



CITY OF WESTFIELD, IN
Board of Public Works Meeting Agenda_07_26_2023

Wednesday, July 26, 2023 at 01:00 PM

BOARD OR COMMISSION: Board of Public Works and Safety

MEETING DATE: Wednesday, July 26, 2023 at 01:00 PM

MEETING PLACE: Westfield City Hall- Assembly Room

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

AGENDA ITEMS

Meeting Minutes Consideration for Approval

Action Item #1:

Minutes - June 28, 2023

Documents: [June 28, 2023 Minutes](#)

Action Item #2: Minutes - Executive Session - June 28, 2023

Documents: [Minutes - Executive Session - June 28, 2023](#)

Permit Approval

Action Item #3:

Encroachment Application – Duke Energy – 229 Roosevelt Street

Documents: [Duke Encroachment Application](#)

Contracts/Agreements

Action Item #4:

Community Bible Fellowship Church & City of Westfield – Dedication of Public Right of Way

Documents: [Dedication of Public ROW](#)

Action Item #5:

Baumgartner & Company & City of Westfield – Goods & Services Contract – 175th Street & Oak Ridge Road Intersection Improvements

Documents: [Baumgartner Goods & Services Contract](#)

Action Item #6:

Joint Use Maintenance Agreement for US 31 Totem & Signage

Documents: [Maintenance Agreement for US 31 Totem & Signage](#)

Action Item #7:

Building Moving Services - Signing Authority

Documents: [Signing Authority](#)

Consent Agenda

WPD – Approval to Hire Officer – Marek Hullinger

July Bond Information

Documents: [July Bond List](#)

Department Reports

Fire

Police

Documents: [WPD June Report](#)

Public Works

THE WESTFIELD BOARD OF PUBLIC WORKS AND SAFETY June 28, 2023

The Westfield Board of Public Works and Safety met on June 28, 2023, in the City Hall Assembly Rm. Mayor Cook, and Larry Clarino were present. Bev Rawlings and Chou-il Lee, legal counsel also attended.

Larry Clarino called the meeting to order at 1:00 PM

AGENDA ITEMS:

Action Item #1: Approval of Minutes from May 24, 2023

Mayor Cook made the motion to approve the minutes as presented. Larry Clarino seconded.
Vote: Yes-2; No-0. Motion carries.

PERMIT APPROVAL

Action Item #2: Encroachment Permit Application-Duke Energy -18968 Spring Mill Road

Adam Essex presented stating this would add 4 new poles and allow the boring of a new line to increase capacity to support the new Lancaster Subdivision sections.

Larry Clarino made the motion to approve the permit. Mayor Cook seconded.
Vote: Yes-2; No-0. Motion carries.

CONTRACTS/AGREEMENTS

Action Item #3: Joint Use Maintenance Agreement for US 31 Totem & Signage

Item tabled

Mayor Cook made the motion to table Action Item #3 until the July meeting.
Larry Clarino seconded. Vote: Yes-2; No-0. Motion carries.

Action Item #4: United Consulting INDOT Audit Settlement Agreement

Johnathon Nail presented stating INDOT, on MPO projects where reimbursement is involved, will periodically audit the payroll/reimbursement vouchers for a project. This particular audit was done on the Monon over State Rd 32 bridge project. United Consulting provided construction inspection services for this project for which we were reimbursed at an 80/20 split. During INDOT's audit, they found that United had promoted an employee during the project, and given the employee a pay raise. United failed to update their payroll information per their contract, and that employee was being billed at a higher rate due to the promotion. As a result of the audit findings, INDOT is saying that United overcharged the City by \$40,769.00 therefore \$24,533 of the reimbursement we received from INDOT is owed back to them. United has agreed to pay the \$24,533 to INDOT. Chris Pope with United Consulting clarified the issue, stating that the certified payroll that INDOT used (provided by companies one time a year) was not the correct payroll at the time of this job. The employee in question actually had received a promotion prior to the start of this job.

Mayor Cook made a motion to approve the audit settlement agreement. Larry Clarino seconded. Vote: Yes-2; No-0. Motion carries.

Action Item # 5: Daystar Directional Drilling & City of Westfield-2023 Centennial Permanent Sump Line

Wes Rood presented stating that the street trees in the Centennial subdivision are compromising all of the underdrains where the homeowners' sump lines tie into. Street flooding has been an ongoing issue over the past 12 years. The work that is being proposed in 2023 totals \$148,798.

Larry Clarino made the motion to approve the proposal. Mayor Cook seconded. Vote: Yes-2; No-0. Motion carries.

Action Item # 6: Outdoor Edge Excursions, LLC & City of Westfield Fire Department-Lease Agreement

Rob Gaylor stated that Outdoor Edge Excursions would like to lease space at the Training Center on River Road. The agreement states that Outdoor Edge Excursions would lease the space for a two-year period and pay \$700./month with an annual escalation of 2% each year on the anniversary of the first payment.

Mayor Cook made the motion to accept the agreement. Larry Clarino seconded. Vote: Yes-2; No-0.

Action Item #7: GKA Services, LLC, & City of Westfield-Owner's Representative Agreement

Jeremy Lollar stated that GKA is a local company that provides owners' rep services. The city would like to enter into an agreement with them to help with the Station 84 project. They will help coordinate/facilitate schematic design, design development, and the appropriate construction methodology and bid on those services.

Larry Clarino made the motion to approve the agreement with amendments including the four stipulations made by legal counsel. Mayor Cook seconded. Vote: Yes-2; No-0. Motion carries.

Action Item #8: iBeach 31 and the City of Westfield-Dedication of Public Right of Way

Michael Pierce stated that iBeach plans to build an outdoor & indoor volleyball court, parking lot and various other improvements at the NE corner of Grand Park Blvd. and 181st street. The thoroughfare plan requires when a development comes in, the developer must dedicate right-of-way consistent with the street classification. This documentation is the dedication of their 50 feet of right-of-way along their property.

Mayor Cook made a motion to accept the right-of-way dedication. Larry Clarino seconded. Vote: Yes-2; No-0. Motion carries.

Action Item #9: WSP USA & City of Westfield-Right-of-Way Acquisition Services for Little Eagle Creek Avenue Reconstruction

Johnathon Nail presented stating WSP is currently working on the design for Little Creek Ave. reconstruction (146St. up to Shelbourne Rd./phase 1). We received INDOT funding for this project and we hired WSP for survey work, road design, and a minimum of 25 parcels involving right-of-way engineering. Once the project got under way, it was agreed upon that we would come back with a supplemental for the actual number of right-of-way acquisition services once some preliminary design work was done. There are 40 parcels that require acquisition to complete the widening and bike lane construction. The additional scope of the acquisitions added \$442,850 to the contract.

Mayor Cook made the motion to approve the contract. Larry Clarino seconded.
Vote: Yes-2; No-0. Motion carries.

Action Item #10: Beazer Homes-Harbor at Grand Park-Dedication of Public Right-of-Way

Michael Pierce stated this public right-of-way is for the construction of a passing blister along Kinsey Avenue for the Harbors at Grand Park Village residential development.

Larry Clarino made a motion to approve the public right-of-way. Mayor Cook seconded.
Vote: Yes-2; No-0. Motion carries.

Action Item #11: 2023 Asphalt Rejuvenation-Signing Authority

Michael Pierce stated that bid requests were sent to three separate contractors for the 2023 (annual) asphalt rejuvenating project. Quotes are expected back within the next two weeks but this would grant Johnathon Nail the signing authority for a contract as soon as the quotes come in, with a not to exceed of \$150,000.

Mayor Cook made the motion to approve the signing authority. Larry Clarion seconded.
Vote: Yes-2; No-0. Motion carries.

CONSENT AGENDA:

June Bond Information

Larry Clarino made the motion to approve the consent agenda. Mayor Cook seconded.
Vote: Yes-2; No-0. Motion carries.

DEPARTMENT REPORTS:

Fire- Rob Gaylor

Police- Chief Rush

Public Works- Johnathon Nail

Mayor Cook made the motion to adjourn. Larry Clarino seconded.
The meeting was adjourned at 2:05 PM

Deputy Clerk-Treasurer

Board of Public Works and Safety

DEDICATION OF PUBLIC RIGHT OF WAY

THIS INDENTURE WITNESSETH: That Community Bible Fellowship Church, Inc. an Indiana Domestic Nonprofit Corporation ("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 5th day of July, 2023.

By: Michael A. Rasor Title: President
Printed: Michael A Rasor

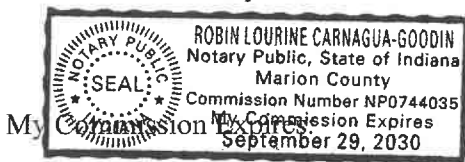
STATE OF INDIANA)

) SS: [REDACTED]

COUNTY OF HAMILTON)

Before me, a Notary Public in and for said County and State, personally appeared Michael A. Rasor, who acknowledged his authority and the execution of the foregoing Dedication of Public Right-of-Way.

WITNESS my hand and Notarial Seal this 5th day of July, 2023



September 29, 2030

Robin Lourine Carnagua-Goodin
NOTARY PUBLIC, A resident of Marion
County, Indiana
Printed: Robin Lourine Carnagua-Goodin

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

<u>Voting For</u>	<u>Voting Against</u>	<u>Abstain</u>
J. Andrew Cook	J. Andrew Cook	J. Andrew Cook
Larry Clarino	Larry Clarino	Larry Clarino
Jim Ake	Jim Ake	Jim Ake

ATTEST:

Patricia Leuteritz, Public Works Administrator

This document prepared by
Brian J. Zaiger, Esq.
KRIEG DEVAULT, LLP
(317) 238-6266



BEGINNING AT A HARRISON MONUMENT MARKING THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 11; THENCE ON AND ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER NORTH 89 DEGREES 12 MINUTES 59 SECONDS EAST (BEARINGS ARE TAKEN FROM THE ABOVE REFERENCED PLAT OF SURVEY) 414.17 FEET TO THE NORTHWEST CORNER OF THE LAND OF HERRON HOLDINGS, LLC AS DESCRIBED IN INSTRUMENT NUMBER 2016044765, ON FILE IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA; THENCE ON AND ALONG THE WEST LINE THEREOF SOUTH 00 DEGREES 01 MINUTES 59 SECONDS WEST 60.01 FEET; THENCE PARALLEL WITH THE NORTH LINE OF SAID SOUTHEAST QUARTER SOUTH 89 DEGREES 12 MINUTES 59 SECONDS WEST 414.28 FEET TO A POINT ON THE WEST LINE OF SAID SOUTHEAST QUARTER ON AND ALONG SAID WEST LINE NORTH 00 DEGREES 08 MINUTES 33 SECONDS EAST 60.01 FEET TO THE **POINT OF BEGINNING**, CONTAINING 0.57 ACRES, MORE OR LESS.

DATE: JUNE 28, 20231

MRC

DULY ENTERED FOR TAXATION
Subject to final acceptance of transfer
14th day of January 2022 - ALC
Garin M. Miller Auditor of Hamilton County
Parcel # 08-09-11-00-00-013.003

2022002433 WD \$25.00 JMZ
01/14/2022 11:24:40AM 3 PGS
Jennifer Hayden
Hamilton County Recorder IN
Recorded as Presented



CORPORATE WARRANTY DEED

(Parcel No. 08-09-11-00-00-013.003 / 29-09-11-000-013.003-015)

THIS INDENTURE WITNESSETH, That Heritage Baptist Church of Indianapolis Inc, an Indiana nonprofit corporation ("Grantor"), CONVEYS AND WARRANTS to Community Bible Fellowship Church, Inc., an Indiana nonprofit corporation ("Grantee"), for the sum of Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following described real estate located in Hamilton County, State of Indiana:

See the attached Exhibit A.

The address of such real estate is commonly known as 231 East 161st Street, Westfield, Indiana 46074.

Subject to any and all easements, agreements, restrictions and other matters of record; subject to the lien for real property taxes not delinquent; and subject to rights of way for roads and such matters as would be disclosed by an accurate survey and inspection of the real estate.

The undersigned person executing this deed on behalf of Grantor represents and certifies that he/she is a duly elected officer of Grantor and has been fully empowered, by proper resolution of the Board of Directors of Grantor, to execute and deliver this deed, that Grantor has full capacity to convey the real estate, and that all necessary action for the making of such conveyance has been taken and done.

[remainder of page intentionally left blank – signature page follows]

IN WITNESS WHEREOF, Grantor has executed this deed this 28th day of Sept., 2021.

GRANTOR: Heritage Baptist Church of Indianapolis Inc

By:

Keith D. Noderer
Keith D. Noderer, Trustee

By:

Bill Soots
Bill Soots, Trustee

STATE OF INDIANA)

COUNTY OF HAMILTON) SS: ACKNOWLEDGMENT

Before me, a Notary Public in and for said County and State, personally appeared Keith D. Noderer and Bill Soots, Trustees of Heritage Baptist Church of Indianapolis Inc, who acknowledged the execution of the foregoing Corporate Warranty Deed for and on behalf of said Grantor, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 28th day of SEPTEMBER, 2021.



[seal]

Francis Ampil
Notary Public

FRANCIS AMPIL MARION
Printed County of Residence

664686 03-01-2023
Commission No. My Commission Expires

This instrument was prepared by Robert A. Hicks, Attorney at Law, HALL, RENDER, KILLIAN, HEATH & LYMAN, P.C., 500 North Meridian Street, Suite 400, Indianapolis, Indiana 46204.

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. Robert A. Hicks

Grantee's mailing address is: 231 East 161st Street, Westfield, Indiana 46074

Tax mailing address is: 231 East 161st Street, Westfield, Indiana 46074

After recording, return to: 231 East 161st Street, Westfield, Indiana 46074
FA933202

Exhibit A

A part of the Southeast Quarter of Section 11, Township 18 North, Range 3 East, located in Washington Township, Hamilton County, Indiana, being described as follows:

Beginning at the P.K. nail at the Northwest corner of the Southeast Quarter of Section 11, Township 18 North, Range 3 East; thence North 89 degrees 10 minutes 59 seconds East (assumed bearing) 664.17 feet on and along the North line of said Southeast Quarter to a mag nail; thence South 00 degrees 06 minutes 35 seconds West 1312.58 feet parallel with the East line of said Southeast Quarter to a 5/8 inch iron rod with yellow cap stamped Miller Surveying on the South line of the Northwest Quarter of said Southeast Quarter; thence South 89 degrees 18 minutes 13 seconds West 664.15 feet to a 5/8 inch iron rod with yellow cap stamped Miller Surveying at the Southwest corner of the Northwest quarter of said Southeast quarter; thence North 00 degrees 06 minutes 35 seconds East 1311.18 feet to the point of beginning. Containing 20.00 acres, more or less.

EXCEPTING THEREFROM:

That part of the above described property conveyed to StewCo Custom Homes Builder, Inc., by Corporate Warranty Deed recorded January 2, 2004, as Instrument Number 200400000160, in the Office of the Recorder of Hamilton County, Indiana, described as follows:

A part of the Southeast Quarter of Section 11, Township 18 North, Range 3 East, located in Washington Township, Hamilton County, Indiana being described as follows:

Commencing at a P.K. nail at the Northwest corner of said Southeast Quarter of Section 11, Township 18 North, Range 3 East; thence North 89 degrees 10 minutes 59 seconds East (assumed bearing) along the North line of said Southeast quarter 414.17 feet to a mag nail, said point also being the point of beginning; thence continue thence North 89 degrees 10 minutes 59 seconds East along the North line of said Southeast Quarter 250.00 feet to a mag nail; thence South 00 degrees 06 minutes 35 seconds West parallel to the East line of said Southeast Quarter 871.20 feet to a 5/8 inch iron pin with an orange cap stamped "Polaris 9600005"; thence South 89 degrees 10 minutes 59 seconds West parallel to the North line of said Southeast Quarter 250.00 feet to a 5/8 inch iron pin with an orange cap stamped "Polaris 9600005"; thence North 00 degrees 06 minutes 35 seconds East parallel to the East line of said Southeast quarter 871.20 feet to the point of beginning and containing 5.00 acres more or less.

CONTRACT FOR GOODS AND SERVICES

This Contract for Goods and Services (“Vendor Contract”) is made and entered into as of the 17th day of July, 2023, by and between City of Westfield (“Contracting Party”) and Baumgartner & Company, LLC (“Vendor”).

