



CITY OF WESTFIELD, IN
Board of Public Works Meeting Agenda_07_22_2020

Wednesday, July 22, 2020 at 01:00 PM

BOARD OR COMMISSION: Board of Public Works and Safety

MEETING DATE: Wednesday, July 22, 2020 at 01:00 PM

MEETING PLACE: Virtual Conference Call

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 24, 2020

Documents: [June 24, 2020 Minutes](#)

Bid Approval

NONE

Contracts/Agreements

Action Item #2:

Lochmueller Group & City of Westfield - Local Public Agency Agreement - East Street Construction Inspection Contract

Documents: [Inspection Contract](#)

Action Item #3:

Clark Dietz & City of Westfield - Professional Services Agreement - Proposal for the Grand Junction Plaza CLOMR

Documents: [Professional Services Agreement](#)

Construction Standards & Specifications Changes

NONE

Permit Approval

Action Item #4:

Encroachment Application - Duke Energy - 18818 Spring Mill Road - Lancaster

Documents: [Duke Energy Encroachment Application](#)

Action Item #5:

Encroachment Application - Duke Energy - 225 Springmill Point Drive W.

Documents: [Duke Energy-Encr App](#) | [225 Springmill Point Exhibit](#)

Agreements and/or Memorandum of Understanding (MOU)

NONE

Consent Agenda

WPD - Equipment Disposal

Documents: [Disposal Approval](#)

WPD - Approval to Hire Officer: Rafael Diaz, Jr. (Conditional Requirements)

July Bond Information

Documents: [Bond Information - July](#)

Department Reports

Fire

Police

WPD June Report

Documents: [WPD June Report](#)

Public Works

THE WESTFIELD BOARD OF PUBLIC WORKS AND SAFETY June 24, 2020

The Westfield Board of Public Works and Safety met on June 24, 2020 via virtual conference call. Present were Randy Graham, Jim Ake, Kim Strang, Deputy Clerk and Brian Zaiger, Legal Counsel.

Randy Graham called the meeting to order at 1:00 PM

AGENDA ITEMS:

Action Item #1: Meeting Minutes Consideration for Approval:

Jim Ake made the motion to approve the May 27, 2020 meeting minutes as presented. Randy Graham seconded. Vote: Yes-2; No-0. Motion carried.

CONTRACTS/AGREEMENTS

Action Item #2: 2020 Asphalt Rejuvenation Project-Signing Authority

Jeremy Lollar presented stating this would grant him the authority to sign the annual asphalt rejuvenating project in the amount of \$133,095,25.

Jim Ake made the motion to approve the signing authority. Randy Graham seconded. Vote: Yes-2; No-0. Motion carried.

Action Item #3: 2020 Striping Project-Signing Authority

Jeremy Lollar presented stating the initial bids for this project came in over budget due to cost of materials because of COVID. Since then the scope of work has been revised and the project is being re-bid. This would grant Jeremy the signing authority on the project not to exceed \$85,000.

Randy Graham made the motion to approve the signing authority. Jim Ake seconded. Vote: Yes-2; No-0. Motion carried.

Action Item #4: VS Engineering & City of Westfield-2019 On-Call Consulting Contract-Supplemental #1

Jeremy Lollar presented stating this would raise the original contract agreement (March 27, 2019) amount from \$28,000 to \$48,000. The additional funds are needed for engineering services in support of the Grand Junction project.

Randy Graham made the motion to approve the contract supplemental #1. Jim Ake seconded. Vote: Yes-2; No-0. Motion carried.

REQUEST FOR PROPOSAL

Action Item #5: Centennial SSD Improvements RFQ Approval

Johnathon Nail stated PW requested quotes to provide permanent sump pump line repairs in the Centennial neighborhood. The sump lines have been impacted by roots growing under the curbs. The best responsive bid was Daystar Directional Drilling. There are three (3) areas that need repair totaling \$108,174.58.

Randy Graham motion to approve RFQ Approval. Jim Ake seconded.
Vote: Yes-2; No -0. Motion carried.

PERMIT APPROVAL

Action Item #6: Encroachment Application-Duke Energy-Pole Relocation-Springmill Station Flats

Adam Essex presented stating this would permit the relocation of poles at front entrance to Springmill Station Flats development.

Jim Ake made the motion to approve encroachment application. Randy Graham seconded.
Vote: Yes-2; No-0. Motion carried.

Action Item #7: Encroachment Application-Duke Energy-15316 Towne Road-Claiborne Farms

Adam Essex presented stating this would permit the removal of three (3) poles but adding a total of six (6) poles. This would be relocating the poles to the back part of the right-a-way, further from the road to make way for accel/decel lanes.

Randy Graham motion to approve the encroachment permit. Jim Ake seconded.
Vote: Yes-2-; No-0. Motion carried

CONSENT AGENDA:

June Bond Information

Jim Ake made the motion to approve the consent agenda. Randy Graham seconded.
Vote: Yes-2; No-0. Motion carried.

DEPARTMENT REPORTS:

Fire- No report

Police- Chief Rush

Public Works- Jeremy

Jim Ake and Randy Graham both stated their appreciation for the work the police department is doing during this unsettled time.

With no further business Randy Graham made the motion to adjourn. Jim Ake seconded. The meeting was adjourned at 1:32 PM

Deputy Clerk-Treasurer

Board of Public Works and Safety

LPA - CONSULTING CONTRACT

This Contract ("this Contract") is made and entered into effective as of _____, 20____ ("Effective Date") by and between the City of Westfield, acting by and through its proper officials ("LOCAL PUBLIC AGENCY" or "LPA"), and Lochmueller Group, Inc. ("the CONSULTANT"), a corporation organized under the laws of the State of Indiana.

Des. No.: 1700728

Project Description: East Street Extension Project, INDOT Contract No: R-40284, PCN 1700728

RECITALS

WHEREAS, the LPA has entered into an agreement to utilize federal monies with the Indiana Department of Transportation ("INDOT") for a transportation or transportation enhancement project ("the Project"), which Project Coordination Contract is herein attached as Attachment 1 and incorporated as reference; and

WHEREAS, the LPA wishes to hire the CONSULTANT to provide services toward the Project completion more fully described in Appendix "A" attached hereto ("Services");

WHEREAS, the CONSULTANT has extensive experience, knowledge and expertise relating to these Services; and

WHEREAS, the CONSULTANT has expressed a willingness to furnish the Services in connection therewith.

NOW, THEREFORE, in consideration of the following mutual covenants, the parties hereto mutually covenant and agree as follows:

The "Recitals" above are hereby made an integral part and specifically incorporated into this Contract.

SECTION I SERVICES BY CONSULTANT. The CONSULTANT will provide the Services and deliverables described in Appendix "A" which is herein attached to and made an integral part of this Contract.

SECTION II INFORMATION AND SERVICES TO BE FURNISHED BY THE LPA. The information and services to be furnished by the LPA are set out in Appendix "B" which is herein attached to and made an integral part of this Contract.

SECTION III TERM. The term of this Contract shall be from the date of the last signature affixed to this Contract to the completion of the construction contract which is estimated to be July 1, 2022. A schedule for completion of the Services and deliverables is set forth in Appendix "C" which is herein attached to and made an integral part of this Contract.

SECTION IV COMPENSATION. The LPA shall pay the CONSULTANT for the Services performed under this Contract as set forth in Appendix "D" which is herein attached to and made an integral part of this Contract. The maximum amount payable under this Contract shall not exceed **\$499,970.00**.

SECTION V NOTICE TO PROCEED AND SCHEDULE. The CONSULTANT shall begin the work to be performed under this Contract only upon receipt of the written notice to proceed from the LPA and shall deliver the work to the LPA in accordance with the schedule contained in Appendix "C" which is herein attached to and made an integral part of this Contract.

SECTION VI **GENERAL PROVISIONS**

1. **Access to Records.** The CONSULTANT and any SUB-CONSULTANTS shall maintain all books, documents, papers, correspondence, accounting records and other evidence pertaining to the cost incurred under this Contract, and shall make such materials available at their respective offices at all reasonable times during the period of this Contract and for five (5) years from the date of final payment under the terms of this Contract, for inspection or audit by the LPA, INDOT and/or the Federal Highway Administration (“FHWA”) or its authorized representative, and copies thereof shall be furnished free of charge, if requested by the LPA, INDOT, and/or FHWA. The CONSULTANT agrees that, upon request by any agency participating in federally-assisted programs with whom the CONSULTANT has contracted or seeks to contract, the CONSULTANT may release or make available to the agency any working papers from an audit performed by the LPA, INDOT and/or FHWA of the CONSULTANT and its SUB-CONSULTANTS in connection with this Contract, including any books, documents, papers, accounting records and other documentation which support or form the basis for the audit conclusions and judgments.

2. **Assignment; Successors**
 - A. The CONSULTANT binds its successors and assignees to all the terms and conditions of this Contract. The CONSULTANT shall not assign or subcontract the whole or any part of this Contract without the LPA’s prior written consent, except that the CONSULTANT may assign its right to receive payments to such third parties as the CONSULTANT may desire without the prior written consent of the LPA, provided that the CONSULTANT gives written notice (including evidence of such assignment) to the LPA thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.

 - B. Any substitution of SUB-CONSULTANTS must first be approved and receive written authorization from the LPA. Any substitution or termination of a Disadvantaged Business Enterprise (“DBE”) SUB-CONSULTANT must first be approved and receive written authorization from the LPA and INDOT’s Economic Opportunity Division Director.

3. **Audit.** The CONSULTANT acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with 48 CFR part 31 and audit guidelines specified by the State and/or in accordance with audit requirements specified elsewhere in this Contract.

4. **Authority to Bind Consultant.** The CONSULTANT warrants that it has the necessary authority to enter into this Contract. The signatory for the CONSULTANT represents that he/she has been duly authorized to execute this Contract on behalf of the CONSULTANT and has obtained all necessary or applicable approval to make this Contract fully binding upon the CONSULTANT when his/her signature is affixed hereto.

5. **Certification for Federal-Aid Contracts Lobbying Activities**
 - A. The CONSULTANT certifies, by signing and submitting this Contract, to the best of its knowledge and belief after diligent inquiry, and other than as disclosed in writing to the LPA prior to or contemporaneously with the execution and delivery of this Contract by the CONSULTANT, the CONSULTANT has complied with Section 1352, Title 31, U.S. Code, and specifically, that:
 - i. No federal appropriated funds have been paid, or will be paid, by or on behalf of the CONSULTANT to any person for influencing or attempting to influence an officer or

employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contracts, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- ii. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- B. The CONSULTANT also agrees by signing this Contract that it shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

6. **Changes in Work.** The CONSULTANT shall not commence any additional work or change the scope of the work until authorized in writing by the LPA. The CONSULTANT shall make no claim for additional compensation or time in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may be amended, supplemented or modified only by a written document executed in the same manner as this Contract. The CONSULTANT acknowledges that no claim for additional compensation or time may be made by implication, oral agreements, actions, inaction, or course of conduct.

7. **Compliance with Laws**

- A. The CONSULTANT shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. If the CONSULTANT violates such rules, laws, regulations and ordinances, the CONSULTANT shall assume full responsibility for such violations and shall bear any and all costs attributable to the original performance of any correction of such acts. The enactment of any state or federal statute, or the promulgation of regulations thereunder, after execution of this Contract, shall be reviewed by the LPA and the CONSULTANT to determine whether formal modifications are required to the provisions of this Contract.

- B. The CONSULTANT represents to the LPA that, to the best of the CONSULTANT'S knowledge and belief after diligent inquiry and other than as disclosed in writing to the LPA prior to or contemporaneously with the execution and delivery of this Contract by the CONSULTANT:

- i. *State of Indiana Actions.* The CONSULTANT has no current or outstanding criminal, civil, or enforcement actions initiated by the State of Indiana pending, and agrees that it will immediately notify the LPA of any such actions. During the term of such actions, CONSULTANT agrees that the LPA may delay, withhold, or deny work under any supplement or amendment, change order or other contractual device issued pursuant to this Contract.
- ii. *Professional Licensing Standards.* The CONSULTANT, its employees and SUBCONSULTANTS have complied with and shall continue to comply with all

applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the CONSULTANT pursuant to this Contract.

