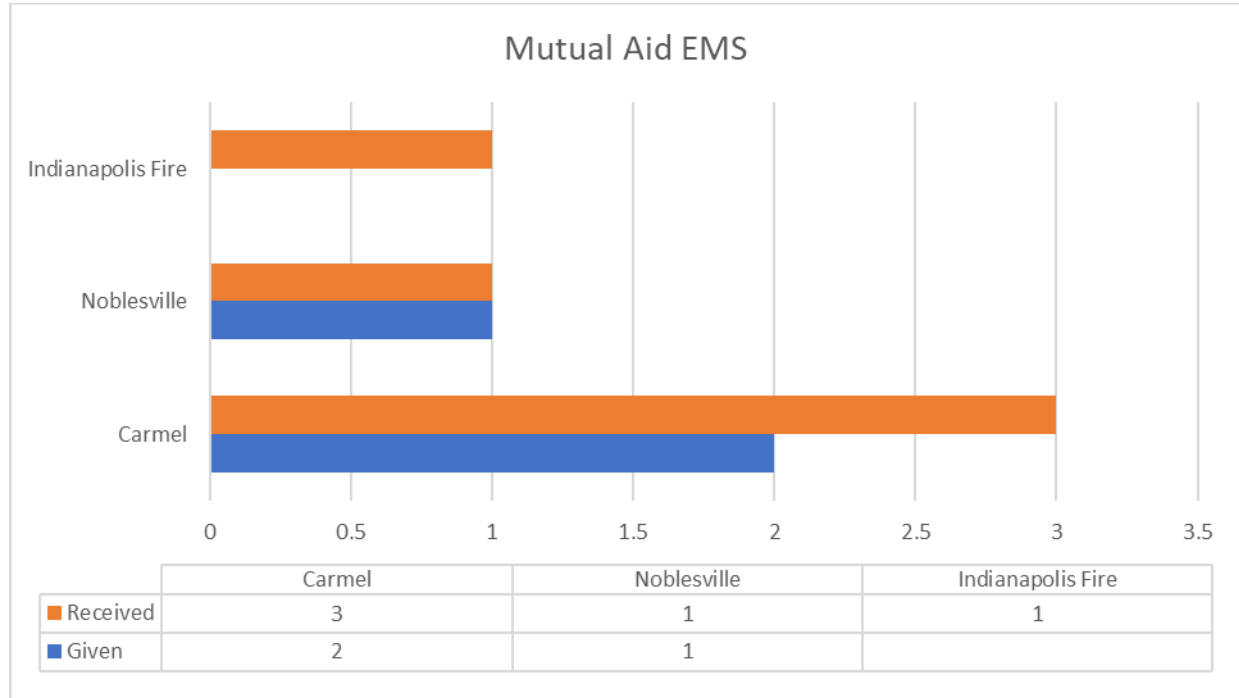


14 Commercial False Alarms

Mutual Aid data



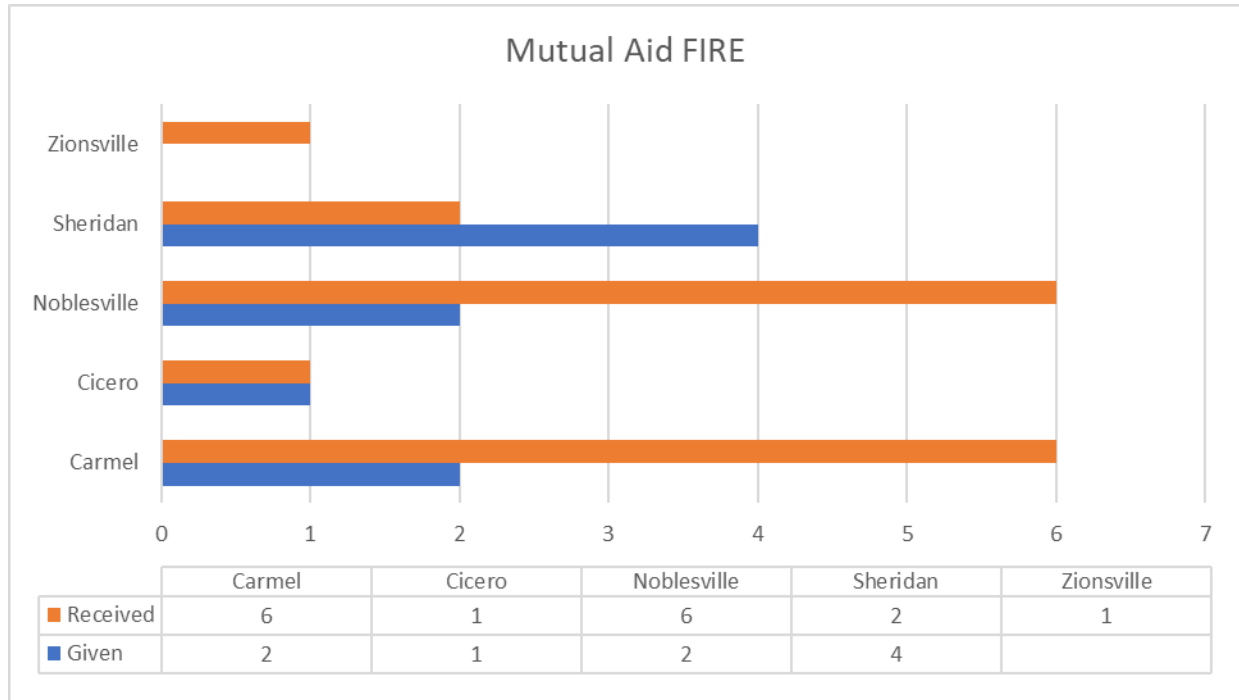
Westfield Fire March 2025 Incident Statistics EMS