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of Contracting Party and Vendor, intending to be legally bound, hereby agree as follows:

- A. **Basic Terms.** This Vendor Contract is on the following basic terms and conditions:
- (a) Goods and/or services provided by Vendor: (See Exhibit B attached hereto and made a part hereof).
 - (b) Location: East 175th Street and Oak Ridge Road in Westfield, Indiana 46074 (the “City Property”)
 - (c) Date by which the Services shall be completed: To start July 31st, 2023 and complete by October 20th, 2023 (the “Completion Date”).
 - (d) Purchase Price: One Hundred Forty-Nine Thousand Four Hundred Fifty Dollars and 00/100, \$149,450.00 (see Proposal dated 04.12.23 - Exhibit B).
 - (e) Liquidated damages shall be assessed at \$500.00 per day for each day work is not complete after the specified completion dates.
 - (f) The Contracting Party provides two payment options to vendors for payment of approved invoiced amounts. They are as follows:
 - a. Option #1: Traditional – Invoices shall be payable within forty-five (45) days following Contracting Party’s receipt and approval of an invoice at the address specified below.
 - b. Option #2: Preferred – Invoices are payable within 7 days following Contracting Party’s receipt and approval of an invoice at the address specified below if vendor accepts MasterCard.
 - (g) The Contract Documents include:
 - a. This Goods and Services agreement
 - b. “Contract and Specifications for 175th Street & Oak Ridge Intersection Improvements” dated March 30, 2023 inclusive of all sections and appendixes.

Should there be any conflict within the Contract Documents, the most stringent shall govern.

(h) Addresses:

If to Contracting Party (other than Invoices): Invoice Address:

City of Westfield
Department of Public Works
Attn: Chad Mills
2706 East 171st Street
Westfield, Indiana 46074

cdmills@westfield.in.gov w/ CC to
ap@westfield.in.gov or
City of Westfield
Attn: Accounts Payable
2728 East 171st Street
Westfield, Indiana 46074

If to Vendor:

Baumgartner & Company, LLC
12461 Reynolds Dr.
Fishers, IN 46038

B. **Contract Terms and Conditions.** This Vendor Contract is subject to the contract Terms and Conditions set forth in paragraphs 1-26 attached hereto and made a part hereof, the Project Changes, Attachment 1, and Exhibits attached hereto and made a part hereof. Parties stipulate that this agreement supersedes any and all other contracts, agreements or understandings between the Parties related to the subject matter herein is to be read strictly as the scope set forth in this agreement. The terms and conditions of prior contract(s), including but not limited to, annual support and maintenance as well as confidentiality, are not superseded by this agreement.

C. **Amendment.** No alteration, addition, deletion or modification of the Vendor Contract shall be valid or binding unless made in accordance with the contract terms and conditions set forth in this Vendor Contract.

D. **Project Changes to the Vendor Contract documents.** Project-specific changes to this Vendor Contract are set forth in Attachment 1 to this contract. The project-specific changes modify, add to and delete from the language of this Vendor Contract. Where any language of this Vendor Contract conflicts or is inconsistent with the project-specific changes, the project-specific changes shall control and govern. Where any project-specific language of this Vendor Contract conflicts or is inconsistent with other project-specific changes, the project-specific language that is most favorable to the Contracting Party shall control and govern.

CONTRACT TERMS AND CONDITIONS

1. **ACKNOWLEDGMENT, ACCEPTANCE:** Vendor has read and understands this Vendor Contract, and agrees that Vendor's written acceptance or commencement of any work or service under this agreement shall constitute Vendor's acceptance of these terms and conditions.

2. **PERFORMANCE:** Vendor hereby agrees to provide all goods and services necessary to perform the requirements of this Vendor Contract and to execute its responsibilities hereunder by following and applying at all times the highest professional and technical guidelines and standards. Contracting Party reserves the right at any time to direct changes, or cause Vendor to make changes in the goods and services or to otherwise change the scope of the work covered by this Contract with a signed Change Order executed by both parties, and Vendor agrees to make such changes promptly. Any difference in price or time for performance resulting from such changes

shall be equitably adjusted by Contracting Party after receipt of documentation in such form and detail as Contracting Party may reasonably require.

3. **TIME AND PERFORMANCE:** The work and services under this Contract shall be completed no later than the Completion Date. The Vendor shall submit for Contracting Party's approval a detailed schedule for the performance of the work and services which shall include allowances for periods of time required for Contracting Party's review and approval of submissions by Vendor. Time limits established by this detailed schedule shall be consistent with the Completion Date. Time is of the essence of this Vendor Contract. If the Vendor fails to comply with Section A; Basic Terms, Paragraph c, [Completion Date], the Vendor shall be subject to any and all consequential damages unless the delays are beyond the reasonable control of the Vendor.

4. **PRICE TERMS:** All of the prices, terms and warranties granted by Vendor herein are at least as favorable to Contracting Party as those offered by Vendor to other customers purchasing similar professional services under the same material term and conditions. Vendor agrees that it will pass on to Contracting Party any discounts and/or savings for prompt payment or rebates for quantity purchasing it receives.

5. **DISCLOSURE, WARNINGS AND INSTRUCTIONS:** If requested by Contracting Party, Vendor shall furnish promptly to Contracting Party, in such form and detail as Contracting Party may direct, a list of all ingredients or components to any goods specified hereunder, including the quality or concentration thereof and any other information relating thereto. Prior to and with the delivery of any recommended goods to be purchased hereunder, Vendor agrees to furnish to Contracting Party sufficient warning and notice in writing (including appropriate labels on goods, containers and packing) of any hazardous material which is an ingredient or a party of any of the goods, together with such special handling instructions as may be necessary to advise the City of how to exercise that measure of care and precaution which will best prevent bodily injury or property damage in respect of such goods. Vendor and any subcontracted party associated with Vendor for goods and services provided by this agreement shall maintain at the job site all Material Safety Data Sheets (MSDS) for all products used on the job site. Such MSDS sheets shall be available for inspection upon request.

6. **FORCE MAJEURE:** Any delay or failure of either party to perform its obligations hereunder shall be excused if, and to the extent that it is caused by an event or occurrence beyond the reasonable control of the party and without its fault or negligence, such as, by way of example and not by way of limitation, acts of God, actions by any governmental authority (whether valid or invalid), fires, floods, windstorms, explosions, riots, natural disasters, wars, sabotage, labor problems (including lockouts, strikes and slowdowns), inability to obtain power, or court injunction; provided that written notice of such delay (including the anticipated duration of the delay) shall be given by the affected party to the other party within ten (10) days after discovery of the cause of such delay. During the period of such delay or failure to perform by Vendor, Contracting Party, at its option, may purchase goods or services from other sources and reduce its schedules to Vendor by such quantities, without liability to Vendor, or have Vendor provide the goods from other sources in quantities and at times requested by Contracting Party at the price set forth in this Contract.

7. **LIENS:** Vendor shall not cause or permit the filing of any lien related to its services. In the event any such lien is filed and Vendor fails to remove such lien of record within thirty (30) days after the filing thereof, by payment or bonding, Contracting Party shall have the right to pay such lien or obtain such bond, all at Vendor's sole cost and expense. Vendor shall indemnify and

hold harmless Contracting Party from and against any and all liability, loss, judgments, costs and expenses, including reasonable attorneys' fees, incurred by Contracting Party in connection with any such lien.

8. **DEFAULT:** In the event Vendor commits any of the following (each, a "Default"): (a) repudiates or breaches any of the terms of this Contract, including, without limitation, Vendor's representations; (b) fails to perform services or deliver goods as specified by Contracting Party; (c) fails to make progress for reasons within the Vendors control so as to endanger timely and proper completion of services, and does not correct such failure or breach within ten (10) days (or such shorter period of time if commercially reasonable under the circumstances) after receipt of written notice from Contracting Party specifying such failure or breach; or (d) becomes insolvent, files, or has filed against it, a petition in bankruptcy, for receivership or other insolvency proceeding, makes a general assignment for the benefit of credits or (if Vendor is a partnership or corporation) dissolves, Contracting Party shall have the right (1) to terminate all or any part of this Contract, without liability to Vendor; (2) to perform or obtain, upon such terms and in such manner as it deems appropriate in its sole discretion, the services which were to be provided by Vendor and Vendor shall be liable to Contracting Party for any reasonable and immitigable excess costs above the costs of this contract incurred by Contracting Party in performing or obtaining such similar services; and (3) to exercise any other right or remedy available to Contracting Party at law or in equity and except to the extent of any betterment realized by the Contracting Party.

9. **LIMITATION OF CONTRACTING PARTY'S LIABILITY:** Vendor agrees that Vendor shall look solely to Contracting Party's interest in and to the City property, including, without limitation, any management fee, if applicable, subject to prior rights of any mortgagee or ground lessee of the City property, for collection of any judgment (or other judicial process) requiring payment of money by Contracting Party in the event of default or breach by Contracting Party of any of the covenants, terms or conditions of this Contract to be observed or performed by Contracting Party, and that no other assets of Contracting Party shall be subject to levy, execution or other process for satisfaction of Vendor's remedies. Vendor shall not be liable to the mortgage or ground lessee for any claims under this contract.

10. **REQUIRED INSURANCE AND INDEMNIFICATION:**

- (a) Vendor shall purchase and maintain the following insurance, with the following limits, in connection with any claims that may arise out of or result from Vendor's operations, whether performed by Vendor or anyone for whose acts Vendor may be liable:

Worker's Compensation	Required.
Employer's Liability	\$1,000,000 each accident, \$1,000,000 disease each employee, and \$1,000,000 disease policy limits.
Commercial General Liability (CG0001) , including Personal Injury, Premises Operations, including explosion, collapse or underground property damage hazards, including costs to repair or replace damaged work. (The Commercial General Liability Insurance may be	\$1,000,000 Per Occurrence and \$2,000,000 General Aggregate.

arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by an Excess or Umbrella Liability Policy).	
Commercial Automobile Liability , including Owned, Non-Owned and Hired Car coverages.	\$1,000,000 Combined Single Limit for Bodily Injury and Property Damage.

- (b) The insurance shall be procured from companies authorized to do business in the state of Indiana. Except as otherwise expressly set forth herein, coverage shall be on an occurrence basis. All insurance procured or maintained by Vendor on which the Contracting Party is an additional insured, shall be primary. Any insurance maintained by Contracting Party shall be considered excess and non-contributory. Vendor shall permit Contracting Party to examine the actual policies upon request at the Vendor's offices where the policy is stored.
- (c) A Certificate of Insurance acceptable to Contracting Party shall be submitted to Contracting Party prior to commencement of any work hereunder, including, without limitation, a certificate issued by the Industrial Board or other appropriate agency in the State of Indiana showing that the Worker's Compensation and other employee benefit insurance is in full force and effect. Each insurer shall possess an A.M. Best's rating of no less than A-VIII as of inception of this Contract. The Certificate of Insurance shall contain a provision that coverage shall not be canceled unless at least thirty (30) days' prior written notice has been given to Contracting Party. The Certificate of Insurance shall name the Contracting Party as an additional insured with respect to all but the Worker's Compensation, Employee Liability, and Professional Liability coverage. The additional insured endorsement shall state that coverage is afforded the additional insured as primary and non-contributory. In addition, each Certificate of Insurance shall provide that the Certificate Holder is the Contracting Party, c/o City of Westfield. Vendor shall not have earned any fees nor be due any payments hereunder unless and until such Certificate of Insurance is received by Contracting Party.
- (d) Vendor shall indemnify and hold harmless Contracting Party, and its employees from and against any and all liability, claim, damage, loss or expense (including, without limitation, court costs and reasonable attorneys' fees) to the extent caused by any negligence of the Vendor, its employees or sub Vendors, in the performance of the services under this contract, but not to the extent arising directly out of the negligence of Contracting Party. This subparagraph (d) shall survive the expiration or termination of this Contract.
- (e) Without limiting anything set forth in this paragraph 10, the following additional insurance coverage limits are required for the professional engineering services specifically required by the scope of the contracted goods and services: \$1,000,000 per claim and \$1,000,000 general aggregate professional liability, with retroactive coverage to the earlier of date of execution of Contract and

commencement of any work and coverage for a minimum period of two (2) years after professional services completion.

- (f) If Vendor fails to maintain the insurance as set forth herein, Contracting Party may terminate this Contract immediately or, at the option of Contracting Party, Contracting Party may obtain insurance on the Vendor's behalf and offset the cost of insurance related to the contracted services against any payments due Vendor.

11. **SAFETY**: Vendor shall, related to the services hereunder, fully observe any and all known federal, state and local safety performance standards and all additional applicable laws, ordinances, rules, regulations and orders of public authorities having jurisdiction over the work area. Without limiting the foregoing, Vendor shall also comply with Contracting Party's Project Rules, a copy of which is attached hereto as Exhibit A and made a part hereof. Compliance with such standards, laws, ordinances, rules, regulations and orders shall be at the sole cost of Vendor. Violations can and/or will result in immediate corrective and disciplinary actions being taken, including, without limitation, termination of this Contract. If this Contract is terminated pursuant to this paragraph 11, Contracting Party shall not be required to make any further payments to Vendor except for conforming goods and services rendered prior to such termination. A safety representative employed by Contracting Party or an insurer may, from time to time, conduct safety inspections and submit safety findings. Vendor shall, at its expense, implement any reasonable abatement procedures recommended by such safety representative or insurer related to the contracted services.

12. **SETOFF**: In addition to any right of setoff provided by law, all amounts due Vendor shall be considered net of indebtedness of Vendor to Contracting Party, and Contracting Party may deduct any amounts due or to become due specific to the goods and services provided for the project from Vendor to Contracting Party and its affiliates and subsidiaries except those covered under the indemnification obligation from any sums due or to become due from Contracting Party to Vendor.

13. **DISPUTE RESOLUTION**: all claims, counterclaims disputes and other matters in question between the parties hereto arising out of or relating to this Contract, or breach thereof, shall be presented to non-binding mediation, subject to the parties agreeing on a mediator.

14. **ADVERTISING, PUBLICITY AND PUBLIC RELATIONS**: Vendor shall not, without first obtaining the express written consent of Contracting Party, in any manner advertise or publish the fact that Vendor has contracted to furnish Contracting Party the goods and services herein contracted, or use any trademarks or tradenames of the City's advertising, promotional materials or web sites. In the event of Vendor's breach of this provision, Contracting Party shall have the right to terminate the undelivered portion of any services covered by this Contract and shall not be required to make further payments except for conforming services rendered prior to cancellation.

15. **GOVERNMENT COMPLIANCE**: Vendor agrees to comply with all present federal, state and local laws, orders, rules, regulations, codes and ordinances which may be applicable to Vendor's performance of its obligations under this Contract, and all provisions required thereby to be included herein, are hereby incorporated by reference. Vendor agrees to indemnify and hold harmless Contracting Party from and against any loss, damage, liability, cost or

expense (including, without limitation, attorneys' fees) resulting from any violation of such laws, orders, rules, regulations, codes or ordinances by Vendor.

16. **NO IMPLIED WAIVER:** The failure of either party at any time to require performance by the other party of any provision of this Vendor Contract shall in no way affect the right to require such performance by any time thereafter, nor shall the waiver of either party of a breach of any provision of this Contract constitute a waiver of any succeeding breach of the same or any other provision.

17. **NON-ASSIGNMENT:** Vendor shall not assign or pledge this Vendor Contract whether as collateral for a loan or otherwise and shall not delegate its obligations under this Contract without Contracting Party's express written consent.

18. **RELATIONSHIP OF PARTIES:** Vendor and Contracting Party are independent contracting parties and not agents, employees, partners, joint ventures or associates of one another, and nothing in this Contract shall make either party the agent or legal representative of the other for any purpose whatsoever, nor does it grant either party any authority to assume or to create any obligation on behalf of or in the name of the other. 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 purpose whatsoever. Vendor shall pay all wages and appropriate expenses of its employees, including, without limitation, all federal, state and local taxes, social security taxes and other employment or personnel taxes or assessments. Contracting Party shall not be liable for any injury (including death) to any persons, or any damages to any property incurred in connection with the performance of this Contract, to the extent caused by Vendor's fault or negligence.

19. **GOVERNING LAW:** This Contract is to be construed in accordance with and governed by the laws of the State of Indiana that includes, but not limited to Indiana Code 5-16-6, 5-16-8, 5-16-9, 5-16-13, and 5-16-14.

20. **SEVERABILITY:** If any term of this Contract is invalid or unenforceable under any statute, regulation, ordinance, or other rule of law, such term shall be deemed reformed or deleted, but only to the extent necessary to comply with such statute, regulation, ordinance, contract or rule, and the remaining provisions of this Contract shall remain in full force and effect.

21. **NOTICE:** Any notice provided for in this Contract will be sufficient if given by certified mail return receipt requested, or by reputable overnight courier service, to the party to be notified at the address specified in the Contract. If sent electronically, the notice shall be deemed to have been given upon electronic conformation of receipt. If sent by overnight courier, the notice shall be deemed to have been given one (1) day after sending. If mailed, the notice shall be deemed to have been given on the date that is three (3) business days following mailing. Either party may change its address by giving written notice thereof to the other party.