- iii. *Work Specific Standards.* The CONSULTANT and its SUB-CONSULTANTS, if any, have obtained, will obtain and/or will maintain all required permits, licenses, registrations and approvals, as well as comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the LPA.
 - iv. *Secretary of State Registration.* If the CONSULTANT is an entity described in IC Title 23, it is properly registered and owes no outstanding reports with the Indiana Secretary of State.
 - v. *Debarment and Suspension of CONSULTANT.* Neither the CONSULTANT nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State and will immediately notify the LPA of any such actions. The term “principal” for purposes of this Contract means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the CONSULTANT or who has managerial or supervisory responsibilities for the Services.
 - vi. *Debarment and Suspension of any SUB-CONSULTANTS.* The CONSULTANT’s SUB-CONSULTANTS are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State. The CONSULTANT shall be solely responsible for any recoupment, penalties or costs that might arise from the use of a suspended or debarred SUBCONSULTANT. The CONSULTANT shall immediately notify the LPA and INDOT if any SUB-CONSULTANT becomes debarred or suspended, and shall, at the LPA’s request, take all steps required by the LPA to terminate its contractual relationship with the SUB-CONSULTANT for work to be performed under this Contract.
- C. *Violations.* In addition to any other remedies at law or in equity, upon CONSULTANT’S violation of any of Section 7(A) through 7(B), the LPA may, at its sole discretion, do any one or more of the following:
- i. terminate this Contract; or
 - ii. delay, withhold, or deny work under any supplement or amendment, change order or other contractual device issued pursuant to this Contract.
- D. *Disputes.* If a dispute exists as to the CONSULTANT’s liability or guilt in any action initiated by the LPA, and the LPA decides to delay, withhold, or deny work to the CONSULTANT, the CONSULTANT may request that it be allowed to continue, or receive work, without delay. The CONSULTANT must submit, in writing, a request for review to the LPA. A determination by the LPA under this Section 7.D shall be final and binding on the parties and not subject to administrative review. Any payments the LPA may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest under IC 5-17-5.

8. **Condition of Payment.** The CONSULTANT must perform all Services under this Contract to the LPA’s reasonable satisfaction, as determined at the discretion of the LPA and in accordance with all

applicable federal, state, local laws, ordinances, rules, and regulations. The LPA will not pay for work not performed to the LPA's reasonable satisfaction, inconsistent with this Contract or performed in violation of federal, state, or local law (collectively, "deficiencies") until all deficiencies are remedied in a timely manner.

9. Confidentiality of LPA Information

- A. The CONSULTANT understands and agrees that data, materials, and information disclosed to the CONSULTANT may contain confidential and protected information. Therefore, the CONSULTANT covenants that data, material, and information gathered, based upon or disclosed to the CONSULTANT for the purpose of this Contract, will not be disclosed to others or discussed with third parties without the LPA's prior written consent.
- B. The parties acknowledge that the Services to be performed by the CONSULTANT for the LPA under this Contract may require or allow access to data, materials, and information containing Social Security numbers and maintained by the LPA in its computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the CONSULTANT and the LPA agree to comply with the provisions of IC 4-1-10 and IC 4-1-11. If any Social Security number(s) is/are disclosed by the CONSULTANT, the CONSULTANT agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this Contract.

10. Delays and Extensions. The CONSULTANT agrees that no charges or claim for damages shall be made by it for any minor delays from any cause whatsoever during the progress of any portion of the Services specified in this Contract. Such delays, if any, shall be compensated for by an extension of time for such period as may be determined by the LPA subject to the CONSULTANT's approval, it being understood, however, that permitting the CONSULTANT to proceed to complete any services, or any part of them after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the LPA of any of its rights herein. In the event of substantial delays or extensions, or change of any kind, not caused by the CONSULTANT, which causes a material change in scope, character or complexity of work the CONSULTANT is to perform under this Contract, the LPA at its sole discretion shall determine any adjustments in compensation and in the schedule for completion of the Services. CONSULTANT must notify the LPA in writing of a material change in the work immediately after the CONSULTANT first recognizes the material change.

11. DBE Requirements

- A. Notice is hereby given to the CONSULTANT and any SUB-CONSULTANT, and both agree, that failure to carry out the requirements set forth in 49 CFR Sec. 26.13(b) shall constitute a breach of this Contract and, after notification and failure to promptly cure such breach, may result in termination of this Contract or such remedy as INDOT deems appropriate. The referenced section requires the following assurance to be included in all subsequent contracts between the CONSULTANT and any SUB-CONSULTANT:

The CONSULTANT, sub recipient or SUB-CONSULTANT shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as INDOT, as the recipient, deems appropriate.

- B. The CONSULTANT shall make good faith efforts to achieve the DBE percentage goal that may be included as part of this Contract with the approved DBE SUB-CONSULTANTS identified on its Affirmative Action Certification submitted with its Letter of Interest, or with approved amendments. Any changes to a DBE firm listed in the Affirmative Action Certification must be requested in writing and receive prior approval by the LPA and INDOT's Economic Opportunity Division Director. After this Contract is completed and if a DBE SUB-CONSULTANT has performed services thereon, the CONSULTANT must complete, and return, a Disadvantaged Business Enterprise Utilization Affidavit ("DBE-3 Form") to INDOT's Economic Opportunity Division Director. The DBE-3 Form requires certification by the CONSULTANT AND DBE SUB-CONSULTANT that the committed contract amounts have been paid and received.

12. Non-Discrimination

- A. Pursuant to I.C. 22-9-1-10, the Civil Rights Act of 1964, and the Americans with Disabilities Act, the CONSULTANT shall not discriminate against any employee or applicant for employment, to be employed in the performance of work under this Contract, with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin, ancestry or status as a veteran. Breach of this covenant may be regarded as a material breach of this Contract. Acceptance of this Contract also signifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran.
- B. The CONSULTANT understands that the LPA is a recipient of federal funds. Pursuant to that understanding, the CONSULTANT agrees that if the CONSULTANT employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, the CONSULTANT will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The CONSULTANT shall comply with Section 202 of executive order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of Contract.

It is the policy of INDOT to assure full compliance with Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and Section 504 of the Vocational Rehabilitation Act and related statutes and regulations in all programs and activities. Title VI and related statutes require that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (INDOT's Title VI enforcement shall include the following additional grounds: sex, ancestry, age, income status, religion and disability.)

- C. The CONSULTANT shall not discriminate in its selection and retention of contractors, including without limitation, those services retained for, or incidental to, construction, planning, research, engineering, property management, and fee contracts and other commitments with persons for services and expenses incidental to the acquisitions of right-of-way.
- D. The CONSULTANT shall not modify the Project in such a manner as to require, on the basis of race, color or national origin, the relocation of any persons. (INDOT's Title VI enforcement will include the following additional grounds; sex, ancestry, age, income status, religion and disability).
- E. The CONSULTANT shall not modify the Project in such a manner as to deny reasonable access to and use thereof to any persons on the basis of race, color or national origin. (INDOT's Title

VI enforcement will include the following additional grounds; sex, ancestry, age, income status, religion and disability.)

- F. The CONSULTANT shall neither allow discrimination by contractors in their selection and retention of subcontractors, lessors and/or material suppliers, nor allow discrimination by their subcontractors in their selection of subcontractors, lessors or material suppliers, who participate in construction, right-of-way clearance and related projects.
- G. The CONSULTANT shall take appropriate actions to correct any deficiency determined by itself and/or the Federal Highway Administration (“FHWA”) within a reasonable time period, not to exceed ninety (90) days, in order to implement Title VI compliance in accordance with INDOT’s assurances and guidelines.
- H. During the performance of this Contract, the CONSULTANT, for itself, its assignees and successors in interest (hereinafter referred to as the “CONSULTANT”) agrees as follows:
 - (1) Compliance with Regulations: The CONSULTANT shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, “DOT”) Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
 - (2) Nondiscrimination: The CONSULTANT, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
 - (3) Solicitations for SUBCONSULTANTS, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential SUBCONSULTANT or supplier shall be notified by the CONSULTANT of the CONSULTANT’S obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
 - (4) Information and Reports: The CONSULTANT shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the LPA or INDOT to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information the CONSULTANT shall so certify to the LPA, or INDOT as appropriate, and shall set forth what efforts it has made to obtain the information.
 - (5) Sanctions for Noncompliance: In the event of the CONSULTANT’S noncompliance with the nondiscrimination provisions of this contract, the LPA shall impose such contract sanctions as it or INDOT may determine to be appropriate, including, but not limited to:
 - (a) withholding of payments to the CONSULTANT under the Contract until the CONSULTANT complies, and/or

- (b) cancellation, termination or suspension of the Contract, in whole or in part.
- (6) Incorporation of Provisions: The CONSULTANT shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The CONSULTANT shall take such action with respect to any SUBCONSULTANT procurement as the LPA or INDOT may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a SUBCONSULTANT or supplier as a result of such direction, the CONSULTANT may request the LPA to enter into such litigation to protect the interests of the LPA, and, in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

13. Disputes

- A. Should any disputes arise with respect to this Contract, the CONSULTANT and the LPA agree to act promptly and in good faith to resolve such disputes in accordance with this Section 13. Time is of the essence in the resolution of disputes.
- B. The CONSULTANT agrees that the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the CONSULTANT fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs (including reasonable attorneys' fees and expenses) incurred by the LPA or the CONSULTANT as a result of such failure to proceed shall be borne by the CONSULTANT.
- C. If a party to this Contract is not satisfied with the progress toward resolving a dispute, the party must notify the other party of this dissatisfaction in writing. Upon written notice, the parties have ten (10) business days, unless the parties mutually agree in writing to extend this period, following the written notification to resolve the dispute. If the dispute is not resolved within ten (10) business days, a dissatisfied party may submit the dispute in writing to initiate negotiations to resolve the dispute. The LPA may withhold payments on disputed items pending resolution of the dispute.

14. Drug-Free Workplace Certification

- A. The CONSULTANT hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace, and that it will give written notice to the LPA within ten (10) days after receiving actual notice that an employee of the CONSULTANT in the State of Indiana has been convicted of a criminal drug violation occurring in the CONSULTANT's workplace. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of Contract payments, termination of this Contract and/or debarment of contracting opportunities with the LPA.
- B. The CONSULTANT certifies and agrees that it will provide a drug-free workplace by:
 - i. Publishing and providing to all of its employees a statement notifying their employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the CONSULTANT's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

- ii. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the CONSULTANT's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- iii. Notifying all employees in the statement required by subparagraph 14.B.i above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the CONSULTANT of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- iv. Notifying in writing the LPA within ten (10) days after receiving notice from an employee under subdivision 14.B.iii(2) above, or otherwise receiving actual notice of such conviction;
- v. Within thirty (30) days after receiving notice under subdivision 14.B.iii(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency; and
- vi. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs 14.B.i. through 14.B.v. above.

15. Employment Eligibility Verification. The CONSULTANT affirms under the penalties of perjury that he/she/it does not knowingly employ an unauthorized alien.

The CONSULTANT shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. The CONSULTANT is not required to participate should the E-Verify program cease to exist. Additionally, the CONSULTANT is not required to participate if the CONSULTANT is self-employed and does not employ any employees.