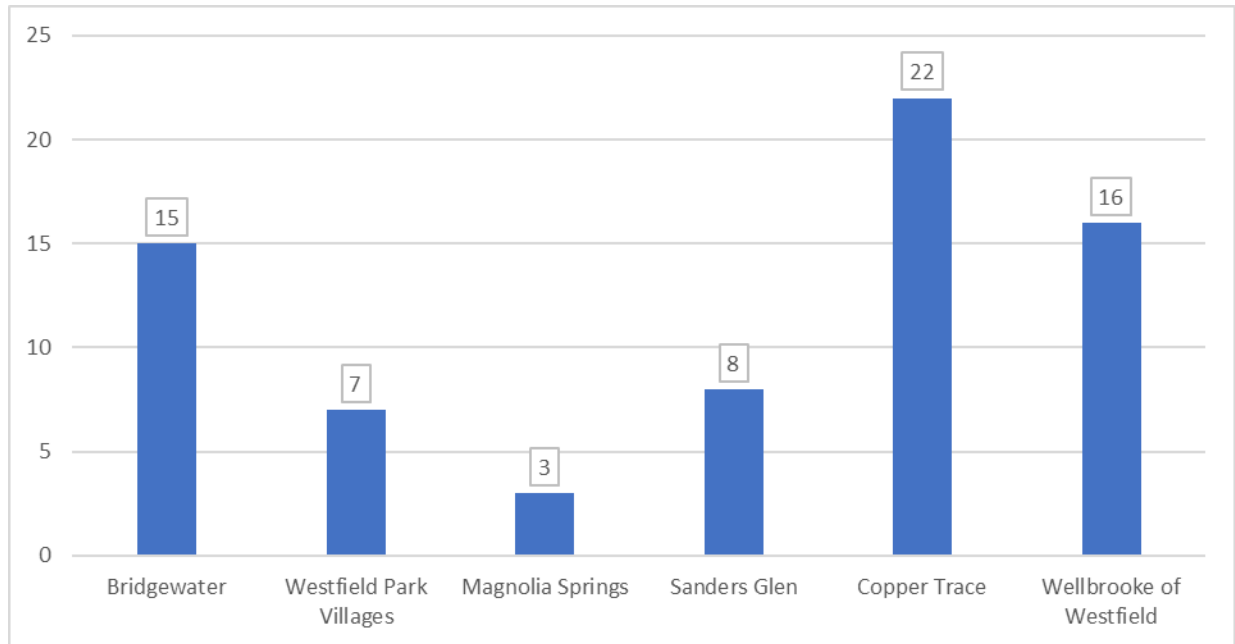
Westfield Fire March 2025 Incident Statistics