22. **TERMINATION:** Contracting Party may terminate this Contract (a) immediately, in the event of a Default by Vendor, or (b) at any time without cause upon seven (7) days' prior written notice to Vendor. In the event of such termination, Vendor shall be entitled to receive only payment for conforming goods delivered as of the date of termination and compensation for goods and services which have been accrued pro rata as of the date of termination, after deduction of all of Contracting Party's costs and expenses, including, without limitation, attorneys' fees, incurred in connection with any Default by Vendor.

23. **ENTIRE AGREEMENT:** This Vendor Contract, together with any attachments, exhibits, or supplements, specifically referenced in this Vendor Contract, constitutes the entire agreement between Vendor and Contracting Party with respect to the matters contained herein and supersedes all prior oral or written representations and agreements. This Contract may only be modified by a written instrument executed by both parties. Each signatory that executes this Agreement on behalf of the Contracting Party stipulates that they have executed this Agreement with the proper authority duly granted to bind that respective Contracting Party.

24. **OFAC COMPLIANCE:** The Office of Foreign Assets Control (OFAC) prohibits US persons from entering into transactions with individuals, groups, and entities, such as terrorists, narcotics traffickers and those engage in activities related to the proliferation of weapons of mass destruction, collectively referred to as Specially Designated Nationals (“SDN”). If the name of Vendor or any individual in a management position with Vendor is discovered on the SDN list, published by OFAC, such discovery shall constitute a material breach of this Contract. Contracting Party shall promptly notify Vendor, which shall have three (3) days in which to provide to Contracting Party clear and convincing evidence that (a) neither Vendor nor any individual in a management position with Vendor is an SDN, (b) the transaction is authorized by OFAC or (c) a statutory exemption exists that permits Contracting Party to do business with Vendor. Should Vendor fail to do so, then Contracting Party shall terminate this Contract for cause without further notice or grace period.

25. **IRCA COMPLIANCE:** The Immigration Reform and Compliance Act of 1986 (IRCA) prohibits the employment of unauthorized aliens and requires all employers to: (1) not knowingly hire or continue to employ any person not authorized to work in the United States, (2) verify the employment eligibility of every new employee (whether the employee is a U.S. citizen or an alien), and (3) not engage in discrimination against qualified workers. The Vendor shall comply with IRCA and all other applicable federal, state and local immigration laws, regulations, Executive Orders (“other immigration laws”) and by executing this Agreement, warrants that it is in full compliance with all applicable immigration laws including, but not limited to, IRCA and has used E-Verify to pre-screen job applicants and re-verify current employees. Vendor shall not be 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. Vendor shall immediately remove any employee known to be an unauthorized alien. Failure to comply with IRCA or other immigration laws shall constitute a material breach of this Agreement. The Vendor shall indemnify the City of Westfield against all damages, losses and expenses, including attorneys’ fees, incurred or sustained by the City of Westfield as a result of the Vendor’s failure to comply with IRCA or other immigration law. Vendor shall include this provision in any subcontracts or subordinate agreements it enters into with respect to this Agreement. Vendor shall also sign and have notarized the Affidavit of Employee Status (Attachment 2).

26. **IRAN CERTIFICATION:** Vendor hereby certifies, in accordance with I.C. 5-22-16.5-1 et seq., to have no engagement in investment activities in Iran as defined in the above cited statute.

27. **E-VERIFY:** Pursuant to Ind. Code § 22-5-1.7-11, VENDOR, by entering into the Contract with CITY, is required to enroll in and verify the work eligibility status of all of its newly hired employees through the E-Verify program. VENDOR 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. VENDOR hereby states that it does not knowingly employ an

unauthorized alien. VENDOR further affirms that, prior to entering into the Contract with CITY, it will enroll in and agrees to verify the work eligibility status of all its newly hired employees through the E-Verify program.

28. **NON-DISCRIMINATION:** VENDOR 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.

EXECUTED this _____ day of _____, 2023.

Contracting Party:

City of Westfield
2728 East 171st Street
Westfield, Indiana 46074

Vendor:

Baumgartner & Company, LLC
12461 Reynolds Dr.
Fishers, IN 46038

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date

EXHIBIT A

Project Rules

In an effort to have COMPLETE CUSTOMER SATISFACTION, we have prepared the following Project Rules. Your personnel and all subcontracted parties shall comply with these rules without exception. Failure to follow Project Rules may be grounds for project dismissal and potentially contract termination. Following these rules will help us collectively acquire COMPLETE CUSTOMER SATISFACTION.

SITE ACCESS

- ☐ General: Vendor/Contractor ("Contractor") shall have limited use of Project site for construction operations as indicated on Drawings by the Contract limits.
- ☐ Use of Site: Limit use of Project site to areas within the Contract limits indicated. Do not disturb portions of Project site beyond areas in which the Work is indicated.
- ☐ Driveways, Walkways and Entrances: Keep driveways, loading areas, and entrances serving premises clear and available to City, City's employees, and emergency vehicles at all times. Do not use these areas for parking or storage of materials.
- ☐ Schedule deliveries to minimize use of driveways and entrances by construction operations and reduce space and time requirements for storage of materials and equipment on-site.
- ☐ Restricted Site Access: The only egress point to and from the Project area shall be as dictated by the City or authorized City's representative. Coordinate work activities in advance.
- ☐ All construction personnel will be required to have photo identification with them at all times on the project. All construction personnel shall also carry Vendor identification with them or wear hardhats with company logo and the employee's name visible to determine their site permissions.
- ☐ Noise, Vibration, and Odors: Coordinate operations that may result in high levels of noise, vibration, odors, or other disruption to occupied areas of the Project, as applicable.
- ☐ Notify City(s) not less than five days in advance of proposed disruptive operations. Obtain City(s) written permission before proceeding with disruptive operations.
- ☐ Perform work with least possible disturbance to occupants of existing facilities.
- ☐ Contractor shall seek approval from City or City representative before beginning any work outside of the approved project limits or area.
- ☐ Prior to commencing the Work, the Contractor shall tour the Project site to **examine and record** any existing damage to adjacent site or building improvements to serve as a basis for determination of subsequent damage due to Contractor's operations. Contractor shall submit such report to the City prior to commencing work.

LIMITED CITY OCUPANCY (If Applicable)

- ☐ The City and its partners intend to occupy parts of the Project immediately upon completion and when safe access is available. Your work must be coordinated in advance to limit the exposure of construction activities to occupants of the Project.
- ☐ Before limited City occupancy of any building, the mechanical and electrical systems shall be fully operational, and required tests and inspections shall be successfully completed. On occupancy, City will operate and maintain mechanical and electrical systems serving occupied portions of Work.

- ❑ On occupancy, City will assume responsibility for maintenance and custodial service for occupied portions of Work.

MATERIAL MANAGEMENT PLAN

- ❑ Contractors shall prepare a Site Utilization Plan to be submitted to the City for review and approval.
- ❑ The site use plan shall include but not be limited to the following items:
 - Material storage areas (identify material and ownership).
 - Equipment compounds.
 - Temporary utilities required
 - Trash and waste containers required for environmental disposal of waste.
 - Any other specific items requiring coordination with the City, Project partners or other trade contractors.
- ❑ Safe and protected storage of materials and equipment of the Contractor is the responsibility of the Contractor. All materials stored by the Contractor on the site are to be protected in a manner to not jeopardize their warranty or quality of material finish.

CLEAN UP

- ❑ During the progress of the Work, the Contractor shall keep the site and other areas free from accumulation of waste materials, rubbish and other debris, as provided in the contract. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations in the most environmentally sensitive manner possible. Burial of waste materials, rubbish, and other debris on the site is strictly prohibited.
- ❑ Contractor shall provide daily cleaning of their work areas including sweeping and trash/debris/rubbish removal. Contractor shall be responsible for moving trash to the designated refuse areas for disposal by others.
- ❑ At no time shall a contractor block an egress path without the expressed consent of the City or authorized City representative.
- ❑ At the completion of the Work, the Contractor shall remove from the site all tools, appliances, construction equipment, machinery, trailers, and temporary structures/utilities that they erected as well as surplus materials, rubbish and trash.

WORK HOURS

- ❑ It is the expectation of City that ALL Contractors and subcontractors limit work to normal business working hours, Monday through Friday, unless otherwise required or approved in advance by City.
- ❑ The Work of this Project shall be accomplished during normal working hours and days. Contractors planning to work on weekends or observed holidays must schedule with the authorized Owner agent, no later than 48 hours prior to the anticipated work day.
- ❑ Normal working hours and days are defined as:
 - Mondays through Fridays, 7:00 a.m. to 6:00 p.m. (typical)
 - Weekends (Saturday and Sunday), as scheduled and approved in advance by the City.
 - No work shall be performed on days of normal observance of the following holidays:
 - New Year's Day
 - Memorial Day
 - Independence Day
 - Labor Day
 - Thanksgiving Day and the Friday following
 - Christmas Day

- ❑ Requests for work on non-normal work days or outside the defined normal working hours of this project, does not constitute an approval of said request and may need to be rescheduled to provide adequate security and supervision as required by Contract.
- ❑ No use of power actuated tools or hammer drills is permitted at an occupied City building or adjacent to private residence and/or business between the hours of 7:00 AM and 5:00 PM, or as directed by City officials

PUBLIC ACCESS AND SAFETY

- ❑ Contractor is responsible to provide all safety measures required and implied as necessary to protect all persons on the Project site and all persons and public adjacent to their construction zones. It is not the responsibility of the City to specify measures to be taken.
- ❑ Comply with applicable safety and security regulations of all authorities having jurisdiction. These regulations set forth minimum requirements. Contractor shall not reduce his normal safety provisions or ignore safety regulations required by other authorities having jurisdiction where other requirements are more stringent.
- ❑ The Contractor shall provide, for coordination, and information, all material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations. Contractors must provide updated and current information as it becomes available.
- ❑ In the case of an emergency affecting the safety or protection of persons or the Work or property at the Site or adjacent areas, the Contractor shall act to prevent threat of damage, injury, or loss. The Contractor shall immediately notify the City. Within 24 hours the Contractor shall provide written notification and documentation of the event, indicating if he believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof.
- ❑ The Contractor shall designate a qualified, experienced safety representative at the Site.

SITE DECORUM

- ❑ Contractor and subcontracted employees shall conduct themselves in a professional manner in all areas of the City.
- ❑ Refrain from contact with the general public. When this cannot be avoided, Contractor's and the subcontractor's employees are to be courteous at all times.
- ❑ Proper work attire shall be required at all times on the Project. In addition to the required personal protective devices and attire required to perform work safely, all site workers are to wear clothing appropriate for the work that they are performing. Clothing with inappropriate language or pictures are strictly forbidden.
- ❑ Contractor shall control the conduct of its employees so as to prevent unwanted interaction initiated by Contractor's employees with City/Project personnel, public, other contractors and their employees, or other individuals, in the vicinity of the project site. In the event that any Contractor employee initiates such unwanted interaction, or utilizes profanity, Contractor shall, either upon request of the City or on its own initiative, replace said employee with another of equivalent technical skill, at no additional cost to the City.
- ❑ No radios, other than two-way communication type, will be allowed on the Project site.
- ❑ Smoking or the use of any tobacco products (including chew and snuff) is **NOT ALLOWED** on the Project or any City-owned properties.
- ❑ Water is allowed in Project buildings however ALL other beverages and food are only permitted in designated break areas.
- ❑ Use of any controlled substances on City's property is not permitted.

- ❑ No alcoholic beverages, illegal drugs, controlled substances or firearms of any kind are permitted on the construction site. Any persons found on the site with such in their possession will be escorted from the premises and not permitted to return.
- ❑ Fighting and horseplay on the project site are absolutely forbidden. Participants in fights will be escorted from the premises and not permitted to return.

PARKING

- ❑ Project parking is allowed at designated areas of the Project.
- ❑ Personal vehicles are to remain in provided parking areas.
- ❑ Only approved company work vehicles are allowed on the project site. This effort is dictated to prevent damage to site and other improvements and promote a safe project by minimizing project congestion.
- ❑ For Construction LOADING AND UNLOADING ONLY:
 - Contractors shall be allowed to deliver daily equipment and materials to the Project construction areas so as long that they minimize the impact and risk of damage to existing site and project improvements.
 - Delivery of materials, equipment and products associated with the completion of your scope of work must be coordinated in advance.

UTILITY COORDINATION

- ❑ All excavations shall be completed in accordance with City and OSHA standards. Due to the amount of public and private utilities in and around Grand Park, all excavations must utilize a hydro-vac when area of disruption is appropriately sized.
- ❑ Limit construction operations to those methods and procedures which will not adversely and unduly affect the working environment of City's occupied spaces, including noise, dust, odors, air pollution, ambient discomfort, poor lighting, hazards and other undesirable effects and conditions.
- ❑ Notify the City one week in advance of construction activities which will impact the occupancy and use of adjacent areas.
- ❑ Do not interrupt power, lighting, plumbing, telephone and HVAC services to occupied areas. Interruptions must be scheduled a minimum of two days in advance, receive City's approval, and be made known to users of the area a minimum of 24 hours in advance of the actual interruption.
- ❑ Contractor to connect to temporary utilities as designated by the contract documents or by the City. The Contractor will be responsible for installing and removing all temporary utilities, unless directed otherwise.
- ❑ Contractor shall be responsible for site drainage and maintaining erosion control as required.

USE OF ROADWAYS AND PATHS

- ❑ Comply with limitations on use of public streets and with other requirements of authorities having jurisdiction.
- ❑ Use of the City Park paths or perimeter trails, including those at Grand Park, is discouraged but we understand that in many cases cannot be avoided. Please coordinate in advance any vehicle or equipment size and weight with the City prior to mobilizing on site.
- ❑ Where materials are transported in the performance of this Work, do not load vehicles beyond the capacity recommended by the manufacturer of the vehicles or prescribed by any applicable state or local law or regulation.

- ❑ Provide protection against damage whenever it is necessary to cross existing paths, sidewalks, curbs, and gutters on the City project. Repair and make good at the expense of Contractor all damages thereto, including damage to existing utilities and paving, arising from the operations under the Contract.
- ❑ Access onto any athletic field at Sports Campus at Grand Park or onto any City owned property with irrigation installed is strongly discouraged. Contractor shall protect all playing surfaces and site utilities that could be compromised by the construction activities of the Contractor.
- ❑ Truck staging is not allowed on any City street surrounding the Project.
- ❑ Promptly clean all public right-of-ways should dirt or other debris from site be deposited on roads and streets by the Contractor or vehicles used to deliver or conduct the scope of this agreement.
- ❑ It is the responsibility of ALL Contractors to provide flag person(s) at pedestrian crossings of construction equipment at right of ways or pedestrian paths one hundred percent of the time such equipment is operating.

TRAFFIC CONTROL

- ❑ Provide temporary traffic control barriers to ensure safety of all persons and property.
- ❑ Contractor shall provide all flag person(s) necessary to maintain vehicular and pedestrian traffic affected by deliveries and work performed under their scope. All flag person(s) shall be certified through the union hall or other body having the authority to provide this training.
- ❑ Contractor shall provide traffic control for vehicular traffic leaving and entering the site.

CRANES & HOISTING

- ❑ All hoisting and cranes required to perform the scope of your work is the responsibility of the Contractor to install, provide and operate in accordance with all safety regulations of the authorities having jurisdiction. This includes all temporary hoisting required by job conditions for the installation of materials and equipment.

TEMPORARY SHORING AND BRACING

- ❑ Provide temporary shoring and bracing as required for execution of the Work. ALL shoring and bracing shall be engineered by the Contractor and comply with safety regulations of authorities having jurisdiction.

TEMPORARY BARRICADES

- ❑ Provide temporary barricades as necessary for the execution of the work. Maintain barricades in a clean and neat condition until no longer required and removal is approved or requested.
- ❑ Provide temporary barriers or partitions as required to protect any project workers or the general public from injury due to work of this project, and to protect adjacent areas of the project from spread of dust or dirt.
- ❑ When Work involves modification to an existing egress corridor within an existing building, the Contractor shall provide temporary barricades as necessary, constructed in a manner that maintains the fire resistive integrity of the affected corridor(s). Construction and placement of the barricades shall be approved by the City project representative and the authority having jurisdiction.

CONSTRUCTION SIGNAGE

- ❑ Advertising Signage: The use of Contractor/subcontractor advertising signage is strictly prohibited.
- ❑ No ground-mounted signage is allowed on the project site without the expressed written consent of the City.