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

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

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

16. Force Majeure. In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of fire, natural disaster, acts of God, acts of war, terrorism, civil disorders, decrees of governmental bodies, strikes, lockouts, labor or supply disruptions or similar causes beyond the reasonable control of the affected party (hereinafter referred

to as a Force Majeure Event), the party who has been so affected shall immediately give written notice to the other party of the occurrence of the Force Majeure Event (with a description in reasonable detail of the circumstances causing such Event) and shall do everything reasonably possible to resume performance. Upon receipt of such written notice, all obligations under this Contract shall be immediately suspended for as long as such Force Majeure Event continues and provided that the affected party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay. If the period of nonperformance exceeds thirty (30) days from the receipt of written notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

17. **Governing Laws.** This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and the suit, if any, must be brought in the State of Indiana. The CONSULTANT consents to the jurisdiction of and to venue in any court of competent jurisdiction in the State of Indiana.
18. **Liability.** If the CONSULTANT or any of its SUB-CONSULTANTS fail to comply with any federal requirement which results in the LPA's repayment of federal funds to INDOT the CONSULTANT shall be responsible to the LPA, for repayment of such costs to the extent such costs are caused by the CONSULTANT and/or its SUB-CONSULTANTS.
19. **Indemnification.** The CONSULTANT agrees to indemnify the LPA, and their agents, officials, and employees, and to hold each of them harmless, from claims and suits including court costs, attorney's fees, and other expenses caused by any negligent act, error or omission of, or by any recklessness or willful misconduct by, the CONSULTANT and/or its SUB-CONSULTANTS, if any, under this Contract, provided that if the CONSULTANT is a "contractor" within the meaning of I.C. 8-3-2-12.5, this indemnity obligation shall be limited by and interpreted in accordance with I.C. 8-23-2-12-5. The LPA shall not provide such indemnification to the CONSULTANT.
20. **Independent Contractor.** Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents or employees of the other party. The CONSULTANT shall be responsible for providing all necessary unemployment and workers' compensation insurance for its employees.
21. **Insurance - Liability for Damages**
 - A. The CONSULTANT shall be responsible for the accuracy of the Services performed under this Contract and shall promptly make necessary revisions or corrections resulting from its negligence, errors or omissions without any additional compensation from the LPA. Acceptance of the Services by the LPA shall not relieve the CONSULTANT of responsibility for subsequent correction of its negligent act, error or omission or for clarification of ambiguities. The CONSULTANT shall have no liability for the errors or deficiencies in designs, drawings, specifications or other services furnished to the CONSULTANT by the LPA on which the Consultant has reasonably relied, provided that the foregoing shall not relieve the CONSULTANT from any liability from the CONSULTANT'S failure to fulfill its obligations under this Contract, to exercise its professional responsibilities to the LPA, or to notify the LPA of any errors or deficiencies which the CONSULTANT knew or should have known existed.
 - B. During construction or any phase of work performed by others based on Services provided by the CONSULTANT, the CONSULTANT shall confer with the LPA when necessary for the purpose of interpreting the information, and/or to correct any negligent act, error or omission. The CONSULTANT shall prepare any plans or data needed to correct the negligent act, error or

omission without additional compensation, even though final payment may have been received by the CONSULTANT. The CONSULTANT shall give immediate attention to these changes for a minimum of delay to the project.

- C. The CONSULTANT shall be responsible for damages including but not limited to direct and indirect damages incurred by the LPA as a result of any negligent act, error or omission of the CONSULTANT, and for the LPA's losses or costs to repair or remedy construction. Acceptance of the Services by the LPA shall not relieve the CONSULTANT of responsibility for subsequent correction.
- D. The CONSULTANT shall be required to maintain in full force and effect, insurance as described below from the date of the first authorization to proceed until the LPA's acceptance of the work product. The CONSULTANT shall list both the LPA and INDOT as insureds on any policies. The CONSULTANT must obtain insurance written by insurance companies authorized to transact business in the State of Indiana and licensed by the Department of Insurance as either admitted or non-admitted insurers.
- E. The LPA, its officers and employees assume no responsibility for the adequacy of limits and coverage in the event of any claims against the CONSULTANT, its officers, employees, sub-consultants or any agent of any of them, and the obligations of indemnification in Section 19 herein shall survive the exhaustion of limits of coverage and discontinuance of coverage beyond the term specified, to the fullest extent of the law.
- F. The CONSULTANT shall furnish a certificate of insurance and all endorsements to the LPA prior to the commencement of this Contract. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the CONSULTANT. Failure to provide insurance as required in this Contract is a material breach of Contract entitling the LPA to immediately terminate this Contract.

I. Professional Liability Insurance

The CONSULTANT must obtain and carry professional liability insurance as follows: For INDOT Prequalification **Work Types** 1.1, 12.2-12.6 the CONSULTANTS shall provide not less than \$250,000.00 professional liability insurance per claim and \$250,000.00 aggregate for all claims for negligent performance. For **Work Types** 2.2, 3.1, 3.2, 4.1, 4.2, 5.5, 5.8, 5.11, 6.1, 7.1, 8.1, 8.2, 9.1, 9.2, 10.1 – 10.4, 11.1, 13.1, 14.1 – 14.5, the CONSULTANTS shall carry professional liability insurance in an amount not less than \$1,000,000.00 per claim and \$1,000,000.00 aggregate for all claims for negligent performance. The CONSULTANT shall maintain the coverage for a period ending two (2) years after substantial completion of construction.

II. Commercial General Liability Insurance

The CONSULTANT must obtain and carry Commercial / General liability insurance as follows: For INDOT Prequalification **Work Types** 2.1, 6.1, 7.1, 8.1, 8.2, 9.1, 9.2, 10.1 - 10.4, 11.1, 13.1, 14.1 - 14.5, the CONSULTANT shall carry \$1,000,000.00 per occurrence, \$2,000,000.00 general aggregate. Coverage shall be on an occurrence form and include contractual liability. The policy shall be amended to include the following extensions of coverage:

1. Exclusions relating to the use of explosives, collapse, and underground damage to property shall be removed.
2. The policy shall provide thirty (30) days notice of cancellation to LPA.

3. The CONSULTANT shall name the LPA as an additional insured.

III. Automobile Liability

The CONSULTANT shall obtain automobile liability insurance covering all owned, leased, borrowed, rented, or non-owned autos used by employees or others on behalf of the CONSULTANT for the conduct of the CONSULTANT's business, for an amount not less than \$1,000,000.00 Combined Single Limit for Bodily Injury and Property Damage. The term "automobile" shall include private passenger autos, trucks, and similar type vehicles licensed for use on public highways. The policy shall be amended to include the following extensions of coverage:

1. Contractual Liability coverage shall be included.
2. The policy shall provide thirty (30) days notice of cancellation to the LPA.
3. The CONSULTANT shall name the LPA as an additional insured.

IV. Watercraft Liability (When Applicable)

1. When necessary to use watercraft for the performance of the CONSULTANT's Services under the terms of this Contract, either by the CONSULTANT, or any SUB-CONSULTANT, the CONSULTANT or SUB-CONSULTANT operating the watercraft shall carry watercraft liability insurance in the amount of \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage, including Protection & Indemnity where applicable. Coverage shall apply to owned, non-owned, and hired watercraft.
2. If the maritime laws apply to any work to be performed by the CONSULTANT under the terms of the agreement, the following coverage shall be provided:
 - a. United States Longshoremen & Harbor workers
 - b. Maritime Coverage - Jones Act
3. The policy shall provide thirty (30) days notice of cancellation to the LPA.
4. The CONSULTANT or SUB-CONSULTANT shall name the LPA as an additional insured.

V. Aircraft Liability (When Applicable)

1. When necessary to use aircraft for the performance of the CONSULTANT's Services under the terms of this Contract, either by the CONSULTANT or SUB-CONSULTANT, the CONSULTANT or SUB-CONSULTANT operating the aircraft shall carry aircraft liability insurance in the amount of \$5,000,000 Combined Single Limit for Bodily Injury and Property Damage, including Passenger Liability. Coverage shall apply to owned, non-owned and hired aircraft.
2. The policy shall provide thirty (30) days notice of cancellation to the LPA.
3. The CONSULTANT or SUB-CONSULTANT shall name the LPA as an additional insured.

22. **Merger and Modification.** This Contract constitutes the entire agreement between the parties. No understandings, agreements or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by all necessary parties.
23. **Notice to Parties:** Any notice, request, consent or communication (collectively a “Notice”) under this Contract shall be effective only if it is in writing and (a) personally delivered; (b) sent by certified or registered mail, return receipt requested, postage prepaid; or (c) sent by a nationally recognized overnight delivery service, with delivery confirmed and costs of delivery being prepaid, addressed as follows:

Notices to the LPA shall be sent to:

City of Westfield
2706 E. 171st Street
Westfield, Indiana 46074

Notices to the CONSULTANT shall be sent to:

Lochmueller Group, Inc.
6200 Vogel Road
Evansville, Indiana 47715

or to such other address or addresses as shall be furnished in writing by any party to the other party. Unless the sending party has actual knowledge that a Notice was not received by the intended recipient, a Notice shall be deemed to have been given as of the date (i) when personally delivered; (ii) three (3) days after the date deposited with the United States mail properly addressed; or (iii) the next day when delivered during business hours to overnight delivery service, properly addressed and prior to such delivery service’s cut off time for next day delivery. The parties acknowledge that notices delivered by facsimile or by email shall not be effective.

24. **Order of Precedence; Incorporation by Reference.** Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) This Contract and attachments, (2) RFP document, (3) the CONSULTANT’s response to the RFP document, and (4) attachments prepared by the CONSULTANT. All of the foregoing are incorporated fully by reference.
25. **Ownership of Documents and Materials.** All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by the CONSULTANT prior to execution of this Contract, but specifically developed under this Contract shall be considered “work for hire” and the CONSULTANT assigns and transfers any ownership claim to the LPA and all such materials (“Work Product”) will be the property of the LPA. The CONSULTANT agrees to execute and deliver such assignments or other documents as may be requested by the LPA. Use of these materials, other than related to contract performance by the CONSULTANT, without the LPA’s prior written consent, is prohibited. During the performance of this Contract, the CONSULTANT shall be responsible for any loss of or damage to any of the Work Product developed for or supplied by INDOT and used to develop or assist in the Services provided herein while any such Work Product is in the possession or control of the CONSULTANT. Any loss or damage thereto shall be restored at the CONSULTANT’s expense. The CONSULTANT shall provide the LPA full, immediate, and unrestricted access to the Work Product during the term of this Contract. The CONSULTANT represents, to the best of its knowledge and belief after diligent inquiry and other than as disclosed in writing prior to or contemporaneously with the execution of this Contract by the CONSULTANT, that the Work Product does not infringe upon or misappropriate the intellectual property or other rights of

any third party. The CONSULTANT shall not be liable for the use of its deliverables described in Appendix "A" on other projects without the express written consent of the CONSULTANT or as provided in Appendix "A". The LPA acknowledges that it has no claims to any copyrights not transferred to INDOT under this paragraph.

26. **Payments.** All payments shall be made in arrears and in conformance with the LPA's fiscal policies and procedures.
27. **Penalties, Interest and Attorney's Fees.** The LPA will in good faith perform its required obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law in part, IC 5-17-5, I. C. 34-54-8, and I. C. 34-13-1.
28. **Pollution Control Requirements.** If this Contract is for \$100,000 or more, the CONSULTANT:
- i. Stipulates that any facility to be utilized in performance under or to benefit from this Contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended;
 - ii. Agrees to comply with all of the requirements of section 114 of the Clean Air Act and section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder; and
 - iii. Stipulates that, as a condition of federal aid pursuant to this Contract, it shall notify INDOT and the Federal Highway Administration of the receipt of any knowledge indicating that a facility to be utilized in performance under or to benefit from this Contract is under consideration to be listed on the EPA Listing of Violating Facilities.
29. **Severability.** The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.
30. **Status of Claims.** The CONSULTANT shall give prompt written notice to the LPA any claims made for damages against the CONSULTANT resulting from Services performed under this Contract and shall be responsible for keeping the LPA currently advised as to the status of such claims. The CONSULTANT shall send notice of claims related to work under this Contract to: City of Westfield, 2706 E. 171st Street, Westfield, Indiana 46074
31. **Sub-consultant Acknowledgement.** The CONSULTANT agrees and represents and warrants to the LPA, that the CONSULTANT will obtain signed Sub-consultant Acknowledgement forms, from all SUB-CONSULTANTS providing Services under this Contract or to be compensated for Services through this Contract. The CONSULTANT agrees to provide signed originals of the Sub-consultant Acknowledgement form(s) to the LPA for approval prior to performance of the Services by any SUB-CONSULTANT.
32. **Substantial Performance.** This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any modification or Amendment thereof.
33. **Taxes.** The LPA will not be responsible for any taxes levied on the CONSULTANT as a result of this Contract.

34. Termination for Convenience

- A. The LPA may terminate, in whole or in part, whenever, for any reason, when the LPA determines that such termination is in its best interests. Termination or partial termination of Services shall be affected by delivery to the CONSULTANT of a Termination Notice at least fifteen (15) days prior to the termination effective date, specifying the extent to which performance of Services under such termination becomes effective. The CONSULTANT shall be compensated for Services properly rendered prior to the effective date of termination. The LPA will not be liable for Services performed after the effective date of termination.
- B. If the LPA terminates or partially terminates this Contract for any reason regardless of whether it is for convenience or for default, then and in such event, all data, reports, drawings, plans, sketches, sections and models, all specifications, estimates, measurements and data pertaining to the project, prepared under the terms or in fulfillment of this Contract, shall be delivered within ten (10) days to the LPA. In the event of the failure by the CONSULTANT to make such delivery upon demand, the CONSULTANT shall pay to the LPA any damage (including costs and reasonable attorneys' fees and expenses) it may sustain by reason thereof.