Mutual Aid Data Fire Incidents

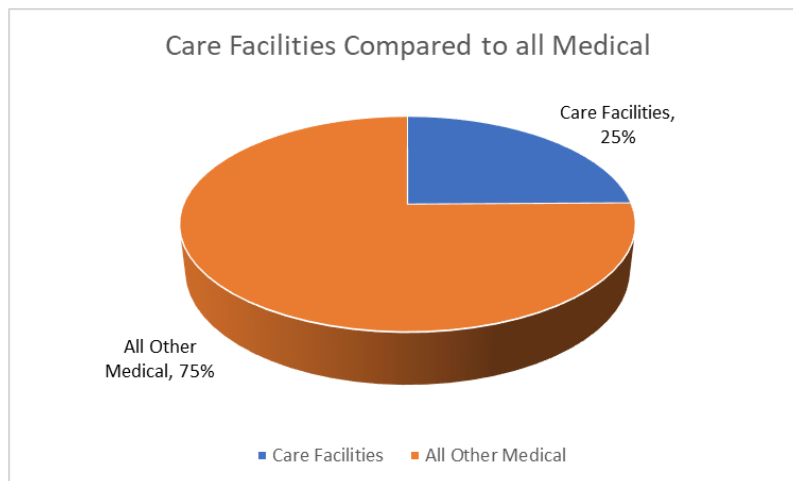




Westfield Fire March 2025 Incident Statistics



Care Facilities	Incident Totals
Bridgewater	15
Westfield Park Villages	7
Magnolia Springs	3
Sanders Glen	8
Copper Trace	22
Wellbrooke of Westfield	16
	71





Board of Public Works & Safety

March 2025

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WESTFIELD POLICE DEPARTMENT

March 2025

Events by Nature

Incident Type	Count
911 Hang Up	35
Abandoned Vehicle	8
Abandonment	0
Abuse / Neglect	3
Accident - Hit & Run PD	10
Accident - Hit & Run PI	0
Accident - Other	1
Accident - Property Damage	80
Accident - Personal Injury	11
Accident - Sinking Vehicle	0
Accident - Unknown	2
Accelerator Stuck	0
Active Assailant	0
Alarm - Other	2
Alarm - Vehicle	0
Alarm - Burglar	88
Alarm - Hold Up	13
Animal Bite / Attack	4
Animal Complaint	40
Assist Fire	49
Assist Other Department	19
Assist Public	46
Battery	7
Bike Patrol	0
Bomb Device Found	0
Bomb Threat	0
Burglary	3
Carjacking	0
Case Follow Up	135
Child Seat Inspection	9
Civil Dispute	31
Criminal Mischief	19
Damage to Property	0
Death Investigation	0
Directed Patrol	302
Disturbance	27
Domestic	0
Driving Complaint	208
Drug Complaint	14
Drug Lab	0
Escort	0
Fail to Return Comm Corrections	0
Fight	1
Firearms Shots Fired	2
Foot Patrols	199
Found / Lost Property	18
Found Person	0

WESTFIELD POLICE DEPARTMENT

March 2025

Events by Nature

Incident Type	Count
Fraud Prescription	0
Fraud / Deception	25
Harassment	23
Intoxicated Person	2
Investigation	38
Investigative Stop	2
Juvenile Complaint	9
K9 Detail	2
Kidnapping	0
Lock Out	38
Loud Party	4
Mental Emotional - Violent	8
Mental Emotial/Suicide Attempt	2
Mental Person	13
Miscellaneous	22
Missing Person	3
Missing Person - PLS	0
New Call	0
Nuisance	8
Ordinance Misc.	18
Parking Complaint	21
Physical Disturbance	16
Product Contamination	0
Reckless Activity	1
Road Rage	9
Robbery	0
Runaway	2
School Patrol	133
Security Check	487
Sex Offense	1
Shooting	1
Solicitor	1
Special Detail	1
Stabbing	0
Suicide	0
Suspicious Activity	99
Suspicious Package	0
Suspicious Person	0
Test	0
Theft	36
Theft - From a Vehicle	2
Theft - of a Vehicle	1
Theft Shoplifter	0
Threat to Life	16
Threatening Suicide	2
Tow Release	0