- ❑ Signage is authorized on construction trailers and corporate-owned equipment and vehicles. Such signage cannot exceed 6' by 4' (24 square feet) in size. Trailers in violation shall be removed from the site by the Contractor and the Contractor shall have the site storage privileges revoked
- ❑ Signage to be fabricated from new materials and constructed from materials able to withstand construction use/abuse and exposure based upon its proposed installation location for its intended use.
- ❑ Project Specific Signage:
 - ALL signage shall be as approved by the City and the authority having jurisdiction.
 - All employee personnel informational signage shall be bilingual (English and Spanish) as requested by the City.
 - All project specific signage shall include the City logo and project name incorporated into the design of each sign for the project.

TEMPORARY FACILITIES

- ❑ Erect and maintain, for duration of operations and in locations as approved, suitable temporary office facilities as required for Contractor's administration of the Work. Provide necessary sheds and facilities for the storage of tools, materials, and equipment employed in the performance of the Work. Temporary buildings shall be watertight with raised solid floors, solid sheathed and composition roofs, and adequately glazed and screened windows for light and ventilation. Temporary buildings shall be painted colors as approved. Contractor shall furnish daily janitorial service in the trailer. Provide stairs and handicapped ramp per code.

RUBBER TIRED EQUIPMENT

- ❑ Where carts, hand trucks, wheelbarrows, and similar wheeled conveyances are used in interior spaces or on finished surfaces (including synthetic turf fields) on or in any portions of any structure, equipment shall be equipped with pneumatic tires or other tire approved by the City.

REMOVAL OF TEMPORARY FACILITIES

- ❑ Temporary facilities, barricades, utilities and other construction of temporary nature shall be removed from the Project site as soon as the progress of the work will permit in the opinion of the City; and the portions of the Project site and building occupied by same shall be reconditioned and restored to original condition.
- ❑ Legally dispose of all debris resulting from removal and reconditioning operations.

VIOLATIONS

- ❑ Any violator of site restrictions will be subject to removal from the site, with recourse for schedule or cost impact.

GENERAL SAFETY PRECAUTIONS

- ❑ Safe working practices shall be observed at **all times**. The safety of your employees, the buildings and the work site is considered to be paramount. All work shall be conducted and completed by the guidelines set forth by the Federal, Local and State Authorities.
- ❑ The City of Westfield is a "Safe City". Any worker or person on a jobsite shall have 100% protection as defined by OSHA for the hazards that they may be exposed. This includes but is not limited to 100% eye protection, hard hat and hi-visibility vest at all times when on-site.
- ❑ Proper gloves are to be used to limit abrasions and cuts. Hearing protection shall be accessible to employees and used whenever exposed to noises that require such protective devices.

- ❑ Fall protection shall be worn, observed or employed when working at a height greater than 6' unless approved in writing by the City and OSHA/IOSHA. This fall protection directive is to be used at all times and includes activities utilizing articulating boom lifts, scissors lifts, ladders, scaffolding and any other activity where workers are exposed to a fall and shall compile with the provisions of OSHA and IOSHA.
- ❑ Any and all "Hot Work" shall have an appropriate fire extinguisher immediately accessible and be pre-approved by the City officials.
- ❑ All electrical service shall be properly protected with a GFCI, including the use of extension cords on permanent power.
- ❑ Eye protection shall be worn at all times when cutting, grinding, chipping, drilling or using power actuated tools.
- ❑ Safety manuals and MSDS sheets must be turned in to the assigned City representative prior to commencing work on site. These manuals are still to be maintained by the Contractor on site for use and reference by any authority having jurisdiction.
- ❑ The City of Westfield is a "Safe City". In the event of an accident or near-miss, the employees involved may be required to perform a drug and alcohol screening prior to being able to continue working on site.

Non-compliance with the foregoing Project Rules shall result in disciplinary procedures up to and including removal from the project and termination of your contract.

EXHIBIT B

See attached Proposal dated 04.12.23

REQUEST FOR QUOTE

CITY OF WESTFIELD, INDIANA

175th St and Oak Ridge Rd Intersection Improvements

To: Westfield Public Works
2706 E. 171st Street
Westfield, Indiana 46074

The Public Works Department of the City of Westfield, Indiana, is requesting a quote for the attached proposal for the 175th St and Oak Ridge Rd Intersection Improvement project.

This project generally consists of the construction of a deceleration lane on Oak Ridge Road at 175th Street, surface paving of the acceleration lane, and construction of a perimeter trail along Oak Ridge Road. All work shall be in accordance with INDOTSS 2022 and the latest Westfield Construction Standards and Specifications.

The deceleration lane on Oak Ridge Road at 175th Street will consist of 165#/SYS HMA Surface, 275#/SYS HMA Intermediate, 550 #/SYS HMA Base, 6" of Compacted Aggregate No. 53, and Subgrade Treatment Type IC. The existing acceleration lane will require 165 #/SYS HMA Surface. The existing guardrail on the east side of Oak Ridge Road will need to be removed and new wooden guardrail will be installed. An 8' wide trail will be constructed along the east side of Oak Ridge Road from 175th Street to the Midland Trail. The trail will consist of 330 #/SYS HMA Type B, Surface on 6" of Compacted Aggregate No. 53. All construction will be per "The Trails of Westfield Infrastructure" plan set attached.

The road and trail shall be completed and open no later than October 20th, 2023, or liquidated damages shall be assessed at \$500 per day. The project will be awarded to the lowest and most responsible Contractor by the Owner. A notice to proceed may be issued immediately.

Quotes due Friday, April 14, 2023 by 1:00 P.M. Quotes can be emailed to cdmills@westfield.in.gov

The undersigned proposes to furnish all work for the construction of the 175th St and Oak Ridge Rd Intersection Improvement project., including all labor, materials, supplies, equipment and all appurtenances necessary to complete the work as per the drawings and the specifications for the following unit prices, to wit:

Remainder of page left intentionally blank.



BAUMGARTNER
— & COMPANY —
ASPHALT SERVICES

To: Address:	Westfield, City of 2706 East 171st Street Westfield, IN 46074 3178043137	Attn: Phone: Email:
Project Name:	175th and Oak Ridge Intersection Improv.	Estimate Date: 04/12/2023
Project Location:	175th and Oak Ridge Rd, Westfield	Estimate #: 041123-030AH

This quote provides for all labor, equipment, and material necessary to accomplish work in accordance with site visit/drawings prepared by City of Westfield, dated March 2023, and as set out below.

Item Description	Estimated Quantity	Unit	Unit Price	Ext Price
• CONSTRUCTION ENGINEERING	1.000	LS	\$1,000.00	\$1,000.00
• MOBILIZATION AND DEMOBILIZATION	1.000	LS	\$15,144.00	\$15,144.00
• CLEARING RIGHT OF WAY	1.000	LS	\$ 500.00	\$ 500.00
• GUARDRAIL, END TREATMENT, REMOVE	2.000	EACH	\$1,025.00	\$2,050.00
• COMMON EXCAVATION	225.000	CYS	\$ 48.00	\$10,800.00
• BORROW	200.000	CYS	\$ 1.00	\$ 200.00
• TEMPORARY INLET PROTECTION	2.000	EACH	\$ 200.00	\$ 400.00
• TEMPORARY SILT FENCE	300.000	LFT	\$ 4.00	\$1,200.00
• SUBGRADE TREATMENT, TYPE IC	250.000	SYS	\$ 55.00	\$13,750.00
• COMPACTED AGGREGATE NO. 53	240.000	TON	\$ 60.00	\$14,400.00
• MILLING, ASPHALT, 11/2 IN.	70.000	SYS	\$ 10.00	\$ 700.00
• QC/QA-HMA, 2, 64, SURFACE, 9.5 mm	70.000	TON	\$ 150.00	\$10,500.00
• QC/QA-HMA, 2, 64, INTERMEDIATE, 19.0 mm	35.000	TON	\$ 140.00	\$4,900.00
• QC/QA-HMA, 2, 64, BASE, 25.0 mm	70.000	TON	\$ 130.00	\$9,100.00
• HMA, TYPE B, SURFACE, 12.5 mm	80.000	TON	\$ 120.00	\$9,600.00
• ASPHALT FOR TACK COAT	0.200	TON	\$ 5.00	\$ 1.00
• GUARDRAIL, REMOVE	75.000	LFT	\$ 9.00	\$ 675.00
• TOPSOIL	90.000	CYS	\$ 90.00	\$8,100.00
• MULCHED SEEDING U	700.000	SYS	\$ 6.00	\$4,200.00
• MAINTENANCE OF TRAFFIC	1.000	LS	\$8,000.00	\$8,000.00

12461 Reynolds Dr. Fishers, IN. 46038
Phone:(317) 296-7225
Baumgartnerasphalt.com

• LINE, THERMOPLASTIC, SOLID, WHITE, 4 IN.	100.000	LFT	\$ 2.50	\$ 250.00
• TRANSVERSE MARKING, THERMOPLASTIC, CROSSWALK LINE	112.000	LFT	\$ 15.00	\$1,680.00
• LINE, THERMOPLASTIC, SOLID, YELLOW, 4 IN.	20.000	LFT	\$ 2.50	\$ 50.00
• TRANSVERSE MARKING, THERMOPLASTIC, STOP LINE, WHITE	30.000	LFT	\$ 15.00	\$ 450.00
• GUARDRAIL, TIMBER BEAM	120.000	LFT	\$ 265.00	\$31,800.00
Bid Total				\$149,450.00

- **Quote is valid for 15 days. Furthermore, quote is based upon performance of the Work within the 2023 construction season; thereafter, pricing is subject to Baumgartner's confirmation or adjustment.**
- **Baumgartner will make every effort to complete the scope of work as bid, however; due to the current volatility in the materials market, this may not be possible. In the event of material shortages or pricing escalation, additional time, additional compensation, or the approval to use different materials may be requested.**
- Quote based on all Work performed on weekdays during normal business hours. Weekend, holiday and/or after-hours Work will be performed at an additional cost with prior approval only.
- Quote is based on complete access to the Work. Delays resulting from failure to provide access shall be compensated at our standard hourly rates.
- Pavement designs with less than one percent (1%) fall in grade will not have a drainage guarantee.
- Quote includes the locating of public utilities via "Indiana 811" which requires a minimum of three (3) business days for completion. Quote does not include locating private utilities and/or irrigation lines – location of private utilities shall be the responsibility of the Customer.
- Due to existing pavement conditions, reflective cracking through the surface overlay is imminent. Therefore, the surface overlay area cannot be warranted.
- Work will be scheduled upon receipt of an executed Quote or contract incorporating the Quote.
- **Quote is based solely on knowledge and assumptions derived only from a visual review of the subject project site and not on any subsurface investigation(s), geotechnical exploration(s) or testing. As such, the separate engagement of a geotechnical engineer by the Customer is recommended to perform subsurface investigation, geotechnical exploration and testing to determine the necessary and cost-effective work required. Baumgartner will not be liable for any unknown, differing, or unforeseen conditions discovered.**
- Quote does not include cleaning. If required, cleaning will be performed at an additional cost of \$1,200.00/hour with a six (6) hour minimum.
- Quote is based on one (1) mobilization for the grade/prep crew, one (1) for the milling crew, one (1) for the asphalt crew and one (1) for the striping/signage crew. Additional mobilizations will be at a rate of: grade/prep crew \$2,850.00/each, milling crew \$5,200.00/each, asphalt crew \$5,000.00/each and striping/signage crew \$450.00/each.
- Baumgartner will not be responsible for the following items or conditions: permits, bonds, engineering, layout, allowances, testing, saw cutting, private utilities, landscape repairs, contaminated soils, subgrade prep/remediation, subgrade treatment, proof rolls, herbicide, prime coat, stone or asphalt under curb, patching (i.e., utility or curb), casting adjustments, milling, cleaning, raised pavement markers and/or traffic control.
- Quote is based on all adjacent concrete, installed by others, to be in place and properly backfilled prior to Baumgartner mobilizing.
- Quote is to be incorporated into Baumgartner's contract without limitation and with Quote as controlling document related to conflicting terms. Work will be scheduled upon receipt of afore mentioned contract.

Payment Terms:

Payment net thirty 30 days. A finance charge of 1 ½% monthly (18% APR) will be applied thereafter. In the event of default. All expenses, including attorneys' fees and cost will be recoverable by Baumgartner. Authorization of this contract grants permission to check credit of Customer.

Accepted:

The above prices, specifications and conditions are satisfactory and are hereby accepted.

Signature: _____

Title: _____

Date of Acceptance: _____

Confirmed:

Baumgartner & Company Asphalt Services

Authorized Signature: _____

Estimator: Adam Hornaday

Attachment 1

Each addenda shall be signed to prove receipt. If no addendums, the rest of Attachment 1 to be left intentionally blank.

Attachment 2

The Affidavit of Employee Status shall be signed and notarized.

AFFIDAVIT OF EMPLOYEE STATUS

Re: Project – 175th Street and Oak Ridge Road Intersection Improvements Project

WHEREAS, the City of Westfield, Hamilton County, Indiana, hereinafter referred to as the “City” is in the process of construction work on the 175th Street and Oak Ridge Intersection Improvements project, hereinafter referred to as the “Project”;

WHEREAS, Baumgartner & Company, LLC, hereinafter referred to as the “Vendor”, is the general contractor of the above reference project; and

WHEREAS, it is necessary for the City to require the Vendor to enroll in and verify the work eligibility status of all newly hired employees through the E-Verify program per Indiana Code.

NOW THEREFORE, the Vendor agrees to have enrolled in and verified the work eligibility status of all newly hired employees through the E-Verify program and does not knowingly employ illegal aliens. The Vendor clearly understands the regulations and penalties stated in the Indiana Code should conflicts arise.

Signature:

Signature:

Printed Name:

Printed Name:

STATE OF INDIANA:

SS:

COUNTY OF _____ :

Before me the undersigned, a Notary Public in and for said State and County, personally appeared of Baumgartner & Company, LLC, the general contractor and acknowledge the execution of the foregoing Affidavit of Employee Status to be a free and voluntary act and deed and for the purposes stated therein, being duly sworn, stated that any representations contained therein are true.

Witness my hand and Notarial Seal this _____ day of _____, 20__

Signature

Printed Name

My Commission expires _____

I am a resident of _____ County.

CITY OF WESTFIELD BY:

Johnathon Nail, Director of Public Works

STATE OF INDIANA:

SS:

COUNTY OF HAMILTON:

Before me the undersigned, a Notary Public in and for said State and County, personally appeared _____, Director of Public Works, and acknowledges the execution of the foregoing Affidavit of Employee Status to be a free and voluntary act and deed and for the purposes stated therein.

Witness my hand and Notarial Seal this _____ day of _____, 20__

Signature

Printed Name

My Commission expires _____

I am a resident of _____ County.

This instrument prepared by: Brian J. Zaiger, Attorney, Krieg-Devault Attorneys at Law, 12800 N. Meridian St. Ste. 300, Carmel, IN 46032

Attachment 3

The Invoice Cover Sheet shall be attached and filled out for all invoices submitted to the City of Westfield.



Invoice Date:	
Invoice or App Number:	

Westfield Department of Public Works
 2706 East 171st Street
 Westfield, IN 46074
AP@westfield.in.gov

Westfield Project Name:	175 th & Oak Ridge Rd Intersection Improvements
Westfield Project Number:	
Westfield Project Manager:	Michael Pearce
Westfield PO Number:	
Vendor Name:	Baumgartner & Company, LLC

1. Original Contract Amount	
2. Change Orders/Amendments	
3. Total Contract Amount (Line 1 ± 2)	
4. Total Earned To Date	
5. Retainage (If Applicable)	
6. Total Earned Less Retainage (Line 4 less 5)	
7. Less Previous Payments (Line 6 from prior Invoice)	
8. Total Amount Payable This Invoice (Line 6 less 7)	
9. Balance to Finish, Including Retainage (Line 3 less 6)	

Please email this cover letter, along with your invoice to AP@westfield.in.gov with attention to the Westfield Project Manager associated with this project in order to expedite payment. If you need more information regarding the Westfield Project Name, Number, and PO Number, please contact the Westfield Project Manager, thank you!