35. Termination for Default

- A. With the provision of twenty (20) days written notice to the CONSULTANT, the LPA may terminate this Contract in whole or in part if
 - (i) the CONSULTANT fails to:
 - 1. Correct or cure any breach of this Contract within such time, provided that if such cure is not reasonably achievable in such time, the CONSULTANT shall have up to ninety (90) days from such notice to effect such cure if the CONSULTANT promptly commences and diligently pursues such cure as soon as practicable;
 - 2. Deliver the supplies or perform the Services within the time specified in this Contract or any amendment or extension;
 - 3. Make progress so as to endanger performance of this Contract; or
 - 4. Perform any of the other provisions of this Contract to be performed by the CONSULTANT; or
 - (ii) if any representation or warranty of the CONSULTANT is untrue or inaccurate in any material respect at the time made or deemed to be made.
- B. If the LPA terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the LPA considers appropriate, supplies or services similar to those terminated, and the CONSULTANT will be liable to the LPA for any excess costs for those supplies or services. However, the CONSULTANT shall continue the work not terminated.
- C. The LPA shall pay the contract price for completed supplies delivered and Services accepted. The CONSULTANT and the LPA shall agree on the amount of payment for manufactured materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause (see Section 13). The LPA may withhold from the agreed upon price for Services any sum the LPA determine necessary to protect the LPA against loss because of outstanding liens or claims of former lien holders.

- D. The rights and remedies of the LPA in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.
- E. **Default by the LPA.** If the CONSULTANT believes the LPA is in default of this Contract, it shall provide written notice immediately to the LPA describing such default. If the LPA fails to take steps to correct or cure any material breach of this Contract within sixty (60) days after receipt of such written notice, the CONSULTANT may cancel and terminate this Contract and institute the appropriate measures to collect monies due up to and including the date of termination, including reasonable attorney fees and expenses, provided that if such cure is not reasonably achievable in such time, the LPA shall have up to one hundred twenty (120) days from such notice to effect such cure if the LPA promptly commences and diligently pursues such cure as soon as practicable. The CONSULTANT shall be compensated for Services properly rendered prior to the effective date of such termination. The CONSULTANT agrees that it has no right of termination for non-material breaches by the LPA.
36. **Waiver of Rights.** No rights conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver or excuse is approved in writing and signed by the party claimed to have waived such right. Neither the LPA's review, approval or acceptance of, nor payment for, the Services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the CONSULTANT shall be and remain liable to the LPA in accordance with applicable law for all damages to the LPA caused by the CONSULTANT's negligent performance of any of the Services furnished under this Contract.
37. **Work Standards/Conflicts of Interest.** The CONSULTANT shall understand and utilize all relevant INDOT standards including, but not limited to, the most current version of the Indiana Department of Transportation Design Manual, where applicable, and other appropriate materials and shall perform all Services in accordance with the standards of care, skill and diligence required in Appendix "A" or, if not set forth therein, ordinarily exercised by competent professionals doing work of a similar nature.
38. **No Third-Party Beneficiaries.** This Contract is solely for the benefit of the parties hereto. Other than the indemnity rights under this Contract, nothing contained in this Contract is intended or shall be construed to confer upon any person or entity (other than the parties hereto) any rights, benefits or remedies of any kind or character whatsoever.
39. **No Investment in Iran.** As required by IC 5-22-16.5, the CONSULTANT certifies that the CONSULTANT is not engaged in investment activities in Iran. Providing false certification may result in the consequences listed in IC 5-22-16.5-14, including termination of this Contract and denial of future state contracts, as well as an imposition of a civil penalty.
40. **Assignment of Antitrust Claims.** The CONSULTANT assigns to the State all right, title and interest in and to any claims the CONSULTANT now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

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Non-Collusion

The undersigned attests, subject to the penalties for perjury, that he/she is the CONSULTANT, or that he/she is the properly authorized representative, agent, member or officer of the CONSULTANT, that he/she has not, nor has any other member, employee, representative, agent or officer of the CONSULTANT, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract. **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC §4-2-6-1, has a financial interest in the Contract, the Party attests to compliance with the disclosure requirements in IC §4-2-6-10.5.**

In Witness Whereof, the CONSULTANT and the LPA have, through duly authorized representatives, entered into this Contract. The parties having read and understand the forgoing terms of this Contract do by their respective signatures dated below hereby agree to the terms thereof.

LOCHMUELLER GROUP, INC.

CITY OF WESTFIELD

 7/7/2020

Carl D. Camacho, PE
Vice President/Regional Office Manager

Signature

(Print or type name and title)

Attest:



Matthew E. Wannemuehler
Vice President/Chief Administrative Officer

Signature

(Print or type name and title)

Signature

(Print or type name and title)

APPENDIX “A”

SERVICES TO BE FURNISHED BY CONSULTANT

In fulfillment of this Contract, the CONSULTANT shall comply with the requirements of the appropriate regulations and requirements of the Indiana Department of Transportation and Federal Highway Administration.

The CONSULTANT shall be responsible for performing the following activities:

1.0 ENGINEERING PERSONNEL

For the fulfillment of all services outlined in Section 2.0 below of this Appendix, the CONSULTANT shall provide one (1) full-time Resident Project Representative and up to two (2) full-time Inspector as required for a period of time necessary to complete the construction project and final construction report.

The qualifications and experiences of personnel provided by the CONSULTANT are subject to approval by the LPA and the Indiana Department of Transportation (INDOT) and no personnel shall be assigned to the project until LPA and INDOT approval is obtained.

The Project Inspector shall take directions from and report to the INDOT Area Engineer on all matters concerning contract compliance and administration.

The Project Inspector shall coordinate project activities with the LPA's Project Coordinator and INDOT Area Engineer.

2.0 DESCRIPTION OF SERVICES

2.1 Construction Schedule: Review the construction schedule prepared by the Contractor for compliance with the Contract, and give to the LPA detailed documentation concerning its acceptability.

2.2 Conferences: If requested, attend pre-construction conferences as directed by the LPA, arrange a schedule of progress meetings, and such other job conferences as required for the timely and acceptable conduct of the job, and submit such schedules prepared, to the LPA for notification to those who are expected to attend. Record for the LPA, as directed, minutes of such meetings.

The CONSULTANT shall be available for conferences as requested by the LPA, State, and Federal Highway Administration to review working details of the project. The LPA, State and Federal Highway Administration may review and inspect the activities whenever desired during the life of the Agreement.

2.3 Liaison: Serve as the LPA's liaison with the contractor, working principally through the Contractor's field superintendent or such other person in authority as designated by the Contractor. Acting in liaison capacity, the Project Inspector shall be thoroughly familiar with the plans and specifications applicable to the project to insure that all provisions therein are complied with. Any deviation observed shall be reported to the LPA and

- INDOT by the Project Inspector.
- 2.4 Cooperate with the LPA in dealing with the various Federal, State and Local Agencies having jurisdiction over the project.
 - 2.5 Assist the LPA and INDOT in obtaining from the Contractor a list of his proposed suppliers and subcontractors.
 - 2.6 Assist the LPA and INDOT in obtaining from the Contractor additional details or information when needed at the job site for proper execution of work.
 - 2.7 Equipment: Furnish all equipment necessary to sample and test materials in accordance with INDOT procedures.
 - 2.8 Samples: Obtain field samples of materials delivered to the site as required by the State and deliver such samples to the appropriate INDOT laboratory office.
 - 2.9 Shop Drawings:
 - 2.9.1 Receive shop drawings and falsework drawings and then forward to the Design Consultant or INDOT for review.
 - 2.9.2 Record receipt of reviewed shop and falsework drawings, specifications and other submissions and maintain a file of all drawings and submissions, and check construction for compliance in accordance with the Contract Documents.
 - 2.9.3 Alert the Contractor's field superintendent when it is observed that materials or equipment are being or about to be used or installed before review of shop drawings or samples, where such are required, and advise the LPA and INDOT when he believes it is necessary to disapprove work as failing to conform to the Contract Documents.
 - 2.10 Review of Work, Inspection and Tests:
 - 2.10.1 Conduct on-site inspections for the LPA of the work in progress as a basis for determining that the project is proceeding in accordance with the Contract Documents.
 - 2.10.2 Provide on-site acceptance testing of materials in the manner and extent prescribed by the latest edition of the INDOT Testing Frequency Manual. Accompany visiting inspectors, representing Local, State or Federal Agencies having jurisdiction over the project, and report details of such inspection to the LPA and INDOT.
 - 2.10.3 Verify that required testing has been accomplished.
 - 2.11 Modification: Consider and evaluate the Contractor's suggestions for modifications in drawings and/or specifications and report them with recommendations to the LPA and INDOT.
 - 2.12 Records:
 - 2.12.1 Prepare and maintain at the job site orderly files of correspondence, reports of job conferences, shop drawings and other submissions, reproductions of original Contract Documents, including all addenda, change orders and additional drawings subsequent to the award of the Contract, progress reports and other project related documents.
 - 2.12.2 Keep a diary or log book, recording hours on the job site, weather conditions, list of visiting officials, decisions, general observations, and specific observations with regard to test procedures. Upon request, furnish copies of such a diary or

- log book to the LPA.
- 2.12.3 Maintain for the LPA, a record of names, addresses and telephone numbers of all subcontractors and major material suppliers.
- 2.12.4 Maintain a set of drawings on which authorized changes are noted, and deliver to the LPA upon request, but in any event at the completion of the project.
- 2.12.5 Prepare the Final Construction Record and Final Estimate as required by the INDOT and the LPA.
- 2.13 Reports: Furnish to the INDOT and the LPA at periodic intervals, as required, progress reports of the project, including the Contractor's compliance with the approved construction schedule.
- 2.14 Progress Estimates: Prepare progress estimates for periodic partial payments to the Contractor and deliver to the LPA and INDOT for review and processing. The payments to the Contractor shall be based on estimates of the value of work performed and materials complete in place in accordance with the contract.
- 2.15 Project Responsibility: The Project Inspector shall be responsible for the documentation of pay quantities and estimates, and the maintenance of appropriate records related to the construction of this project.
- 2.16 Work Schedule and Suspension: The CONSULTANT'S crew shall be required to regulate their work week to conform to the contractor's hours in accordance with the directions of the INDOT Area Engineer and project budget. If work on the construction project is suspended and all matters concerning contract compliance and administration are complete, the services of the CONSULTANT may also be suspended without cost to the project.
- 2.17 Contract Administration: The CONSULTANT shall administer the contract in accordance with INDOT procedures.
- 2.18 Utility Relocation Inspection: Monitor the relocation of utilities within the project limits to verify that conflicts between the project construction and utilities are minimal; review and approve invoices for federal reimbursement of utility relocation costs.
- 2.19 Conflict of Interest: The CONSULTANT acknowledges and agrees that the CONSULTANT, a firm associated with the CONSULTANT or an individual associated with the CONSULTANT cannot accept or prepare falsework drawings and shop drawings for the contractor, material supplier of the contractor or for any of the contractor's subcontractors on this project. For purposes of this section a firm is associated with the CONSULTANT if the firm and CONSULTANT have a common director, common officer or a common owner. For purposes of this section an individual is associated with the CONSULTANT if the individual is an employee of the CONSULTANT or an employee of a firm associated with the CONSULTANT. For purposes of this section the following definitions shall be used:

Director - Any member of the board of directors of a corporation.

Officer - The president, secretary, treasurer, or such other officers as may be prescribed by the corporation bylaws.

Owner - A sole proprietor, any partner in a partnership, or any shareholder of a corporation.

3.0 SERVICES NOT BEING PROVIDED BY CONSULTANT

The services not being provided by CONSULTANT under this Agreement include, but are not limited to, the following:

- 3.1 Advising or assuming control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work.
- 3.2 Advising or assuming control over security or safety practices, precautions, and programs in connection with the activities or operations of LPA or Contractor.

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APPENDIX "B"

INFORMATION AND SERVICES TO BE FURNISHED BY THE LPA

The LPA shall furnish the CONSULTANT with the following:

- 1.0 LPA shall designate an employee as Project Coordinator to coordinate activities between CONSULTANT and the LPA.
- 2.0 Assistance to the CONSULTANT by placing at his disposal all available information pertinent to the project.