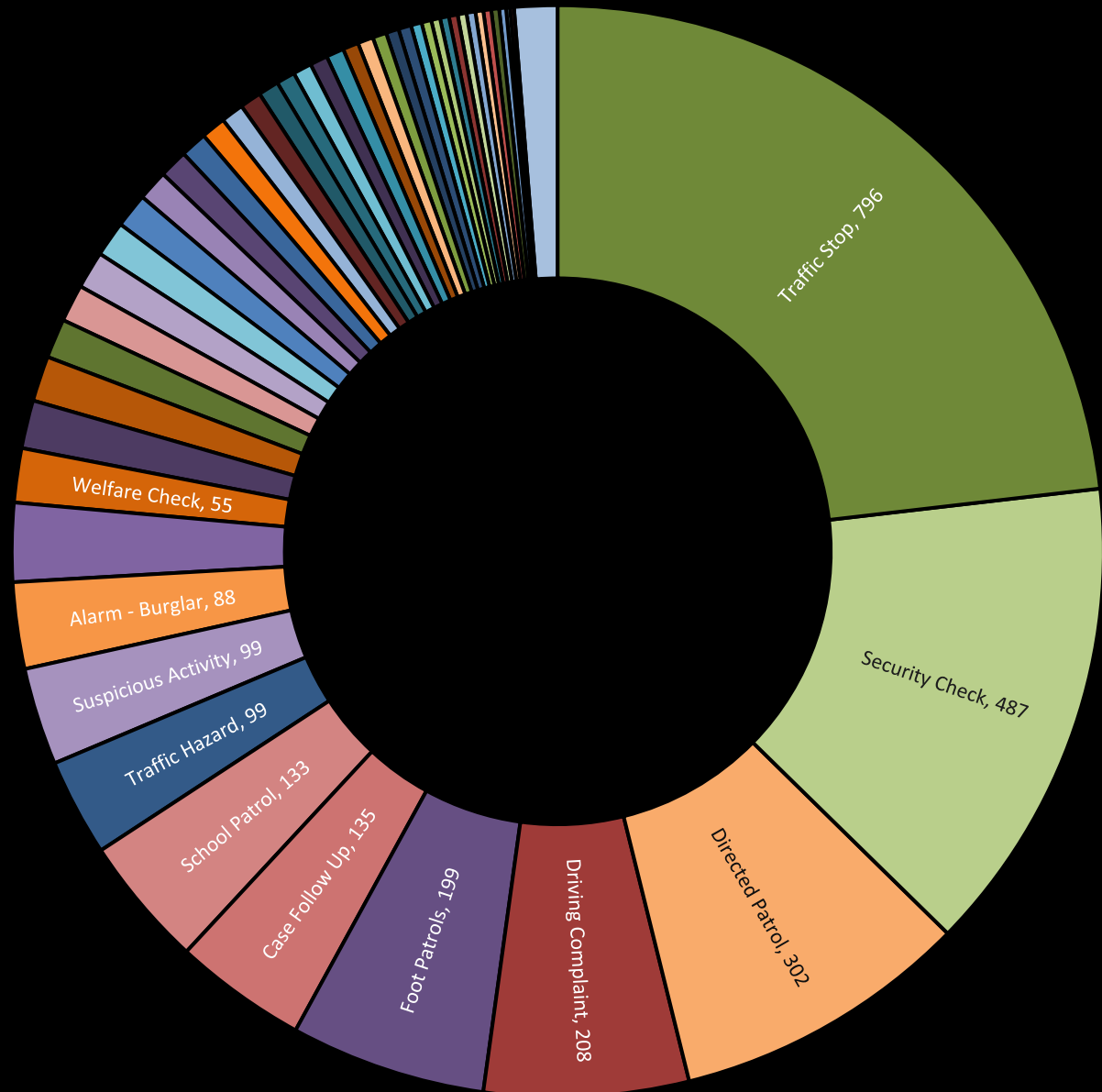
WESTFIELD POLICE DEPARTMENT

March 2025

Events by Nature

Incident Type	Count
Traffic Hazard	99
Transport	2
Trespassing	9
Traffic Stop	796
Unknown Call for Police	1
VIN Check	29
Wanted	3
Warrant Service	9
Weapons Complaint	1
Welfare Check	55
Total	3436