JOINT USE AND MAINTENANCE AGREEMENT
Between
THE INDIANA DEPARTMENT OF TRANSPORTATION
And
THE CITY OF WESTFIELD
And
THE CITY OF CARMEL
Concerning
INSTALLATION AND MAINTENANCE
Of
SIGNS AND TOTEM STRUCTURE ON US 31

This Joint Use and Maintenance Agreement (“Agreement”), by and between the Indiana Department of Transportation (“INDOT”), and the City of Westfield, Indiana (“Westfield”) and the City of Carmel, Indiana (“Carmel”), collectively referred to as the “PARTIES,” is executed pursuant to the terms and conditions set forth herein and shall be effective as of the date of approval by the Office of the Indiana Attorney General. In consideration of those mutual undertakings and covenants, the PARTIES agree as follows:

RECITALS

WHEREAS, Westfield was issued a permit #E18GCR0373 to install a gateway totem structure with concrete foundation in the median of US 31 approximately 400 feet south of the 146th Street bridge, located in Hamilton County, Indiana (the “Totem”), and five (5) backlit sports signs and a “Home of Grand Park” sign on the south side of the 146th Street bridge in Westfield (hereinafter the “Signs”), depicted in “**Exhibit A**” attached hereto and incorporated herein by reference; and

WHEREAS, the Totem is located on the Westfield and Carmel line in Hamilton County, Indiana; and

WHEREAS, the PARTIES desire to delineate certain costs and maintenance responsibilities relating to the installation and maintenance of the Signs and the Totem; and

WHEREAS, Westfield has agreed to be solely responsible for all costs associated with the installation and maintenance of the Signs; and

WHEREAS, Westfield and Carmel (collectively, the “LPA”) agree that Westfield shall be solely responsible for the installation and maintenance of the Totem, and all costs associated with the maintenance of the Totem shall be split equally between Westfield and Carmel; and

WHEREAS, the installation and maintenance of the Signs and Totem will occur within limited access right-of-way (“LARW”), under the jurisdiction of INDOT, as shown in “**Exhibit A**,” and

WHEREAS, it is of mutual interest for INDOT and the LPA to cooperate in providing highway improvements for the convenience and safety of the public;

NOW THEREFORE, in consideration of the promises and the mutually dependent covenants herein contained, the PARTIES hereto agree as follows:

ARTICLE I. PURPOSE AND TERM

1.1. Recitals. The Recitals recorded above are incorporated by reference into this Agreement. All captions, section headings, paragraph titles and similar items are provided for the purpose of reference and convenience and are not intended to be inclusive, definitive or to affect the interpretation of this Agreement.

1.2. Purpose of Agreement. The purpose of this agreement is to delineate the costs and responsibilities for installation and maintenance of the Signs and Totem.

1.3. Term of Agreement. This Agreement shall be for a ten (10) year period, commencing as of the date approved as to form and legality by the Attorney General of Indiana, or an authorized representative, and shall be subject to renewal upon the same terms for four (4) successive ten (10) year periods. This Agreement shall be subject to cancellation and termination by either party upon giving the other party thirty (30) days written notice of such action.

ARTICLE II. THE LPA'S RESPONSIBILITIES

2.1. Financial Responsibilities.

2.1.1. Westfield shall have sole responsibility for all associated costs with the maintenance of the Signs. Westfield shall be responsible for fifty percent (50%) of the costs of the maintenance of the Totem. To the extent permitted by law, in addition to the terms agreed upon pursuant to Section 4.22 of this Agreement, Westfield shall indemnify and hold INDOT harmless for any claims arising out of the Signs and/or Totem. This provision shall survive the termination of this Agreement.

2.1.2. Carmel shall be responsible for fifty percent (50%) of the costs of the maintenance of the Totem. To the extent permitted by law, in addition to the terms agreed upon pursuant to Section 4.22 of this Agreement, Westfield shall indemnify and hold INDOT harmless for any claims arising out of the Totem. This provision shall survive the termination of this Agreement.

2.2. Project Responsibilities.

2.2.1. Westfield shall have sole responsibility for the maintenance, improvements, and removal of the Signs and Totem. Westfield understands and agrees that INDOT shall be the sole and final decision maker on anything that is related to and/or may impact the quality and function of US 31. Westfield shall conduct all maintenance, improvements, and removal of the Signs and Totem in accordance with all applicable federal and state laws as well as INDOT and FHWA standards and good engineering practices as set forth in the following: (1) Title 23, US Code, Highways, (2) the regulations issued pursuant thereto, (3) the Americans with Disabilities Act of 1990, (4) I.C. 36, and (5) the policies and

procedures promulgated by INDOT and FHWA relative to the Agreement. All plans shall be completed in accordance with all requirements of the most recent edition of INDOT's Standard Specifications and the Indiana Design Manual. Westfield shall comply with all terms and conditions of its Permit.

2.2.2. Westfield shall be solely responsible to remove and/or relocate any interferences with any future INDOT transportation project.

2.3. Maintenance Responsibilities. Westfield shall perform, or cause to be performed, all necessary routine maintenance for the Signs and Totem in accordance with all applicable state and federal laws, as well as INDOT standards, policies, and procedures relative to this Agreement. Westfield understands and agrees that if the Signs and/or Totem are damaged or need to be replaced, it is Westfield's responsibility to repair or replace the Signs and/or Totem within ninety (90) days. If Westfield has not repaired or replaced the Signs and/or Totem within ninety (90) days after INDOT deemed it necessary to repair or replace the Signs and/or Totem, INDOT may remove the damaged Signs and/or Totem at Westfield's expense. Maintenance activities performed on any portion of the Signs and/or Totem shall not create any adverse impact or interfere with the safety and travel of the motoring public.

2.3.1. Future maintenance shall include but not be limited to:

- A. Westfield shall be responsible for the maintenance responsibilities of the Signs and/or Totem.
- B. Westfield shall be solely responsible for the payment of all fees and costs for any utility services serving the Signs and/or Totem. INDOT shall not be responsible for the costs of any fees or costs for utility services serving the Signs and/or Totem, now or in the future.
- C. Westfield shall be responsible to plan out maintenance activities performed within the LARW. Westfield shall submit to the Greenfield District Permit Manager ("Permit Manager") a maintenance plan for approval prior to commencement of any maintenance activities within the LARW. The maintenance plan shall identify the types of maintenance activities to be completed and an estimated schedule of when these activities will occur. The plan shall include a Maintenance of Traffic ("MOT") plan if such activities will require lane closures or traffic restrictions on US 31. The Permit Manager shall promptly notify Westfield of any concerns or deficiencies in the plan.

2.3.2 Modifications to Signs and/or Totem. Westfield shall not erect any signs, sculptures, or structures within the LARW, outside of those covered by this Agreement, without the prior approval of INDOT. If Westfield wishes to install additional improvements within the LARW, prior to installation, Westfield shall apply for a permit,

submit a design plan to the Permit Manager for review and approval, and enter into an amendment to this Agreement.

2.3.3 Removal of Signs and/or Totem.

- A. Upon termination of the Agreement pursuant to Section 1.3, Westfield may be required to remove the Signs and/or Totem and/or their infrastructure at INDOT's request. Failure to remove the Signs and/or Totem and/or their infrastructure may result in INDOT removing the Signs and/or Totem and/or their infrastructure and billing Westfield for costs of removal.
- B. In the event that INDOT determines, in its sole reasonable discretion, that Westfield is not adequately maintaining the Signs and/or Totem and/or their infrastructure, or for any other justified reason (i.e., safety concerns for pedestrians, bicyclists, the motoring public, change in policy, requirement for compliance with federal law or other federal mandate, etc.), INDOT may order Westfield to remove or modify the Signs and/or Totem and/or their infrastructure at Westfield's expense. Except in cases of emergency (i.e., eminent threat of harm to the traveling public), INDOT will provide ninety (90) days written notice to Westfield that the Signs and/or Totem and/or their infrastructure must be removed or modified. If the Signs and/or Totem and/or their infrastructure are not removed or modified to INDOT's satisfaction within ninety (90) days of issuance of notice under this section, INDOT may remove the Signs and/or Totem and/or their infrastructure and bill Westfield for the costs of removal.
- C. Westfield understands and agrees that it shall not be entitled to any damages or any other compensation in the event that INDOT requires complete or partial removal of the Signs and/or Totem and/or their infrastructure for any reason.

2.4. Use of State Right-of-Way.

2.4.1. Subject to the terms and conditions of this Agreement, INDOT grants permission to Westfield, its employees, and its contractors to enter upon LARW for the sole and exclusive purposes of installing, inspecting, maintaining, operating, and repairing the Signs and/or Totem. Prior to entering the LARW, Westfield shall apply for a permit each time it intends to enter the LARW before commencing any such work. This includes even routine maintenance and repair activities. Pursuant to applicable state and federal law, for highway and limited access facilities, INDOT must grant written permission for each entry into the LARW, which must be based on specific traffic control and/or worker safety plans. Accordingly, as a condition precedent to giving effective notice, Westfield shall provide to INDOT all such traffic control and worker safety plans and other information as INDOT shall request or require in connection with granting such permission. Westfield shall not enter upon the LARW until Westfield has received written approval via a permit from INDOT, which shall not be unreasonably withheld, to enter upon the LARW. INDOT shall

only be required to approve Westfield's request to enter upon LARW if Westfield's request is consistent with all applicable federal and state laws and this Agreement.

2.4.2. Any use of the LARW permitted by this Agreement remains secondary to the interest of INDOT to use the LARW for highway or other transportation purposes. Westfield agrees that it shall surrender the LARW upon which the Signs and/or Totem are located, whether in part or in its entirety, if, in INDOT's discretion, the LARW or any portion thereof, is required for future expansion, modification, or maintenance of US 31. The Parties understand that this Agreement does not: (1) grant any interest or other rights in the land, either temporarily or permanently; or (2) establish a shared-use facility which would require replacement if INDOT has a need to use the affected property for highway purposes in the future.

ARTICLE III. INDOT's RESPONSIBILITIES

3.1. Financial Responsibilities. Under no circumstances shall INDOT be responsible for any costs associated with the installation, maintenance, improvement, removal of the Signs and/or Totem, or for the utilities serving the Signs and/or Totem.

3.2. Project Responsibilities. INDOT shall have the right to review and approve all plans for the Signs and/or Totem that are to be installed and located within LARW. INDOT shall promptly notify Westfield in the event that changes are required. INDOT shall be the sole and final decision maker on anything that is related to and/or may impact the quality and function of US 31. INDOT shall have approval authority for Westfield's maintenance of the Signs and/or Totem and for any improvements located within the LARW. Such review and approval shall be completed in a reasonable period of time. Under no circumstances shall INDOT be responsible for any work associated with the installation, maintenance, improvement, or removal of the Signs and/or Totem.

3.3. Future Maintenance. INDOT shall maintain any INDOT structures located within the LARW. INDOT shall have no maintenance responsibilities regarding the Signs and/or Totem. In the event Westfield fails to timely complete any necessary repairs or maintenance to the Signs and/or Totem in the interest of the safety of pedestrians, bicyclists, or the motoring public, INDOT may complete any necessary repairs or maintenance and invoice Westfield for the total cost of the repair. Westfield shall pay each invoice within thirty (30) days of issuance of the invoice and Carmel shall reimburse Westfield for 50% of the total costs for the necessary repairs or maintenance to the Totem. If INDOT or its contractors damage the Signs and/or Totem during maintenance activities that fall under this section, INDOT has no responsibility to repair or to compensate Westfield or Carmel for the cost of repairs.

ARTICLE IV. GENERAL PROVISIONS

4.1. Access to Records. The LPA shall maintain all books, documents, papers, correspondence, accounting records and other evidence pertaining to the cost incurred under this Agreement and shall make such materials available at their respective offices at all reasonable times during the period of this Agreement and for ten (10) years from the date approval under the terms of this Agreement, for

inspection or audit by INDOT, or its authorized designee. Copies shall be furnished at no cost to INDOT, if requested. The LPA agrees that, upon request by any Party or state or federal agency, INDOT may release or make available to the agency any working papers from an audit performed by INDOT of the LPA in connection with this Agreement, including any books, documents, papers, accounting records and other documentation which support or form the basis for the audit conclusions and judgments.

4.2. Assignment; Successors. [OMITTED – NOT APPLICABLE]

4.3. Assignment of Antitrust Claims. As part of the consideration for this Agreement, the LPA assigns to the State all right, title and interest in and to any claims the LPA now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Agreement.

4.4. Audits. The LPA acknowledges that it may be required to submit to an audit of funds paid, if any, through this Agreement. Any such audit shall be conducted in accordance with IC §5-11-1, *et seq.*, and audit guidelines specified by the State.

4.5. Authority to Bind the LPA. The signatory for the LPA represents that he/she has been duly authorized to execute this Agreement on behalf of the LPA and has obtained all necessary or applicable approvals to make this Agreement fully binding upon the LPA when his/her signature is affixed and accepted by the State.

4.6. Changes in Work. The LPA shall not commence any additional work or change the scope of the work until authorized in writing by the State. This Agreement may only be amended, supplemented, or modified by a written document executed in the same manner as this Agreement.

4.7. Certification for Federal-Aid Contracts Lobbying Activities. The LPA certifies, by signing and submitting this Agreement, to the best of its knowledge and belief that the LPA has complied with Section 1352, Title 31, U.S. Code, and specifically, that:

- A. No federal appropriated funds have been paid or will be paid, by or on behalf of the LPA, 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 agreements, 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 agreement, grant, loan, or cooperative agreement.
- B. 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 such federal agreement, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- C. The LPA also agrees by signing this Agreement that it shall require that the language of this certification be included in all contractor agreements including 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.

4.8. Compliance with Laws.

- A. The LPA shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Agreement shall be reviewed by the State and the LPA to determine whether the provisions of this Agreement require formal modification.
- B. The LPA and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC §4-2-6, *et seq.*, IC §4-2-7, *et seq.* and the regulations promulgated thereunder. **If the LPA has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC 4-2-6-1, has a financial interest in the Agreement, the LPA shall ensure compliance with the disclosure requirements in IC 4-2-6-10.5 prior to the execution of this contract.** If the LPA is not familiar with these ethical requirements, the LPA should refer any questions to the Indiana State Ethics Commission or visit the Inspector General's website at <http://www.in.gov/ig/>. If the LPA or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Agreement immediately upon notice to the LPA. In addition, the LPA may be subject to penalties under IC §§4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.
- C. The LPA certifies by entering into this Agreement that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory, or judicially required payments to INDOT. The LPA agrees that any payments currently due to INDOT may be withheld from payments due to the LPA. Additionally, further work or payments may be withheld, delayed, or denied and/or this Agreement suspended until the LPA is current in its payments and has submitted proof of such payment to INDOT.
- D. The LPA warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by INDOT, and agrees that it will immediately notify INDOT of any such actions. During the term of such actions, the LPA agrees that INDOT may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Agreement.
- E. If a valid dispute exists as to the LPA's liability or guilt in any action initiated by the State or its agencies, and INDOT decides to delay, withhold, or deny work to the LPA,

the LPA may request that it be allowed to continue, or receive work, without delay. Any payments that INDOT may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest under IC §5-17-5.

- F. The LPA warrants that the LPA and its contractors shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities under this Agreement. Failure to do so may be deemed a material breach of this Agreement and grounds for immediate termination and denial of further work with the State.
- G. The LPA affirms that it is properly registered and owes no outstanding reports to the Indiana Secretary of State.
- H. As required by IC §5-22-3-7:

- 1. The LPA and any principals of the LPA certify that:

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

- (i) IC §24-4.7 [Telephone Solicitation of Consumers];
 - (ii) IC §24-5-12 [Telephone Solicitations]; or
 - (iii) IC §24-5-14 [Regulation of Automatic Dialing Machines]; in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and

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

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

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

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

4.9. Condition of Payment. [OMITTED – NOT APPLICABLE.]

4.10. Confidentiality of State Information. The LPA understands and agrees that data, materials, and information disclosed to the LPA may contain confidential and protected information. The LPA covenants that data, material, and information gathered, based upon, or

disclosed to the LPA for the purpose of this Agreement, will not be disclosed to or discussed with third parties without the prior written consent of INDOT.

4.11. Continuity of Services. [OMITTED – NOT APPLICABLE.]

4.12. Debarment and Suspension.

- A. The LPA certifies by entering into this Agreement that neither it nor its principals nor any of its contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Agreement by any federal agency or by any department, agency, or political subdivision of the State of Indiana. The term “principal” for purposes of this Agreement means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the LPA.
- B. The LPA certifies that it has verified the state and federal suspension and debarment status for all contractors receiving funds under this Agreement and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred contractor. The LPA shall immediately notify INDOT if any contractor becomes debarred or suspended, and shall, at INDOT’s request, take all steps required by INDOT to terminate its contractual relationship with the contractor for work to be performed under this Agreement.