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APPENDIX “C”

SCHEDULE

No work under this Contract shall be performed by the CONSULTANT until the CONSULTANT receives a written notice to proceed from the LPA.

The CONSULTANT shall be prepared to begin the work under this Agreement within five (5) calendar days after the execution of this Agreement. The CONSULTANT shall complete and deliver the final construction record and final estimate to the LPA within forty five (45) calendar days after the contractor’s last day of work.

APPENDIX “D”

COMPENSATION

1.0 AMOUNT OF PAYMENT

- 1.1 The CONSULTANT shall receive as payment for the work performed under this Agreement the total fee not to exceed Four Hundred Ninety-Nine Thousand Nine Hundred Seventy Dollars (\$499,970.00), unless a modification of the Agreement is approved in writing by the LPA.
- 1.2 The CONSULTANT shall be paid for providing the services set forth in Sections 2.1 through 2.18, inclusive, of Appendix “A” of this Agreement based on the actual hours of work performed in accordance with the following rate schedule:

	2020 Regular Rate	2020 Overtime Rate	2021 Regular Rate	2021 Overtime Rate	2022 Regular Rate	2022 Overtime Rate	2023 Regular Rate	2023 Overtime Rate
Lochmueller Group, Inc.								
Senior Project Manager I	\$191.05	\$219.48	\$196.78	\$226.06	\$202.68	\$232.84	\$208.76	\$239.83
Construction Project Supervisor II	\$147.84	\$169.84	\$152.28	\$174.94	\$156.85	\$180.19	\$161.56	\$185.60
Construction Project Supervisor I	\$116.83	\$134.22	\$120.33	\$138.24	\$123.94	\$142.38	\$127.66	\$146.66
Construction Engineer III	\$155.16	\$178.25	\$159.81	\$183.59	\$164.60	\$189.10	\$169.54	\$194.77
Construction Engineer II	\$124.59	\$143.13	\$128.33	\$147.43	\$132.18	\$151.85	\$136.15	\$156.41
Construction Engineer I	\$118.20	\$135.79	\$121.75	\$139.87	\$125.40	\$144.06	\$129.16	\$148.38
Construction Inspector II	\$113.16	\$130.00	\$116.55	\$133.90	\$120.05	\$137.92	\$123.65	\$142.05
Construction Inspector I	\$100.43	\$115.38	\$103.44	\$118.83	\$106.54	\$122.40	\$109.74	\$126.07

JQOL	2020 Regular Rate	2020 Overtime Rate	2021 Regular Rate	2022 Regular Rate	2023 Regular Rate
Principal Engineer	\$187.79	\$220.29	\$195.31	\$203.12	\$211.24
Project Engineer IV	\$138.88	\$162.92	\$144.44	\$150.21	\$156.22
Inspector – Engineer	\$138.88	\$162.92	\$144.44	\$150.21	\$156.22
Project Supervisor/Inspector	\$93.90	\$110.15	\$97.65	\$101.56	\$105.62
Inspector	\$86.67	\$101.67	\$90.14	\$93.75	\$97.50
Design Tech	\$76.39	\$89.61	\$79.44	\$82.62	\$85.93

- 1.3 For those services performed by the CONSULTANT, the CONSULTANT shall be reimbursed for mileage at the current INDOT allowable mileage reimbursement rate at the time the mileage is incurred.
- 1.4 For those services performed by other than the CONSULTANT, the CONSULTANT shall be reimbursed for the actual invoice for the services performed by other than the CONSULTANT, provided that each such invoice shall be subject to approval as reasonable by the LPA prior to any reimbursement thereof.
- 1.5 In order for the contractor to comply with the Contract Plans and Specifications and complete the work within the time required, it is often necessary for the Contractor to work more than an 8-hour day, and more than a 5-day week. This in turn, may require the Resident Project Representative and Inspectors to work over 40 hours per week. The

CONSULTANT shall not bill for overtime premium for any individual until forty hours have been worked on the Contract for the week by that individual. Holiday hours not worked on the Contract do not apply to the 40-hour weekly total. Overtime premium wages will only be paid for those employees allowed to receive overtime premium according to the CONSULTANT's standard policy.

2.0 Method of Payment

- 2.1 The CONSULTANT may submit a maximum of one invoice voucher per calendar month for work covered under this Contract. The invoice vouchers shall be submitted to:
City of Westfield
2706 E. 171st Street
Westfield, Indiana 46074
- 2.2 The invoice vouchers shall represent the value to the LPA of the partially completed work as of the date of the invoice voucher. When submitting an invoice, the CONSULTANT shall furnish a copy of records showing the individuals who worked on this Contract during the month, their classification, the number of hours worked since the last invoice voucher was submitted, and the hourly rate.
- 2.3 If the LPA does not agree with the amount claimed by the CONSULTANT on an invoice voucher, the LPA shall send the CONSULTANT a letter by regular mail and list the differences between actual and claimed progress. The letter will be sent to the CONSULTANT's last known address.
- 2.4 If, prior to the satisfactory completion of the services under this Contract, the total of the direct and indirect costs incurred by the CONSULTANT is within ten percent (10%) of the maximum amount payable, the CONSULTANT shall notify the LPA and the status will be evaluated.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

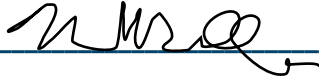
TRAFFIC PORTION AFFECTED BY PERMIT

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: _____

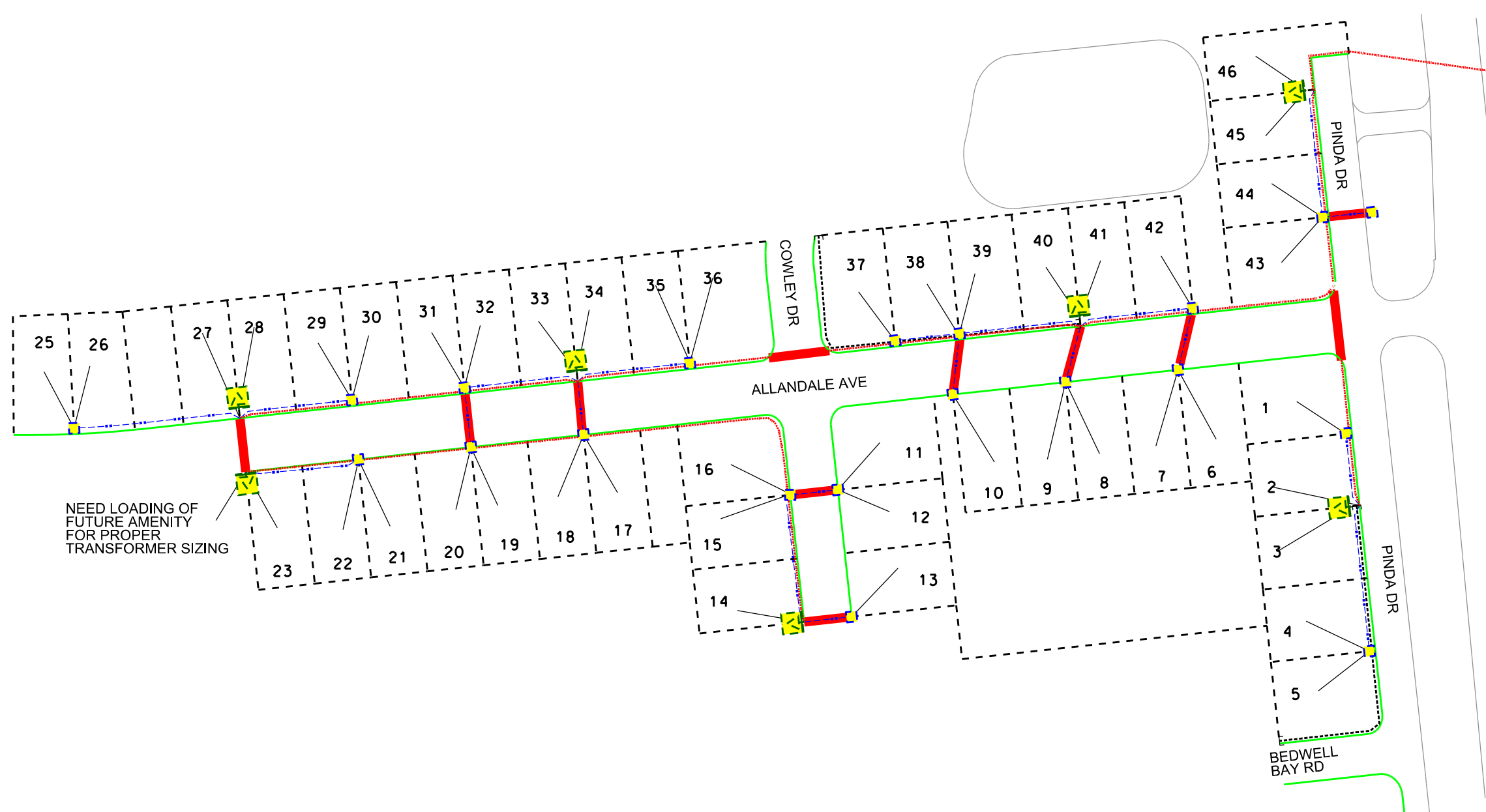
Steel Plates or other authorized substitute to be used? YES NO (If yes, refer to #4 above)

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





LANCASTER
SECTION 1

ELECTRIC CONTACT:
MARC DILLER Phone # 317-776-5327

Elect. WO# 33147824

Date 4/8/2020 Revision Date

 Proposed Padmount Transformer

 Proposed Primary Switching Enclosure
(Do not wire secondary service laterals to this location)

 Proposed Secondary Pedestal Enclosure / Temporary Termination
(refer to drawing for service lateral locations)

 Primary and/or Secondary Crossovers 4" PVC or PE Duct.
Installed by Customer

 Direct buried systems:
Schedule 40 NEMA TC-2L90M C rated
Crossings to be 1-4" conduit unless otherwise noted

 Total Number of Ducts Required by Electric Company
When requiring more than 1 crossing

 Trench by Duke Energy for Primary

 Trench by Duke Energy for Secondary

 Electric Services to be installed to designated locations
as indicated. Contractor responsible for
contacting Electric Company for service locations.

 Existing pole -- Electric Co.

 Proposed pole -- Electric Co.

 Existing down guy and anchor

 Proposed down guy and anchor

 * To be served in future on an individual basis.

NOTE: IF ANY OTHER UTILITY REQUIRES EQUIPMENT THAT IS
NOT SHOWN HEREON, THAT UTILITY WILL PRESENT A
SUPPLEMENTAL ENDORSEMENT.

CUSTOMER TO INSTALL:
-4" DIA. CROSSOVER, UNLESS OTHERWISE SPECIFIED
-CROSSOVERS TO BE INSTALLED R/W TO R/W,
AT A DEPTH OF 36" WITH PULL STRINGS AND
MARKED ENDED CAPS
UNLESS OTHERWISE SPECIFIED

NOTES:
-CROSSOVERS, ELECTRIC FACILITIES, ARE
NOT DRAWN TO SCALE & ARE FOR
ILLUSTRATION PURPOSES ONLY.
-CROSSOVERS ARE FOR PUBLIC UTILITY USE ONLY,
NOT FOR PRIVATE USE.