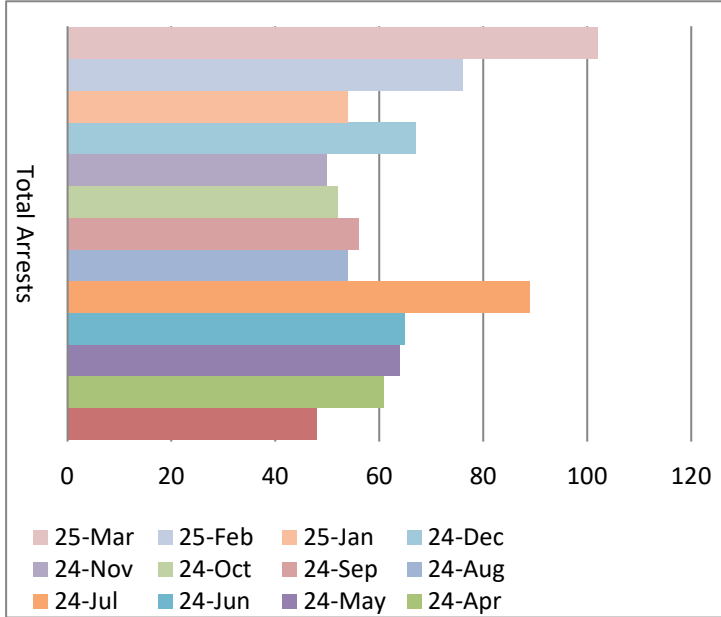
Monthly Events by Incident Type March 2025



WESTFIELD POLICE DEPARTMENT

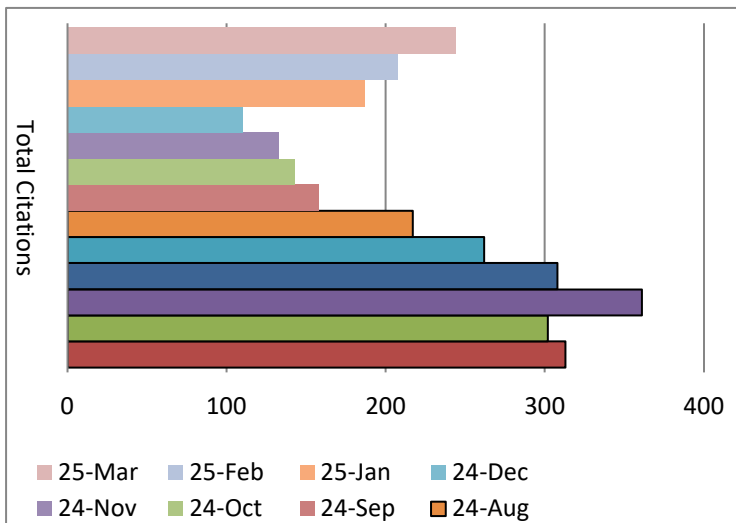
March 2025

Arrest Reports Taken	24-Mar	24-Apr	24-May	24-Jun	24-Jul	24-Aug	24-Sep	24-Oct	24-Nov	24-Dec	25-Jan	25-Feb	25-Mar
Alcohol/ Drug Related	12	16	23	20	21	16	15	13	13	21	8	17	17
Felony Charges	21	45	37	17	48	23	31	30	39	29	37	21	30
Misdemeanor Charges	62	87	58	70	110	66	54	64	60	70	70	89	96
Total Arrests	48	61	64	65	89	54	56	52	50	67	54	76	102



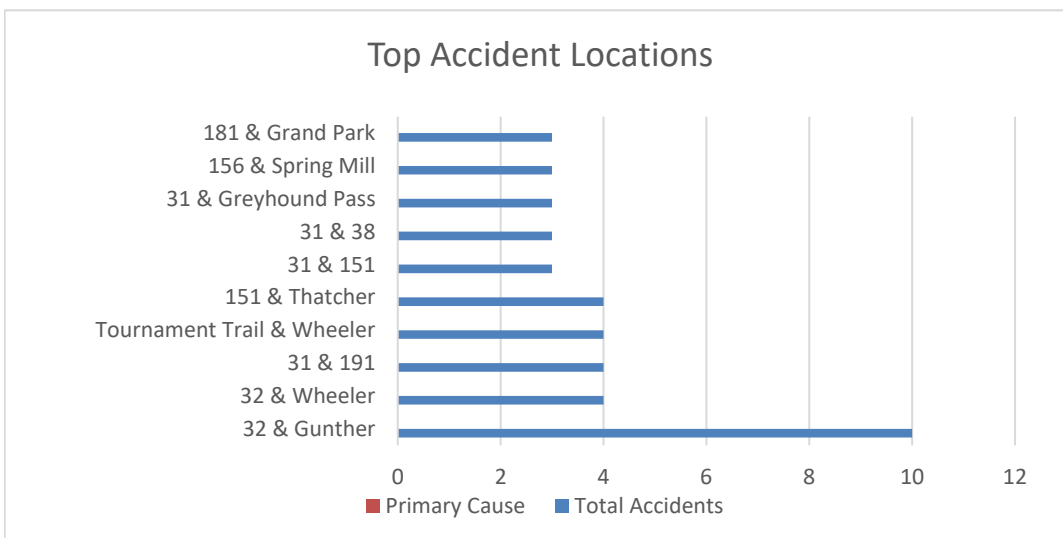
Traffic	24-Mar	24-Apr	24-May	24-Jun	24-Jul	24-Aug	24-Sep	24-Oct	24-Nov	24-Dec	25-Jan	25-Feb	25-Mar
Total Citations	313	302	361	308	262	217	158	143	133	110	187	208	244
Total Written Warning	811	566	532	561	637	532	494	472	588	305	509	617	636
Total Traffic Accidents	56	63	67	69	63	56	71	70	74	93	79	62	72
Property Damage	49	52	57	60	49	50	61	64	65	83	72	55	61
Personal Injury	7	11	10	9	14	7	10	6	9	10	7	7	11
Fatality	0	0	0	0	0	0	0	0	0	0	0	0	0
Hit and Run*	0	7	4	10	15	4	6	11	6	9	9	7	5