4.13. Default by State. [OMITTED – NOT APPLICABLE.]

4.14. Disputes. [OMITTED – NOT APPLICABLE.]

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

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

- A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the LPA’s workplace, and specifying the actions that will be taken against employees for violations of such prohibition;

- B. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the LPA'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;
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the LPA of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;
- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

4.16. Employment Eligibility Verification. The LPA swears or affirms under the penalties of perjury that the LPA does not knowingly employ an unauthorized alien. The LPA further agrees that:

- A. The LPA 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 LPA is not required to participate should the E-Verify program cease to exist. Additionally, the LPA is not required to participate if the LPA is self-employed and does not employ any employees.
- B. The LPA shall not knowingly employ or contract with an unauthorized alien. The LPA shall not retain an employee or contract with a person that the LPA subsequently learns is an unauthorized alien.
- C. The LPA shall require his/her/its subcontractors, who perform work under this Agreement, to certify to the LPA that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The LPA agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

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

4.17. Employment Option. [OMITTED – NOT APPLICABLE.]

4.18. Force Majeure. In the event that any Party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected Party (hereinafter referred to as a “Force Majeure Event”), the Party who has been so affected shall immediately or as soon as is reasonably possible under the circumstances give notice to the other Parties and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the Party whose ability to perform has not been so affected may, by giving written notice, terminate this Agreement.

4.19. Funding Cancellation. As required by Financial Management Circular 3.3 and IC 5-22-17-5, when the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of the performance of this Agreement, this Agreement shall be canceled. A determination by the Director of State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

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

4.21. HIPAA Compliance. [OMITTED – NOT APPLICABLE.]

4.22. Indemnification. The LPA agrees to indemnify, defend, exculpate and hold harmless the State of Indiana, INDOT, and their officials and employees from any liability due to loss, damage, injuries, or other casualties of whatever kind, to the person or property of anyone arising out of, or resulting from the performance of this Agreement or the work connected therewith, or from the installation, existence, use, maintenance, condition, repairs, alteration or removal of any equipment or material, to the extent such liability is caused by the negligence of the LPA, including any claims arising out the Worker's Compensation Act or any other law, ordinance, order or decree. INDOT shall **not** provide indemnification to the LPA. The LPA agrees to pay all reasonable expenses and attorney's fees incurred by or imposed on the State and INDOT in connection herewith in the event that the LPA shall default under the provisions of this Section.

4.23. Independent Entity; Workers' Compensation Insurance. The LPA is performing as an independent entity under this Agreement. No part of this Agreement shall be construed to represent the creation of an employment, agency, partnership, or joint venture agreement between the Parties. 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, employees, or subcontractors of the other Party. The LPA shall provide all necessary unemployment and

workers' compensation insurance for the LPA's employees and shall provide the State with a Certificate of Insurance evidencing such coverage prior to starting work under this Agreement.

4.24. Indiana Veteran's Business Enterprise Compliance. [OMITTED – NOT APPLICABLE.]

4.25. Information Technology Enterprise Architecture Requirements. [OMITTED – NOT APPLICABLE.]

4.26. Insurance. [OMITTED – NOT APPLICABLE.]

4.27. Key Person(s). [OMITTED – NOT APPLICABLE.]

4.28. Licensing Standards. [OMITTED – NOT APPLICABLE.]

4.29. Merger & Modification. This Agreement constitutes the entire agreement between the PARTIES. No understandings, agreements, or representations, oral or written, not specified within this Agreement will be valid provisions of this Agreement. This Agreement may not be modified, supplemented, or amended, except by written agreement signed by all necessary PARTIES.

4.30. Minority and Women's Business Enterprises Compliance. [OMITTED - NOT APPLICABLE.]

4.31. Non-Discrimination.

- A. Pursuant to the Indiana Civil Rights Law, specifically including IC 22-9-1-10, and in keeping with the purposes of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the LPA covenants that it shall not discriminate against any employee or applicant for employment relating to this Agreement with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state or local law ("Protected Characteristics"). The LPA certifies compliance with applicable federal laws, regulations and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this paragraph may be regarded as a material breach of this Agreement, but nothing in this paragraph shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the LPA or any subcontractor.
- B. INDOT is a recipient of federal funds, and therefore, where applicable, the LPA and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246 as amended by Executive Order 13672.

The LPA agrees that if the LPA employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, the LPA will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The LPA complies 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 nondiscrimination enforcement is broader than the language of Title VI and encompasses other State and Federal protections. INDOT's nondiscrimination enforcement shall include the following additional grounds: sex, sexual orientation, gender identity, ancestry, age, income status, religion, disability, income status, limited English proficiency, or status as a veteran.)

- C. During the performance of this Agreement, the LPA, for itself, its assignees, and successors in interest (hereinafter collectively referred to as, the "CITY") agrees to the following assurances under Title VI of the Civil Rights Act of 1964:
1. Compliance with Regulations: The LPA shall comply with the regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49 CFR 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 Agreement.
 2. Nondiscrimination: The LPA, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, sexual orientation, gender identity, national origin, religion, disability, ancestry, or status as a veteran in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The LPA shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulation, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.
 3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the LPA for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the LPA of the LPA's obligations under this Agreement, and the Regulations relative to nondiscrimination on the grounds of race, color, sex, sexual

orientation, gender identity, national origin, religion, disability, ancestry, income status, limited English proficiency, or status as a veteran.

4. Information and Reports: The LPA 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 Indiana Department of Transportation and Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the LPA is in the exclusive possession of another who fails or refuses furnish this information, the LPA shall so certify to the Indiana Department of Transportation or the Federal Highway Administration as appropriate and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of the LPA's noncompliance with the nondiscrimination provisions of this Agreement, the Indiana Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to: (a) withholding payments to the LPA under the Agreement until the LPA complies, and/or (b) cancellation, termination or suspension of the Agreement, in whole or in part.
6. Incorporation of Provisions: The LPA shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The LPA shall take such action with respect to any subcontract or procurement as the Indiana Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance, provided, however, that in the event the LPA becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the LPA may request the Indiana Department of Transportation to enter into such litigation to protect the interests of the Indiana Department of Transportation, and, in addition, the LPA may request the United States of America to enter into such litigation to protect the interests of the United States of America.

4.32. Notice to Parties. Whenever any notice, statement or other communication is required under this Agreement, it shall be sent to the following addresses, unless otherwise specifically advised:

- A. For INDOT:
Valerie Cockrum
Technical Services Director - Greenfield District
32 South Broadway
Greenfield, IN 46140
Email: vcokrum@indot.in.gov

With Copy To:

Chief Legal Counsel and Deputy Commissioner
Indiana Department of Transportation
100 North Senate Avenue, IGCN 758
Indianapolis, IN 46204

B. For City of Westfield:

Johnathon Nail
Director of Public Works
2706 E. 171st Street
Westfield, IN 46074
Phone: 317-804-3150
Email: publicworks@westfield.in.gov

C. For City of Carmel:

Jeremy Kashman, City Engineer
Carmel City Hall
One Civic Square
Carmel, IN 46032
Phone: 317-571-2441
Email: engineering@carmel.in.gov

4.33. Order of Precedence; Incorporation by Reference. [OMITTED – NOT APPLICABLE.]

4.34. Ownership of Documents and Materials. [OMITTED – NOT APPLICABLE.]

4.35. Payments. [OMITTED – NOT APPLICABLE.]

4.36. Penalties, Interest and Attorney's Fees. INDOT 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, IC §34-54-8, and IC §34-13-1. Notwithstanding the provisions contained in IC §5-17-5, any liability resulting from the State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

4.37. Progress Reports. [OMITTED – NOT APPLICABLE.]

4.38. Prohibited Telecommunications and Video Surveillance Equipment and Services. [OMITTED – NOT APPLICABLE.]

4.39. Public Record. The LPA acknowledges that the State will not treat this Agreement as containing confidential information and will post this Agreement on its website as required by Executive Order 05-07. Use by the public of the information contained in this Agreement shall not be considered an act of the State.

4.40 Renewal Option. This Contract may be renewed under the same terms and conditions, subject to the approval of the Commissioner of the Department of Administration and the State Budget Director in compliance with IC § 5-22-17-4. The term of the renewed contract may not be longer than the term of the original Contract.

4.41. Severability. The invalidity of any section, subsection, clause, or provision of this Agreement shall not affect the validity of the remaining sections, subsections, clauses, or provisions of this Agreement.

4.42. Status of Claims. The LPA shall be responsible for keeping INDOT currently advised as to the status of any claims made for damages against the LPA resulting from services performed under this Agreement.

4.43. Substantial Performance. This Agreement shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

4.44. Taxes. The State is exempt from most state and local taxes and many federal taxes. The State will not be responsible for any taxes levied on the LPA or its contractors as a result of this Agreement.

4.45. Termination for Convenience. This Agreement may be terminated, in whole or in part, by INDOT whenever, for any reason, INDOT determines that such termination is in its best interest. Termination shall be affected by delivery to the LPA a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective.

4.46. Termination for Default. [OMITTED – NOT APPLICABLE.]

4.47. Travel. [OMITTED – NOT APPLICABLE.]

4.48. Waiver of Rights. No right conferred on either party under this Agreement shall be deemed waived, and no breach of this Agreement excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the State's review, approval or acceptance of, nor payment for, the work performed under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and the LPA shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the LPA's negligent performance of any of the services furnished under this Agreement.

4.49. Work Standards. [OMITTED – NOT APPLICABLE.]

4.50 State Boilerplate Affirmation Clause. I swear or affirm under the penalties of perjury that I have not altered, modified, changed, or deleted the State's standard contract clauses (as contained in the *2022 SCM Template*) in any way except as follows: None.

Non-Collusion and Acceptance

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

Agreement to Use Electronic Signatures

I agree, and it is my intent, to sign this Agreement by accessing State of Indiana Supplier Portal using the secure password assigned to me and by electronically submitting this Agreement to the State of Indiana. I understand that my signing and submitting this Agreement in this fashion is the legal equivalent of having placed my handwritten signature on the submitted Agreement and this affirmation. I understand and agree that by electronically signing and submitting this Agreement in this fashion I am affirming to the truth of the information contained therein. I understand that this Agreement will not become binding on the State until it has been approved by the Office of the Attorney General, which approvals will be posted on the Active Contracts Database:

https://fs.gmis.in.gov/psp/guest/SUPPLIER/ERP/c/SOI_CUSTOM_APPS.SOI_PUBLIC_CNTR_CTS.GBL

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

THE REST OF THIS PAGE IS INTENTIONALLY LEFT BLANK

CITY OF WESTFIELD, INDIANA

BOARD OF PUBLIC WORKS AND SAFETY

J. Andrew Cook, Mayor

Date: _____

Jim Ake, Member

Date: _____

Larry Clarino, Member

Date: _____

Attest:

Patricia Leuteritz

Date: _____

CITY OF CARMEL, INDIANA

BOARD OF PUBLIC WORKS AND SAFETY

James Brainard, Mayor

Date: _____

Mary Ann Burke, Member

Date: _____

Lori Watson, Member

Date: _____

Attest:

Sue Wolfgang, Clerk

Date: _____

STATE OF INDIANA
Indiana Department of Transportation

Recommended for approval by:

Clark W. Packer
Greenfield District Deputy Commissioner

Date: _____

Executed By:

Michael Smith, Commissioner

(FOR)

Date: _____

APPROVALS

[State approvals are electronic – see attached confirmation page.]

STATE OF INDIANA
Budget Agency

By: (FOR)
Zachary Q. Jackson, Director

Date:

STATE OF INDIANA
Department of Administration

By: (FOR)
Rebecca Holwerda, Commissioner

Date:

Approved as to Form and Legality:
Office of the Attorney General

By: (FOR)
Theodore E. Rokita
Attorney General

Date:

This instrument was prepared for the Indiana Department of Transportation, 100 N. Senate Avenue, Indianapolis, IN 46204, by the undersigned attorney.

Marjorie A. Millman, Attorney No. 21748-36



Public Works

John Nail, Director
Michael Pearce, City Engineer
Travis Stetnish, Streets
Chris McConnell, Parks & Trails

Board of Works

Andy Cook
Larry Clarino
Jim Ake

Clerk Treasurer

Cindy J. Gossard

Public Works Department

(317) 804-3100 office
(317) 804-3181 fax
2706 East 171st Street
Westfield, IN 46074
westfield.in.gov

To: Westfield Board of Public Works & Safety

Date: July 26, 2023

Re: Action Item - Signing Authority

RFQ For Building Move of 102 S Union Street

The City of Westfield Public Works Department is requesting that the Board of Public Works and Safety grant Johnathon Nail, Director of Public Works, signing authority to accept a Request For Quotes Response for the building move of 102 S. Union Street as part of the State Road 32 Reconstruction Project. The RFQ will be sent to no less than three contractors qualified to do this specialized work. The signing authority will be for a not-to-exceed amount of \$150,000 per the City of Westfield's procurement guidelines.

Jim Ake

Larry Clarino

Andy Cook



July 26, 2023

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, Aberdeen, Section 2, Bond #72BSBJA9170, \$162,868.00, Erosion Control
- Pulte Homes of Indiana, LLC, Kimblewick by Del Webb, Section 7, Bond #CMS353264, \$124,471.16, Erosion Control
- M/I Homes of Indiana, Bonterra, Section 2, Bond #0244201, \$40,101.03, Erosion Control
- Apollo Developers, Springwater, Bond #SU11720680000, \$76,114.78, Erosion Control
- Apollo Developers, Springwater, Bond #SU11720690000, \$136,940.01, ROW Paving Union Street
- Apollo Developers, Springwater, Bond #SU11720720000, \$91,476.00, Paths
- SRP Contractors, LLC, Holiday Inn Express & Suites Hotel, Bond #999268558, \$251,838.00, Storm Sewer, Erosion Control & ROW Improvements

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:

- Chatham Hills, LLP, Chatham Hills, Section 6B, Bond #SU1161905, \$13,600.00, Seeding & Erosion Control
- Westfield Residential Investors, LLC, Spring Mill Station Flats, Bond #014072872, \$1,541,869.00, Road Work on 161st Street, Road Work on Spring Mill Road, Spring Mill Depot Drive, and Asphalt Path, including Streets, Curbs, Sidewalks, & Storm Sewer.
- Platinum Properties Management Group, LLC, Bordeaux Walk, Section 1, Bond #3018583, \$61,029.00, Erosion Control
- Platinum Properties Management Group, LLC, Bordeaux Walk, Section 2, Bond #3152010, \$41,227.00, 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:

- Westfield Residential Investors, LLC, Spring Mill Station Flats, Bond #014072872M, \$154,187.00, Curbs, Sidewalks, & Storm Sewer

Westfield Police Department

Monthly Performance Measures Report



Board of Public Works & Safety

June 2023

Table of Contents

	Page
1. Field Activity Performance Measures	
Events by Nature	1
Events by Incident Type	2
UCR Offenses	3
Arrests & traffic	4
Top Accident Locations	5
Total Accidents by Primary Cause	6
2. Community Events	7