ENGINEER'S PROJECT INFORMATION

LANCASTER
SECTION 1
WESTFIELD, WASHINGTON TWP
HAMILTON CO, IN

TIM WALSH 317-258-8577

18950 SPRINGMILL RD

WESTFIELD, IN

33147824

REVISION DATE:



DESIGNED BY: CARA MCGAUGHEY

DATE DRAWN: 2/8/2020 DRAWING: 1 OF 1

ENCROACHMENT PERMIT APPLICATION

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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: _____

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

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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: _____

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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: _____

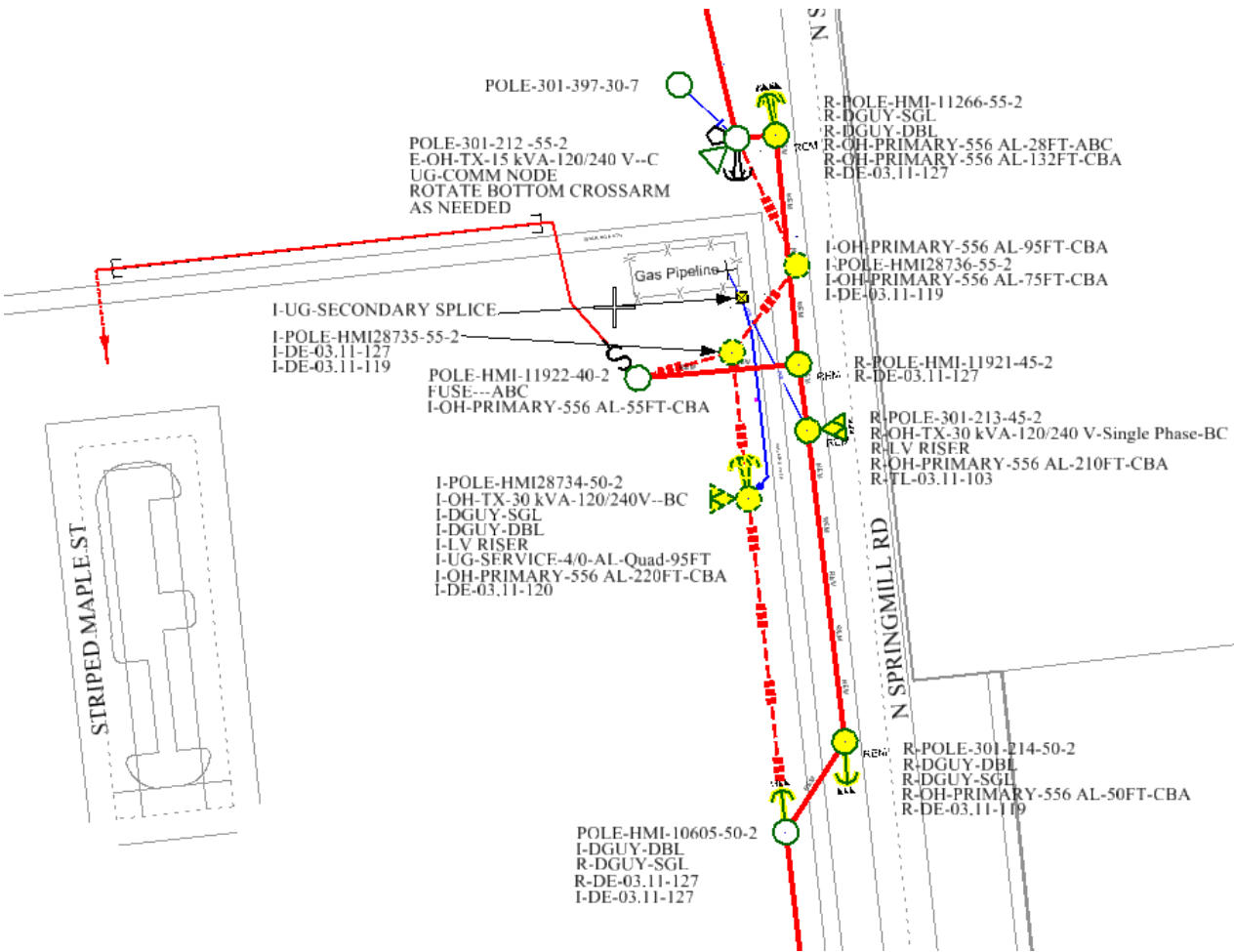
Steel Plates or other authorized substitute to be used? YES NO (If yes, refer to #4 above)

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



Westfield Police Department
Monthly Performance Measures Report



Board of Public Works & Safety

June 2020

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Westfield Police Department

June 2020

Events by Nature

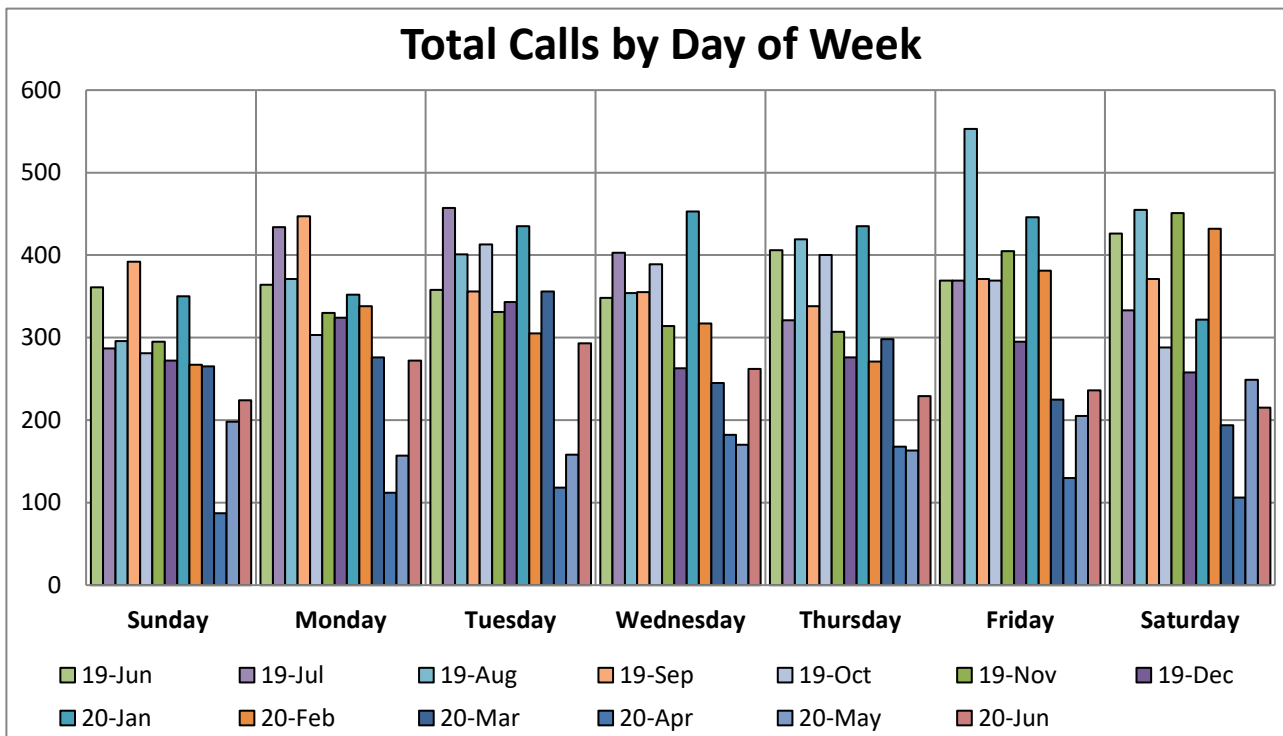
911 Hang Up	29
Abandoned Vehicle	13
Abandonment	0
Abuse / Neglect	0
Accident - Hit & Run PD	14
Accident - Hit & Run PI	0
Accident - Other	1
Accident - Property Damage	68
Accident - Personal Injury	2
Accident - Sinking Vehicle	1
Accident - Unknown	3
Accelerator Stuck	0
Active Assailant	0
Alarm - Other	2
Alarm - Vehicle	0
Alarm - Burglar	124
Alarm - Hold Up	12
Animal Bite / Attack	2
Animal Complaint	45
Assist Fire	38
Assist Other Department	16
Assist Public	22
Battery	5
Bomb Device Found	0
Bomb Threat	0
Burglary	1
Carjacking	0
Case Follow Up	68
Child Seat Inspection	0
Civil Dispute	26
Criminal Mischief	16
Damage to Property	0
Death Investigation	0
Directed Patrol	13
Disturbance	19
Driving Complaint	91
Drug Complaint	7
Drug Lab	0
Escort	0
Fight	0
Firearms Shots Fired	3
Found / Lost Property	12
Found Person	0
Fraud Prescription	0
Fraud / Deception	22
Harassment	8
Intoxicated Person	3

Investigation	5
Juvenile Complaint	4
K9 Detail	0
Kidnapping	1
Lock Out	33
Loud Party	9
Mental Emotional - Violent	5
Mental Person	8
Miscellaneous	36
Missing Person	5
Missing Person - PLS	0
Nuisance	31
Ordinance Misc.	24
Parking Complaint	21
Physical Disturbance	16
Product Contamination	0
Reckless Activity	0
Road Rage	4
Robbery	0
Runaway	1
School Patrol	2
Security Check	2
Sex Offense	3
Shooting	0
Solicitor	4
Special Detail	1
Stabbing	0
Suicide	0
Suspicious Activity	125
Suspicious Package	0
Test	0
Theft	26
Theft - From a Vehicle	3
Theft - of a Vehicle	6
Threat to Life	8
Threatening Suicide	6
Tow Release	6
Traffic Hazard	75
Transport	1
Trespassing	20
Traffic Stop	421
Unknown Call for Police	1
VIN Check	60
Wanted	3
Warrant Service	11
Weapons Complaint	2
Welfare Check	56
Total	1731

Westfield Police Department
June 2020

Total # of Calls by Day of Week

DAY	19-Jun	19-Jul	19-Aug	19-Sep	19-Oct	19-Nov	19-Dec	20-Jan	20-Feb	20-Mar	20-Apr	20-May	20-Jun
Sunday	361	287	296	392	281	295	272	350	267	265	87	198	224
Monday	364	434	371	447	303	330	324	352	338	276	112	157	272
Tuesday	358	457	401	356	413	331	343	435	305	356	118	158	293
Wednesday	348	403	354	355	389	314	263	453	317	245	182	170	262
Thursday	406	321	419	338	400	307	276	435	271	298	168	163	229
Friday	369	369	553	371	369	405	295	446	381	225	130	205	236
Saturday	426	333	455	371	288	451	258	322	432	194	106	249	215
TOTAL	2632	2604	2849	2630	2443	2433	2031	2793	2311	1859	903	1300	1731