*numbers included in property damage, personal injury, and fatality accidents



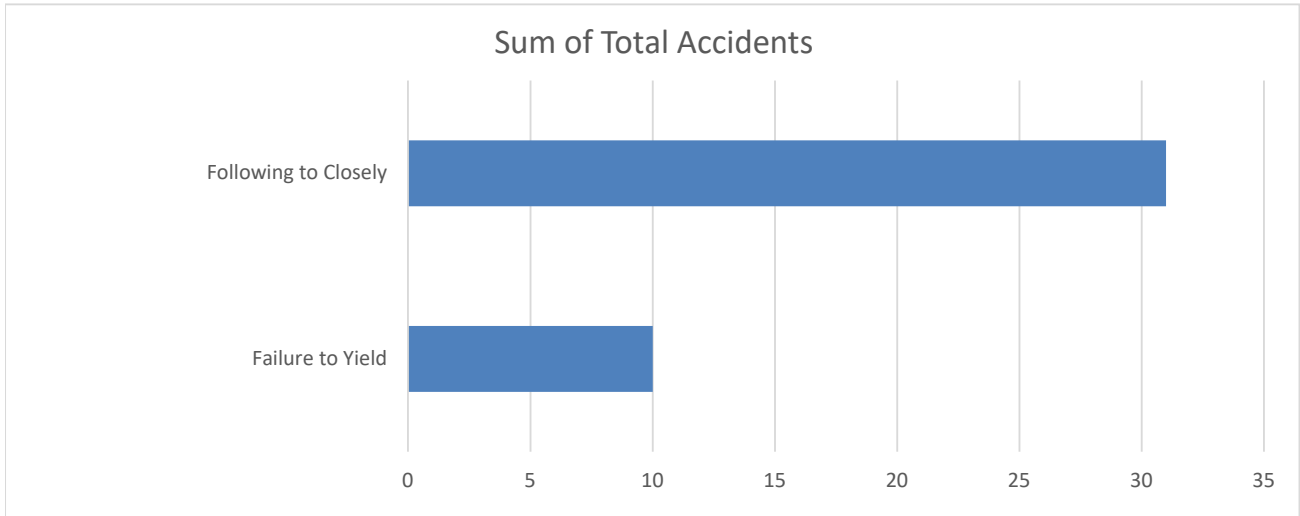
Top Accident Locations

Accident Location	Total Accidents	Primary Cause
32 & Gunther	10	Following too Closely
32 & Wheeler	4	Following too Closely
31 & 191	4	Following too Closely
Tournament Trail & Wheeler	4	Following too Closely
151 & Thatcher	4	Failure to Yield
31 & 151	3	Following too Closely
31 & 38	3	Following too Closely
31 & Greyhound Pass	3	Following too Closely
156 & Spring Mill	3	Failure to Yield
181 & Grand Park	3	Failure to Yield



**Total Accidents by Primary Cause,
based on Top Accident Locations**

Primary Cause	Sum of Total Accidents
Failure to Yield	10
Following to Closely	31



Community Events

3/1/25 Cookies with Heroes at Magnolia Springs

3/13/25 Kiddie Academy Visit

3/15/25 Shamrock Drop

3/20/25 Girl Scout Troop 267 Visit

3/26/25 Boy Scout Troop 126 Visit

3/27/25 Ride to School