Westfield Police Department

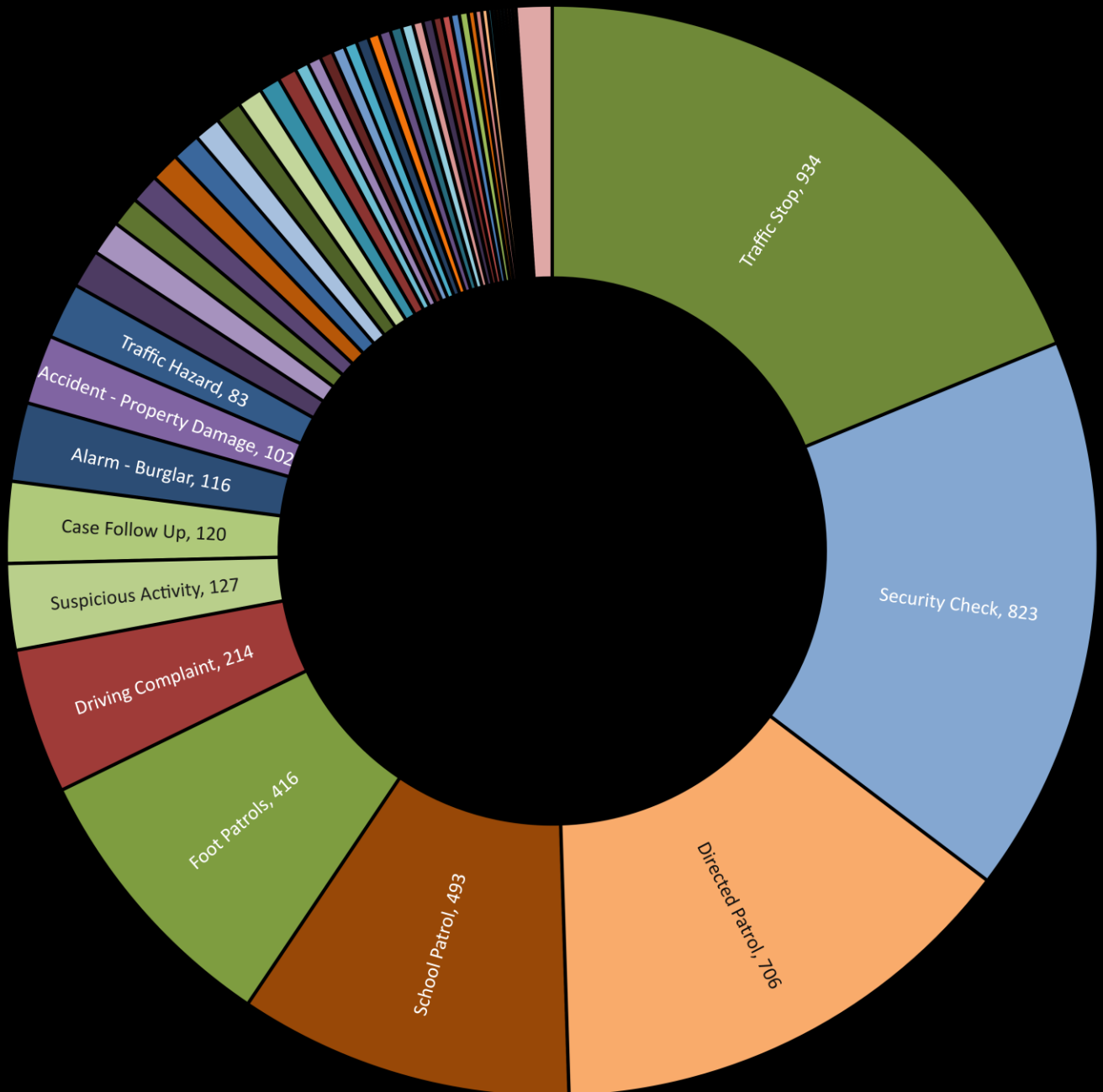
June 2023

Events by Nature

Incident Type	Count	Incident Type Cont.	Count Cont.
911 Hang Up	13	Investigative Stop	0
Abandoned Vehicle	13	Juvenile Complaint	1
Abandonment	0	K9 Detail	1
Abuse / Neglect	2	Kidnapping	0
Accident - Hit & Run PD	13	Lock Out	37
Accident - Hit & Run PI	0	Loud Party	3
Accident - Other	2	Mental Emotional - Violent	0
Accident - Property Damage	102	Mental Emotial/Suicide Attempt	2
Accident - Personal Injury	19	Mental Person	5
Accident - Sinking Vehicle	0	Miscellaneous	17
Accident - Unknown	4	Missing Person	5
Accelerator Stuck	0	Missing Person - PLS	0
Active Assailant	0	New Call	0
Alarm - Other	5	Nuisance	18
Alarm - Vehicle	0	Ordinance Misc.	19
Alarm - Burglar	116	Parking Complaint	39
Alarm - Hold Up	13	Physical Disturbance	15
Animal Bite / Attack	4	Product Contamination	0
Animal Complaint	44	Reckless Activity	3
Assist Fire	56	Road Rage	6
Assist Other Department	17	Robbery	0
Assist Public	43	Runaway	3
Battery	4	School Patrol	493
Bike Patrol	19	Security Check	823
Bomb Device Found	0	Sex Offense	4
Bomb Threat	3	Shooting	0
Burglary	5	Solicitor	10
Carjacking	0	Special Detail	4
Case Follow Up	120	Stabbing	0
Child Seat Inspection	0	Suicide	0
Civil Dispute	20	Suspicious Activity	127
Criminal Mischief	20	Suspicious Package	0
Damage to Property	0	Suspicious Person	0
Death Investigation	0	Test	0
Directed Patrol	706	Theft	51
Disturbance	42	Theft - From a Vehicle	4
Domestic	0	Theft - of a Vehicle	5
Driving Complaint	214	Theft Shoplifter	0
Drug Complaint	2	Threat to Life	2
Drug Lab	0	Threatening Suicide	9
Escort	0	Tow Release	0
Fail to Return Comm Corrections	0	Traffic Hazard	83
Fight	0	Transport	0
Firearms Shots Fired	2	Trespassing	28
Foot Patrols	416	Traffic Stop	934
Found / Lost Property	17	Unknown Call for Police	1
Found Person	0	VIN Check	43
Fraud Prescription	1	Wanted	5
Fraud / Deception	31	Warrant Service	10
Harassment	17	Weapons Complaint	1
Intoxicated Person	5	Welfare Check	39
Investigation	15	Total	2125

Westfield Police Department
June 2023

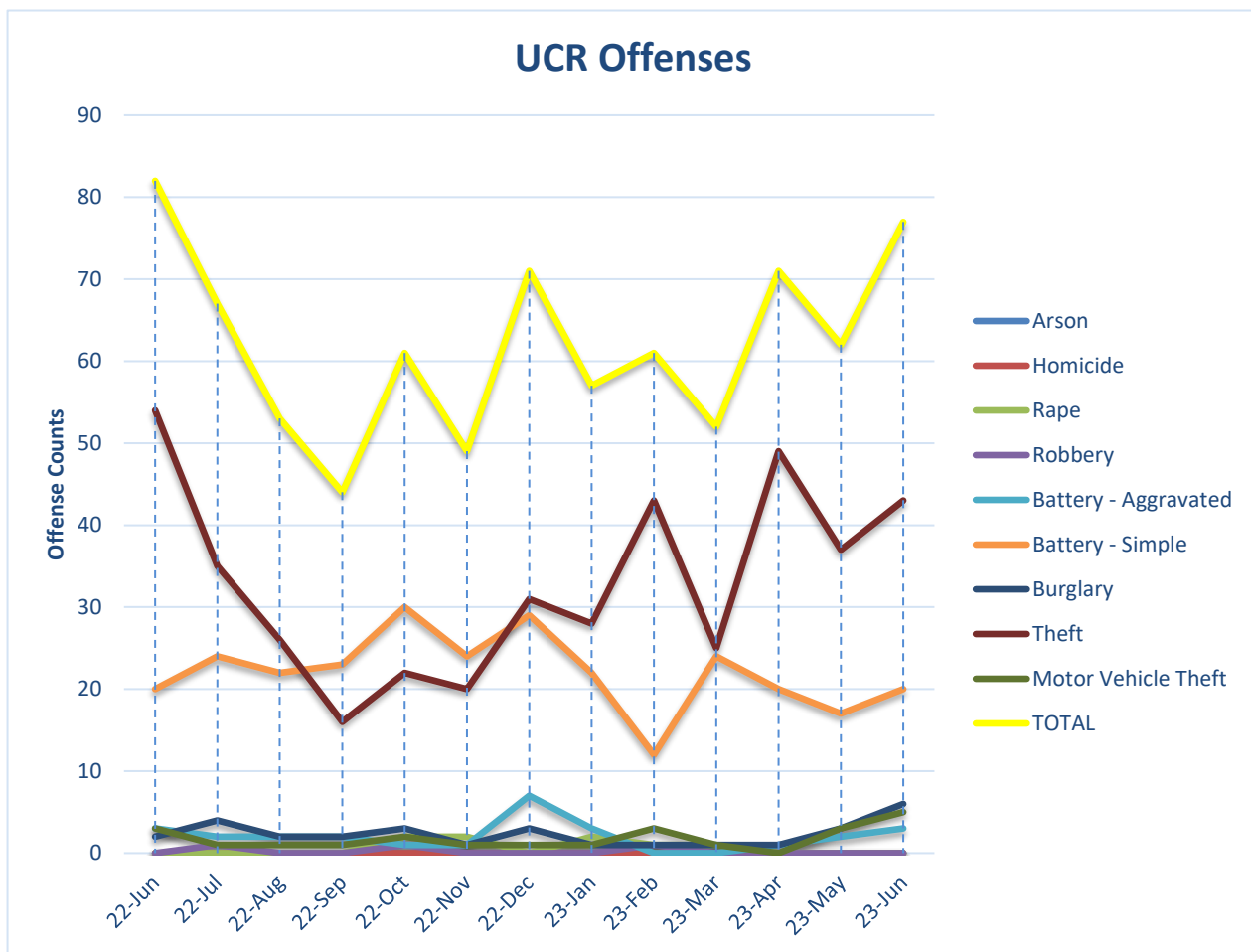
Monthly Events by Incident Type
June 2023



Westfield Police Department
June 2023

UCR OFFENSES

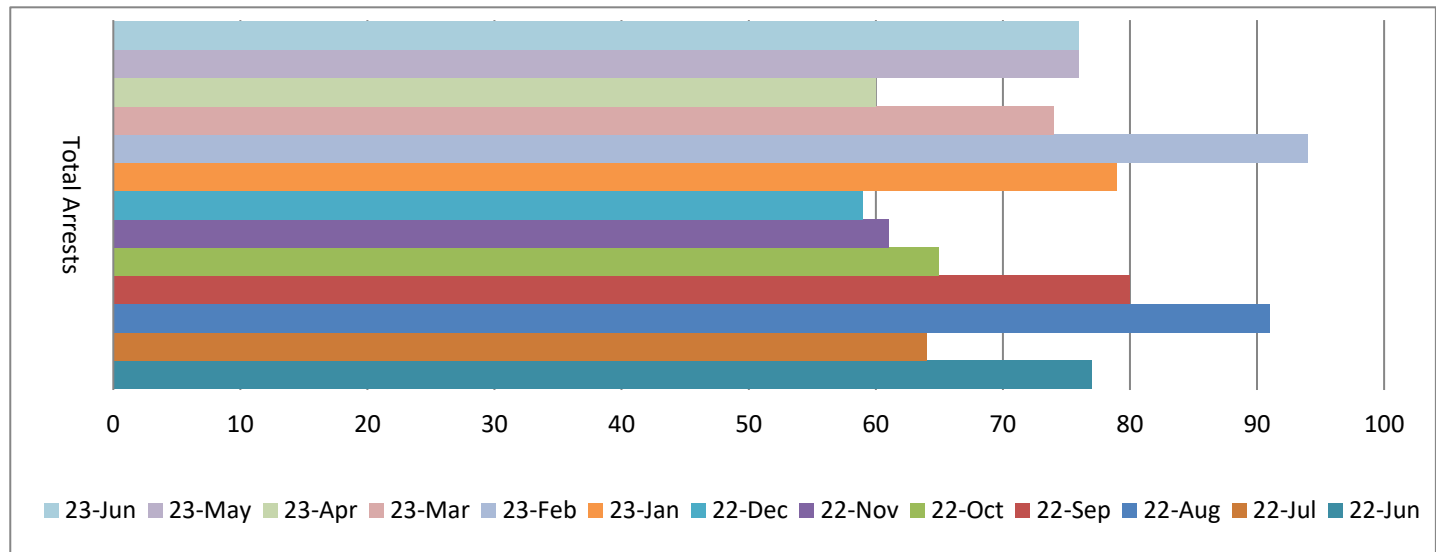
OFFENSE	22-May	22-Jun	22-Jul	22-Aug	22-Sep	22-Oct	22-Nov	22-Dec	23-Jan	23-Feb	23-Mar	23-Apr	23-May	23-Jun
Arson	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Homicide	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Rape	0	0	0	0	0	2	2	0	2	1	1	0	0	0
Robbery	0	0	1	0	0	1	0	0	0	1	0	0	0	0
Battery - Aggravated	3	3	2	2	2	1	1	7	3	0	0	1	2	3
Battery - Simple	26	20	24	22	23	30	24	29	22	12	24	20	17	20
Burglary	3	2	4	2	2	3	1	3	1	1	1	1	3	6
Theft	37	54	35	26	16	22	20	31	28	43	25	49	37	43
Motor Vehicle Theft	2	3	1	1	1	2	1	1	1	3	1	0	3	5
TOTAL	71	82	67	53	44	61	49	71	57	61	52	71	62	77



Westfield Police Department

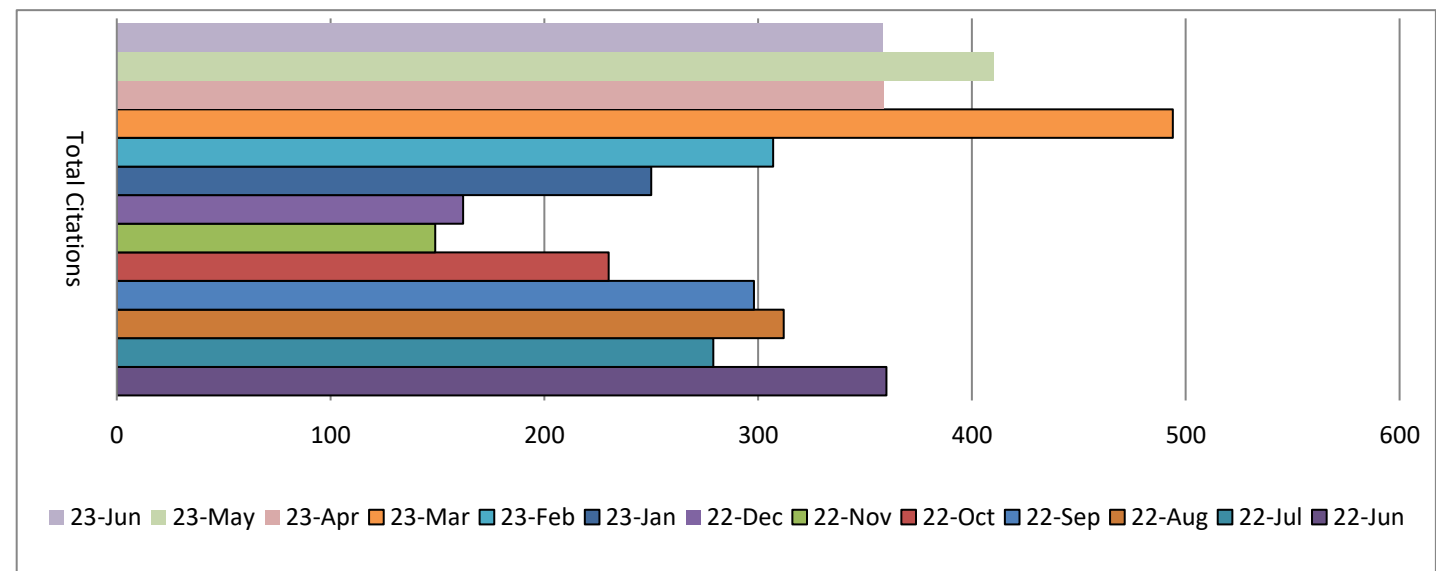
June 2023

Arrest Reports Taken	22-Jun	22-Jul	22-Aug	22-Sep	22-Oct	22-Nov	22-Dec	23-Jan	23-Feb	23-Mar	23-Apr	23-May	23-Jun
Alcohol/ Drug Related	39	22	35	28	21	23	20	27	16	16	12	16	17
Felony Charges	41	37	60	37	20	31	26	28	10	45	25	79	42
Misdemeanor Charges	100	68	114	101	85	83	65	98	82	82	76	84	80
Total Arrests	77	64	91	80	65	61	59	79	94	74	60	76	76



Traffic	22-Jun	22-Jul	22-Aug	22-Sep	22-Oct	22-Nov	22-Dec	23-Jan	23-Feb	23-Mar	23-Apr	23-May	23-Jun
Total Citations	360	279	312	298	230	149	162	250	307	494	359	410	358
Total Written Warning	1218	1090	1442	1264	977	889	781	1130	1000	956	772	891	822
Total Traffic Accidents	96	76	84	71	94	65	77	67	54	74	59	83	92
Property Damage	88	70	69	62	82	58	64	60	43	64	48	71	83
Personal Injury	8	6	15	9	12	7	13	7	10	10	6	12	11
Fatality	0	0	0	0	0	0	0	0	1	0	1	0	0
Hit and Run*	14	9	5	7	8	10	8	10	6	11	5	7	18