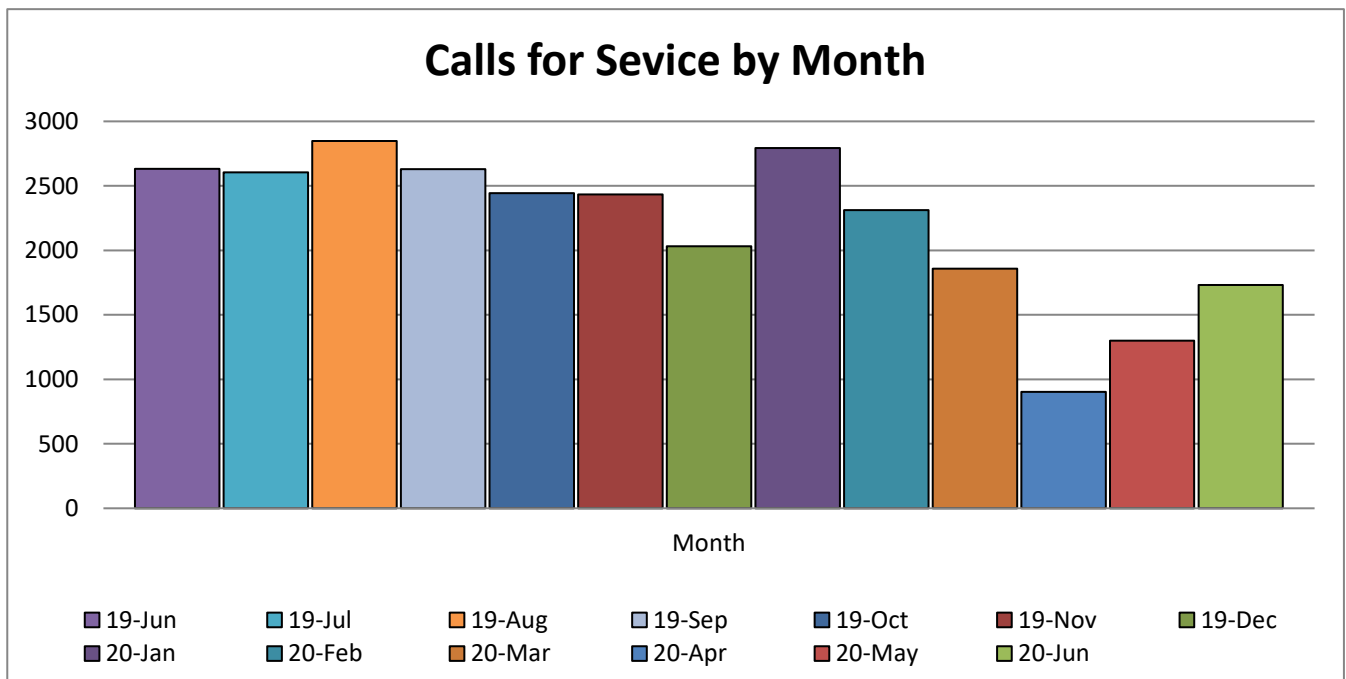


Westfield Police Department
June 2020

Total # of Calls by Hour of Day

HOURL	19-Jun	19-Jul	19-Aug	19-Sep	19-Oct	19-Nov	19-Dec	20-Jan	20-Feb	20-Mar	20-Apr	20-May	20-Jun
0	106	99	119	116	93	102	85	97	103	78	17	41	47
1	56	80	73	83	64	55	33	66	71	31	15	28	32
2	45	42	49	59	62	49	33	49	48	41	12	15	24
3	34	39	32	62	58	35	19	48	48	29	9	25	19
4	16	20	25	32	24	26	33	45	41	10	3	13	14
5	22	23	37	40	30	43	42	51	33	29	15	15	26
6	53	57	45	42	42	27	49	35	34	48	37	28	65
7	103	71	116	90	68	77	54	71	69	86	39	40	49
8	181	136	134	128	137	142	104	184	111	107	30	47	76
9	176	160	171	155	155	172	126	185	164	114	47	55	92
10	189	152	165	175	140	144	129	156	130	119	34	88	88
11	108	127	149	132	118	141	123	157	126	93	59	78	115
12	113	127	138	108	105	123	89	141	98	101	44	69	97
13	121	123	148	106	127	131	101	142	117	100	69	97	90
14	131	159	164	126	134	131	94	166	119	119	42	68	112
15	127	131	161	120	124	99	109	165	121	114	61	89	109
16	111	117	148	132	110	99	87	124	100	88	52	81	99
17	134	96	132	109	101	100	79	66	88	92	60	78	90
18	165	182	187	176	155	196	144	176	141	96	55	72	81
19	168	161	159	154	153	171	108	186	153	97	39	61	88
20	86	79	67	90	90	60	76	107	89	74	63	52	66
21	105	120	136	108	103	98	89	95	73	43	47	64	100
22	146	172	152	139	152	100	122	147	121	63	26	49	90
23	136	131	142	148	98	112	103	134	113	87	28	47	62
TOTAL	2632	2604	2849	2630	2443	2433	2031	2793	2311	1859	903	1300	1731

Westfield Police Department
June 2020



Westfield Police Department
June 2020

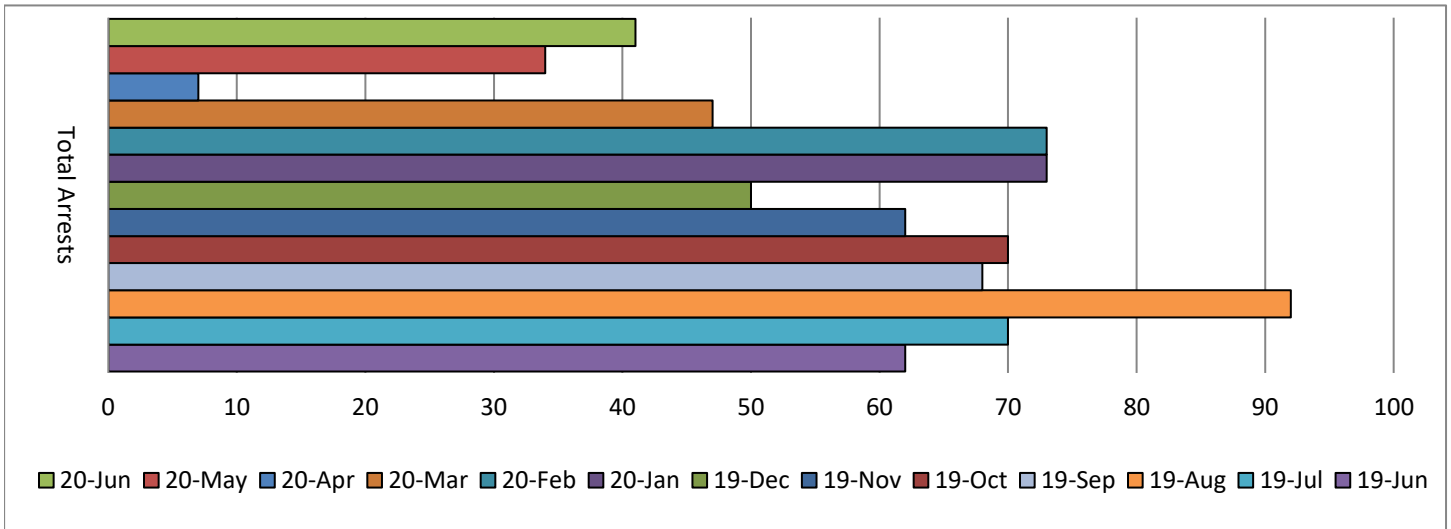
UCR OFFENSES

OFFENSE	19-Jun	19-Jul	19-Aug	19-Sep	19-Oct	19-Nov	19-Dec	20-Jan	20-Feb	20-Mar	20-Apr	20-May	20-Jun
Arson	0	0	1	0	0	0	0	0	0	0	0	0	0
Homicide	0	0	0	0	0	0	0	0	0	0	0	0	0
Rape	0	1	0	0	0	0	1	-1	0	1	0	0	0
Robbery	0	0	0	0	0	2	0	0	0	0	0	2	0
Battery - Aggravated	0	0	0	1	0	1	0	0	1	3	1	2	1
Battery - Simple	18	17	14	22	9	12	15	18	22	21	18	17	17
Burglary	0	4	2	0	1	0	0	3	0	2	1	5	4
Theft	20	25	31	24	32	16	28	23	19	30	23	18	18
Motor Vehicle Theft	1	2	1	0	1	1	2	2	0	2	0	0	2
TOTAL	39	49	49	47	43	32	46	45	42	59	43	44	42

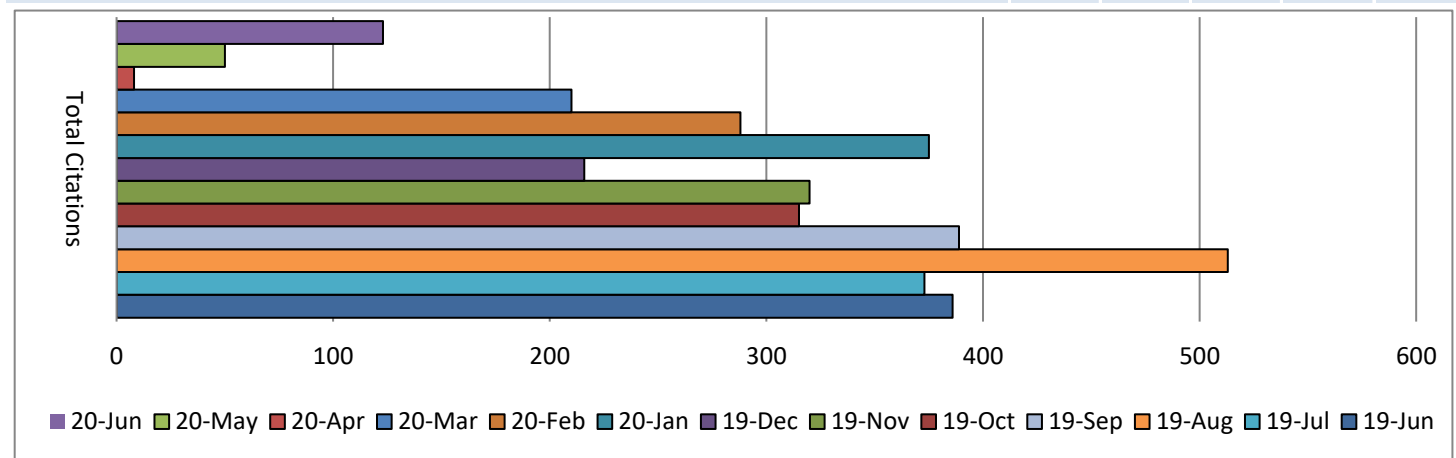
Westfield Police Department

June 2020

Arrest Reports Taken	19-Jun	19-Jul	19-Aug	19-Sep	19-Oct	19-Nov	19-Dec	20-Jan	20-Feb	20-Mar	20-Apr	20-May	20-Jun
Alcohol/ Drug Related	28	35	35	27	22	23	18	17	20	20	1	8	18
Felony Charges	11	29	20	31	19	13	12	19	15	21	2	13	23
Misdemeanor Charges	77	89	90	86	82	84	77	63	80	79	9	35	79
Total Arrests	62	70	92	68	70	62	50	73	73	47	7	34	41



Traffic	19-Jun	19-Jul	19-Aug	19-Sep	19-Oct	19-Nov	19-Dec	20-Jan	20-Feb	20-Mar	20-Apr	20-May	20-Jun
Total Citations	386	373	513	389	315	320	216	375	288	210	8	50	123
Total Written Warning	1202	1057	1232	1167	1051	1263	805	1408	1119	612	25	143	350
Total Traffic Accidents	63	69	55	68	47	77	78	53	45	39	25	38	58
Property Damage	52	62	44	62	37	69	72	48	40	38	24	35	55
Personal Injury	11	7	10	6	10	8	6	5	5	1	1	3	3
Fatality	0	0	1	0	0	0	0	0	0	0	0	0	0
Hit and Run*	5	6	2	9	5	5	3	8	3	4	3	3	8
*numbers included in property damage, personal injury, and fatality accidents													

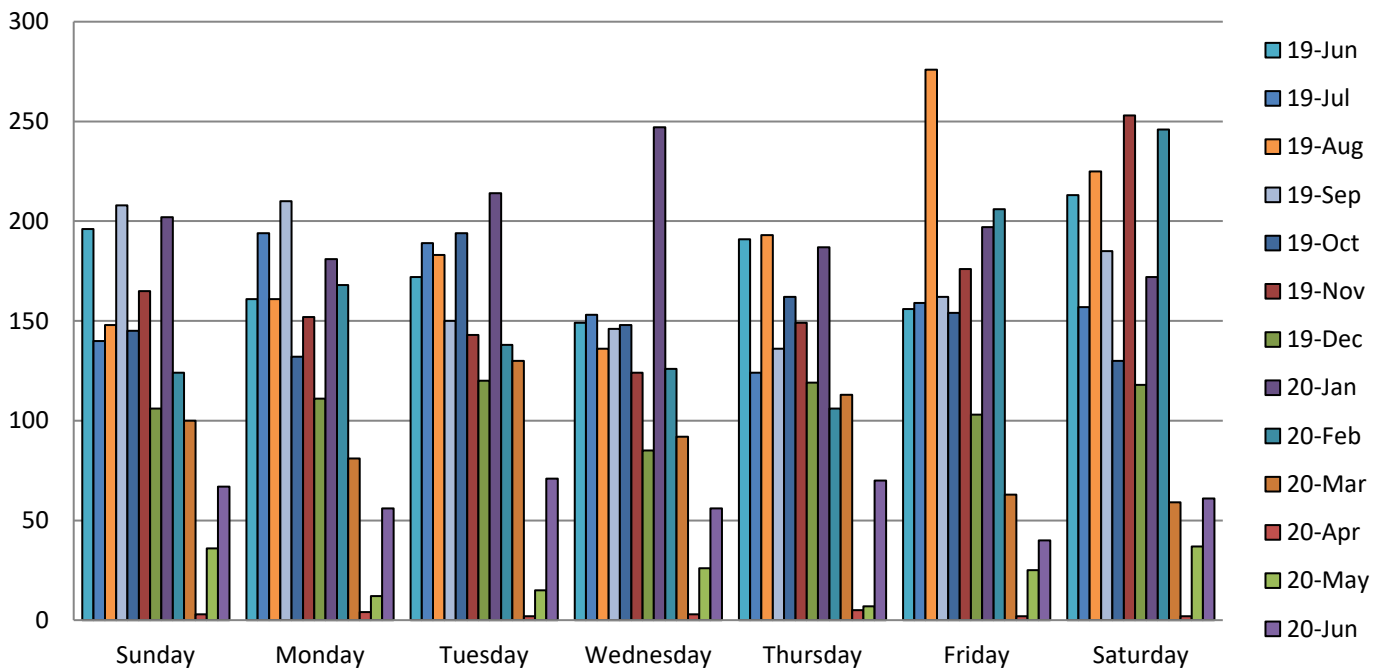


Westfield Police Department
June 2020

Traffic Stops by Day of Week

Day:	19-Jun	19-Jul	19-Aug	19-Sep	19-Oct	19-Nov	19-Dec	20-Jan	20-Feb	20-Mar	20-Apr	20-May	20-Jun
Sunday	196	140	148	208	145	165	106	202	124	100	3	36	67
Monday	161	194	161	210	132	152	111	181	168	81	4	12	56
Tuesday	172	189	183	150	194	143	120	214	138	130	2	15	71
Wednesday	149	153	136	146	148	124	85	247	126	92	3	26	56
Thursday	191	124	193	136	162	149	119	187	106	113	5	7	70
Friday	156	159	276	162	154	176	103	197	206	63	2	25	40
Saturday	213	157	225	185	130	253	118	172	246	59	2	37	61
TOTAL	1238	1116	1322	1197	1065	1162	762	1400	1114	638	21	158	421