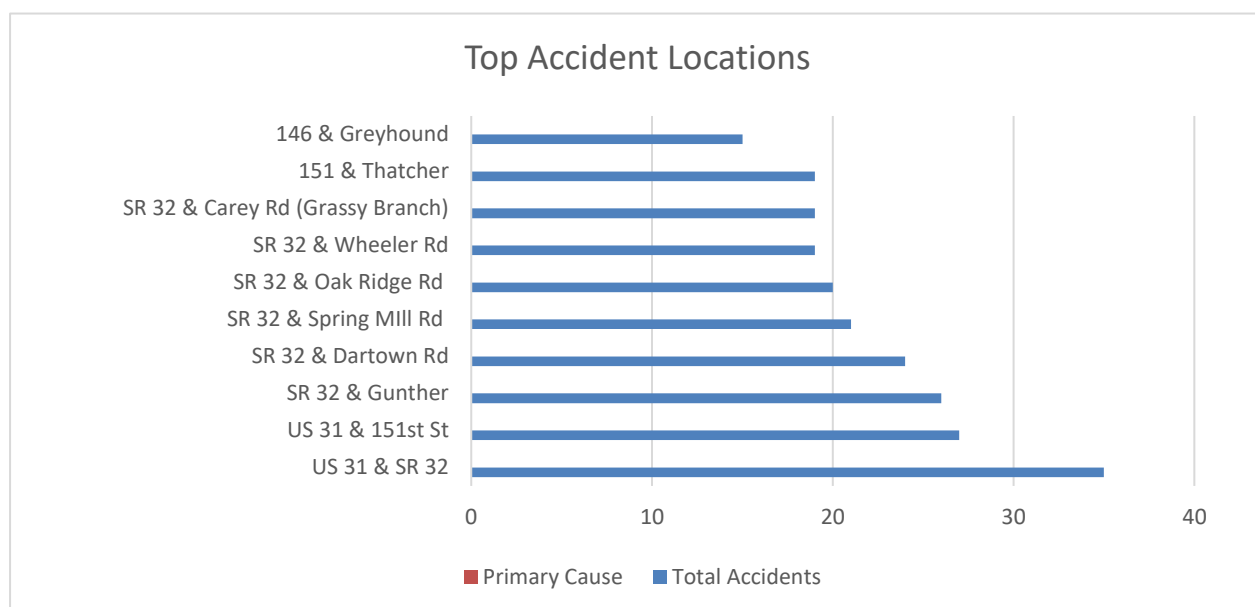
*numbers included in property damage, personal injury, and fatality accidents



Westfield Police Department

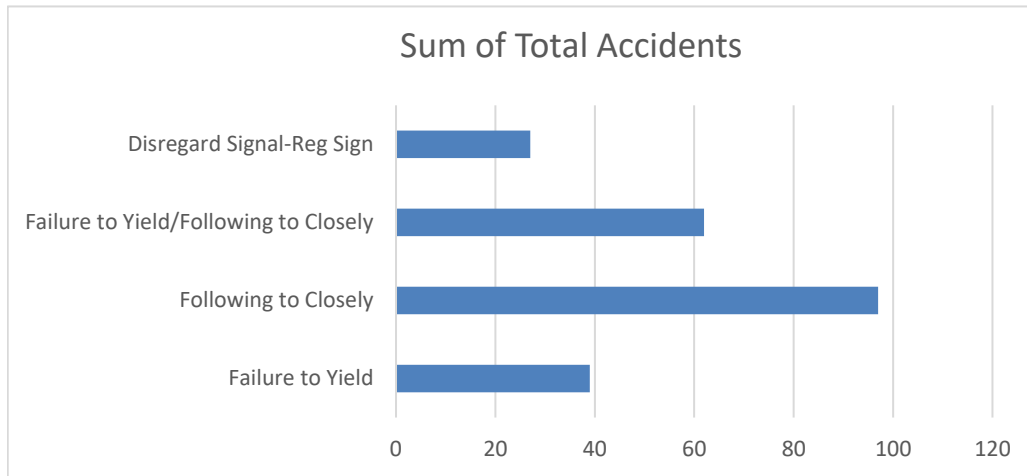
June 2023

Top Accident Locations		
Accident Location	Total Accidents	Primary Cause
US 31 & SR 32	35	Following too Closely
US 31 & 151st St	27	Disregard Signal-Reg Sign
SR 32 & Gunther	26	Following too Closely
SR 32 & Dartown Rd	24	Failure to Yield/Following too Closely
SR 32 & Spring Mill Rd	21	Following too Closely
SR 32 & Oak Ridge Rd	20	Failure to Yield
SR 32 & Wheeler Rd	19	Failure to Yield/Following too Closely
SR 32 & Carey Rd (Grassy Branch)	19	Failure to Yield/Following too Closely
151 & Thatcher	19	Failure to Yield
146 & Greyhound	15	Following too Closely



Westfield Police Department
June 2023

Primary Cause	Sum of Total Accidents
Failure to Yield	39
Following to Closely	97
Failure to Yield/Following to Closely	62
Disregard Signal-Reg Sign	27



Westfield Police Department
June 2023

Community Events

6/3/23	Pack The Cruiser
6/9/23	Roll Call at Prime Car Wash
6/11/23	Scofield Farms Neighborhood Community Event
6/12/23	Westfield Library Story Time
6/15/23	Scout Troop Meeting
6/23/23	Touch-A-Truck
6/27/23	Cub Scout Bike Rodeo
6/19-23/23	Little Citizens Academy

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

**MINUTES OF
EXECUTIVE SESSION**

Wednesday, June 28, 2023

Time: 12:30 P.M.

Location: Westfield City Hall, Assembly Room, 130 Penn Street, Westfield, Indiana

The City of Westfield, Indiana, Board of Public Works & Safety held an Executive Session at the above mentioned time and location. Mayor Andy Cook and Larry Clarino were present and Jim Ake was absent. Additionally, Jeremy Lollar, Chief Gaylor and Attorney Lee were present. The Board of Public Works engaged in a discussion regarding strategy with respect to a lease pursuant to Indiana Code § 5-14-1.5-6.1(b)(2)(D)(ii). That was the only issue that was discussed and the meeting was adjourned at 12:45 P.M.

ENCROACHMENT PERMIT APPLICATION

- The applicant named below requests permission to encroach on the following public right-of-way, street, sidewalk, alley or other public space at the location described below.
- Applicant shall submit one original application, with plans attached, either in person or by mail.
- No verbal transmissions will be accepted. Fax transmissions will only be accepted at the approval of the Director.
- **CASH OR CHECK PAYMENTS ONLY;** No credit cards accepted. Please call 317-804-3171 with any questions or to purchase an Encroachment Standards Ordinance.

For Office Use Only

Permit Number _____
Expires _____
Permit Fee _____
Fee Waived _____

Application Date: _____ Estimated Completion Date: _____

Work Address: _____ Subdivision: _____

Name of Contractor/Utility: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____

Email: _____

Name of Sub-Contractor: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____

Email: _____

LOCATION: ☐ Street ☐ Alley ☐ Sidewalk ☐ Shoulder/Berm

IUPPS Number: _____

TYPE: ☐ Cut ☐ Bore ☐ Trench ☐ Other ☐ New Construction ☐ Existing Construction
☐ Water ☐ Gas ☐ Electric ☐ Phone ☐ CATV ☐ Sewer ☐ Irrigation

Please describe proposed work: _____

**Please contact Carlton Summe at 317-460-9670 24 hours prior to pouring concrete.*

SIZE OF STREET OR RIGHT-OF-WAY CUT

Traffic Lanes: Length: _____ Width: _____ Depth Within Lanes: _____

Sidewalk: Length: _____ Width: _____ Depth Within Sidewalk: _____

Type of Surface: ☐ Concrete ☐ Asphalt ☐ Asphalt Over Concrete ☐ Asphalt Over Brick ☐ Gravel-Dirt ☐ Brick

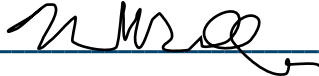
TRAFFIC PORTION AFFECTED BY PERMIT

Width: _____ Length: _____ # of Lanes: _____ # of Lanes to be Closed: _____ # of Hours Closed: _____

Vehicles/equipment left on site unattended? ☐ Yes ☐ No Unattended for: _____ weekdays _____ weekends

TERMS AND CONDITIONS FOR ENCROACHMENT PERMIT

1. It is understood that any permit by virtue of this request is revocable at the pleasure of the City of Westfield and that the same shall be voided if the following terms and conditions are not fulfilled by the Permittee. The Permittee hereby agrees to observe all requirements of the Encroachment Standard Ordinance and comply with the conditions set forth by the MUTCD Rulings and Revisions.
2. The undersigned shall notify the Director or his representative a minimum of 72 hours prior to the time that work is to be performed. The undersigned will furnish placards identifying equipment, flashers, barricades and/or other warning devices at the construction site. When two-way traffic is confined to one lane, flagging personnel shall be required. Permittee must follow Chapter XVII of Title 29, Code of Federal Regulation, Part 1926 known as Safety & Health Regulation for Construction.
3. In cases where the work authorized by the permit will cause major interference with traffic flow on streets, Permittee shall provide a uniformed traffic officer when requested by the Director or his representative to provide traffic control at the construction site. Work shall not be performed on any major arterials, streets and thoroughfares during rush hours or peak hours of vehicular traffic flow, unless in case of emergencies.
4. The Permittee shall not create a hazardous or unsafe situation at construction sites, which would cause injury or damage to vehicular and pedestrian traffic. The Permittee shall not leave unattended open cuts unprotected overnight or during weekend periods. Permission to use temporary steel plates or any authorized substitutes shall be requested at open cuts or construction sites. The Director or his representative shall be notified of these steel plates or substitutes by the Permittee.
5. All construction equipment and/or vehicles left unattended for any length of time shall be parked in locations as to not create hazardous and unsafe situations to vehicular and pedestrian flow. The construction equipment and/or vehicles shall be parked in such a manner as to not restrict sight distance to vehicular traffic. **All construction equipment and/or vehicles are prohibited from driving on named trails, neighborhood perimeter trails, and sidewalks.**
6. The Permittee shall hold harmless and indemnify the City of Westfield from, for and against any claim of any person in tort, contract or otherwise arising out of the act or omissions of the Permittee, their agents, representatives, servants, contractors and the latter's subcontractors, whenever such acts or omissions or any rights or performance or exercise thereof of the Permittee arise under this permit from alteration, modernization, replacement, operation, maintenance, change or removal of any part or portion of the public right-of-way, or facility thereof. All existing utilities must be identified and located prior to all boring operations. Permittee shall be responsible for consequential damages to residents and businesses who are damaged during outages caused by these untimely accidents experienced by poorly coordinated utility borings and construction activities in the City right-of-way.
7. The Permittee shall stipulate the type of materials and method of repair utilized to close any open cuts, subject to the Director or his representative's approval.
8. The Permittee shall begin work within 45 working days from the date of application approval, and work must be completed within 60 working days of the application approval. Any construction and/or work not completed by this date shall be grounds to nullify and void this permit. Re-application would then be necessary.
9. The Permittee shall be required upon completion of construction and/or work to notify the Director or his representative for inspection and verification. The construction and/or work shall be inspected prior to being accepted by the City of Westfield as being complete. The Director or his representative shall perform the inspection.
10. Upon the completion of all open street cuts, permanent patches shall be in place no later than 20 working days from the temporary patch inspection date. Any construction work or repair measures utilized to close any open cuts made under this permit that are found to be unsatisfactory shall be corrected within 10 working days by the Permittee. The Permittee shall be responsible to maintain and repair any and all open cuts granted by this permit for a period of one year upon final acceptance, unless the City of Westfield and/or other utilities, contractors or subcontractors or other parties remove, damage, modernize, replace, change any part or portion of the public right-of-way or facility or thereof granted under this permit.
11. Upon completion/acceptance by Director or his representative as builds must be provided (print and CD form) within 30 days of completion.

Signature of Applicant:  Title: _____

Printed Name: _____ Date: _____

Company Name: _____ Phone Number: _____

For Office Use Only:

Traffic Control Personnel: YES NO Uniform Police: YES NO Number of Personnel Necessary: _____

Steel Plates or other authorized substitute to be used? YES NO (If yes, refer to #4 above)

Type of materials and methods used to close or repair open cuts shall conform to Attachment A.
If another method has been pre-approved, please list below:

Director/or his representative

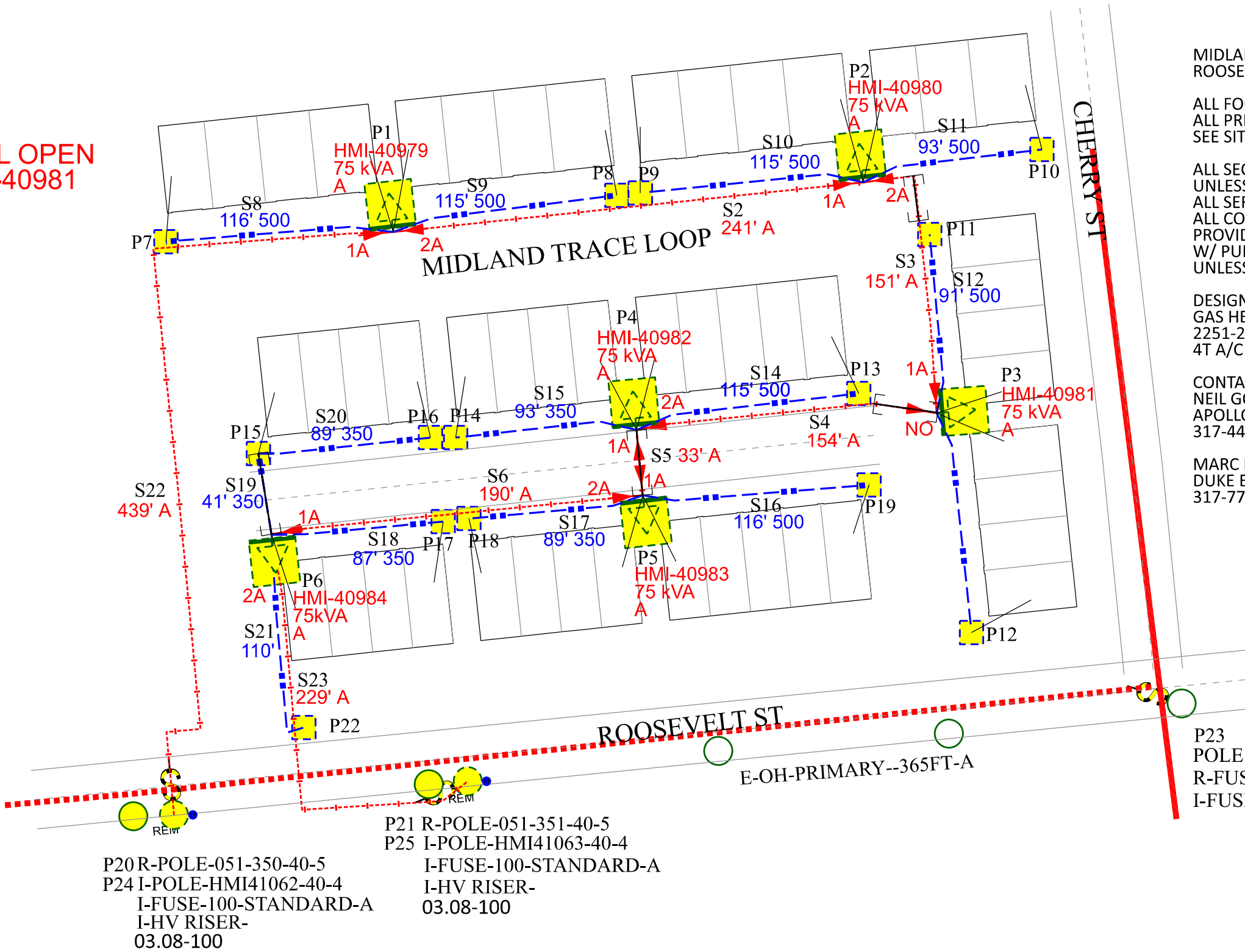
Project Manager/when applicable

Date Approved



REMEMBER: Work zone area conditions may have changed for this job! Everyone is responsible for verifying the above safety information is correct prior to any work being performed each day.

NORMAL OPEN
P3 HMI-40981



MIDLAND SOUTH
ROOSEVELT ST AND CHERRY ST, WESTFIELD

ALL FOOTAGES ARE APPROXIMATE
ALL PRIMARY TO BE 1/0ALTRXLPELCJ15
SEE SITE AND WATER PLAN FOR EASEMENT INFO

ALL SECONDARY TO BE 4/0ALTXUG
UNLESS OTHERWISE NOTED
ALL SERVICES TO BE 4/0ALTXUG
ALL CONDUIT TO BE 4" SCH 40, PVC
PROVIDED BY AND INSTALLED BY DEVELOPER
W/ PULL STRING, CAPPED AND MARKED AT ENDS
UNLESS OTHERWISE NOTED

DESIGN CRITERIA
GAS HEAT
2251-2650 SQ FT
4T A/C

CONTACT INFORMATION
NEIL GORADIA
APOLLO DEVELOPERS
317-446-7654

MARC DILLER
DUKE ENERGY
317-776-5327

MIDLAND SOUTH
URD # 130-4805

Work Order Number	47183359
Customer/Contact	
Contact Phone	
Job Site Address	229 ROOSEVELT ST
City	WESTFIELD
County	HAMILTON/ WASHINGTON
State, Zip	IN, 46074
Designer	Carly Winters
Designer Phone	
Circuit ID	WESTFIELD (370) 1277
Primary Voltage	12.47/7.2 kV
Permit Required	Yes___ No___
Permit Type/No.	
Permit Type/No. 2	
Permit Type/No. 3	
Permit Type/No. 4	