Total Traffic Stops by Day of Week

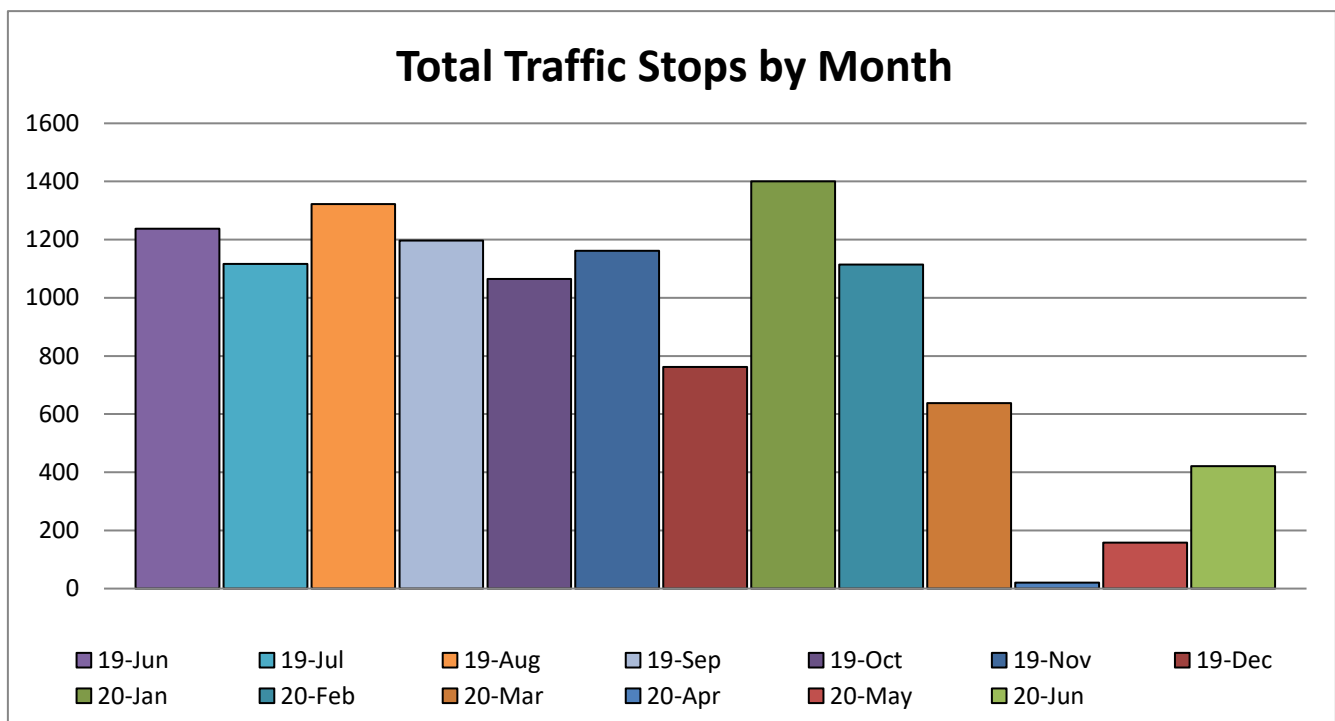


Westfield Police Department
June 2020

Traffic Stops by Hour of the Day

Hour:	19-Jun	19-Jul	19-Aug	19-Sep	19-Oct	19-Nov	19-Dec	20-Jan	20-Feb	20-Mar	20-Apr	20-May	20-Jun
0	77	65	73	82	51	48	43	48	55	40	0	3	9
1	32	49	46	53	29	31	20	34	41	8	0	2	7
2	29	21	29	34	30	22	9	18	24	12	0	1	2
3	20	19	14	27	23	11	5	19	21	12	0	4	5
4	3	10	8	17	4	2	4	14	21	2	0	3	4
5	11	9	17	18	10	13	22	26	15	10	0	1	14
6	27	28	26	25	22	8	18	25	15	14	0	6	43
7	48	37	54	40	37	34	11	39	31	37	2	8	16
8	105	71	69	62	75	75	46	86	62	41	1	10	35
9	112	84	71	68	73	90	52	89	88	36	2	7	35
10	104	72	76	72	59	74	52	70	63	30	1	15	26
11	36	45	60	40	50	68	44	77	59	19	0	12	35
12	28	37	59	31	45	41	25	53	40	28	2	3	13
13	41	34	55	27	43	48	23	50	49	27	1	12	19
14	51	41	73	43	49	58	26	84	57	43	2	10	24
15	38	49	69	44	47	45	30	82	47	46	0	18	23
16	25	26	55	36	25	29	21	58	28	19	1	9	15
17	25	17	28	16	21	20	16	12	19	20	2	8	6
18	76	86	81	85	72	112	70	108	74	28	2	6	8
19	101	77	76	81	83	119	54	123	92	45	1	4	23
20	22	14	16	30	25	19	21	58	40	35	0	4	13
21	45	48	63	61	49	52	31	54	29	12	0	1	14
22	86	96	98	91	81	61	66	85	67	25	2	3	12
23	96	81	106	114	62	82	53	88	77	49	2	8	20
TOTAL	1238	1116	1322	1197	1065	1162	762	1400	1114	638	21	158	421

Westfield Police Department
June 2020



Westfield Police Department
June 2020

Community Events

Westfield Police Department
June 2020

Training

	All Training Cancelled Due to COVID-19
6/1/20	RDS Handgun Instructor
6/4/20	Monthly K9
6/11/20	New Hire EVO
6/12/20	New Hire Firearms Qualifications
6/13/16	Department Firearms Qualifications
6/17/18	New Hire OC & Less Lethal
6/17/20	New Hire Physical Tactics
6/18/20	New Hire Taser Certification
6/20/20	New Hire Trauma Kit



July 22, 2020

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, Liberty Villas, Section 1, Bond #800055064, \$18,922.20, Construction Entrance, Staging Area
- Lennar Homes of Indiana, Liberty Villas, Section 1, Bond #800055065, \$41,652.85, Erosion Control
- Lennar Homes of Indiana, Liberty Villas, Section 1, Bond #800055067, \$105,352.15, ROW Improvements
- Lennar Homes of Indiana, Liberty Villas, Section 2, Bond #800055066, \$17,447.35, Erosion Control
- Pulte Homes of Indiana, Bent Creek, Section 3, Bond #30106527, \$366,390.20, Paving (Stone Base, Base Course, Intermediate Course & Surface Course)
- Pulte Homes of Indiana, Bent Creek, Section 3, Bond #30106525, \$57,310.77 Concrete Curbs
- Pulte Homes of Indiana, Bent Creek, Section 3, Bond #30106524, \$500,114.78 Storm Sewer & Subsurface Drains
- Pulte Homes of Indiana, Bent Creek, Section 3, Bond #30106526, \$8,150.60, Common Area Sidewalks
- Pulte Homes of Indiana, Westchester, Section 2, Bond #30106523, \$608,557.58, On Site Paving (Stone Base, Base Course, Intermediate Course, Surface Course, 8' Path, Temp. Cul de Sac, & Temp Driveway)
- Pulte Homes of Indiana, Westchester, Section 2, Bond #30106521, \$704,040.91, Storm Sewer
- Pulte Homes of Indiana, Westchester, Section 2, Bond #30106522, \$353,483.90, Concrete Curb & Common Area Sidewalks
- Platinum Properties Management Company, LLC, Bordeaux Walk, Section 2, Bond #3152010, \$41,227.00, Erosion Control
- M/I Homes of Indiana, LP, Scofield Farms, Section 4, Bond #SUR0060692, \$22,705.65, Curbs
- M/I Homes of Indiana, LP, Scofield Farms, Section 4, Bond #SUR0060690, \$124,256.00, Stone, Base, Binder, Surface
- M/I Homes of Indiana, LP, Scofield Farms, Section 4, Bond #SUR0060691, \$117,181.90, Storm Sewer

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:

- T.D. Management, Tire Discounters Westfield, Bond #PB00155800856, \$15,457.00, Erosion Control

- T.D. Management, Tire Discounters Westfield, Bond #PB00155800853, \$19,360.00, Streets/Curbs
- T.D. Management, Tire Discounters Westfield, Bond #PB00155800854, \$83,872.00, Storm Sewer
- T.D. Management, Tire Discounters Westfield, Bond #PB00155800855, \$3,520.00, Sidewalk
- JND Construction, Sun Park Dr. Between Tournament Trail & 181st Street, Bond #54221126, \$109,511.44
- CalAtlantic Homes of Indiana, Coventry 1A, Bond #SU1153395, \$43,376.00, Concrete Sidewalks
- CalAtlantic Homes of Indiana, Coventry 1A, Bond #SU1154825, \$293,607.00, Storm Sewer System
- CalAtlantic Homes of Indiana, Coventry 1A, Bond #SU1153396, \$43,107.00, Concrete Curb
- CalAtlantic Homes of Indiana, Coventry 1A, Bond #SU1153391, \$130,886.00, Asphalt Local Street
- CalAtlantic Homes of Indiana, Coventry 1A, Bond #SU1153390, \$125,268.00, Asphalt ROW Improvements – Grassy Branch Road
- CalAtlantic Homes of Indiana, Coventry 1A, Bond #SU1153397, \$32,236.00, Asphalt Trail
- CalAtlantic Homes of Indiana, Coventry 1A, Bond #72BSBHX2092, \$79,578.00, Erosion Control
- CalAtlantic Homes of Indiana, Coventry 1B, Bond #SU1153393, \$1,882.00, Concrete Sidewalks
- CalAtlantic Homes of Indiana, Coventry 1B, Bond #SU1154824, \$231,825.00, Storm Sewer System
- CalAtlantic Homes of Indiana, Coventry 1B, Bond #SU1153399, \$25,908.00, Concrete Curb
- CalAtlantic Homes of Indiana, Coventry 1B, Bond #SU1153398, \$104,537.00, Asphalt Local Street
- CalAtlantic Homes of Indiana, Coventry 1B, Bond #SU1153394, \$8,877.00, Asphalt Trail
- CalAtlantic Homes of Indiana, Coventry 1B, Bond #72BSBHX2091, \$40,453.00, Erosion Control
- Lennar Homes of Indiana, Coventry, Section 2, Bond #72BSBIE2515, \$1,322.00, Concrete Sidewalks
- Lennar Homes of Indiana, Coventry, Section 2, Bond #72BSBIE2518, \$94,783.00, Storm Sewer & Subsurface Drain
- Lennar Homes of Indiana, Coventry, Section 2, Bond #72BSBIE2514, \$23,653.00, Concrete Curb
- Lennar Homes of Indiana, Coventry, Section 2, Bond & Rider #72BSBIE2521, \$129,187.00, Asphalt Street
- Lennar Homes of Indiana, Coventry, Section 2, Bond #30072919, \$37,413.00, 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:

- TD Management, Ltd., Tire Discounters-Westfield, Bond #PB00155801101, \$12,220.00, Streets/Curbs, Storm Sewer, Sidewalk & Erosion Control
- Lennar Homes of Indiana, Coventry 1A, Bond #SU1153397-M, \$3,221.60, Asphalt Trail
- Lennar Homes of Indiana, Coventry 1A, Bond #SU1154825-M, \$26,691.50, Storm Sewer System
- Lennar Homes of Indiana, Coventry 1A, Bond #72BSBHX2092-M, \$7,234.35, Erosion Control
- Lennar Homes of Indiana, Coventry 1A, Bond #SU1153395-M, \$3,943.20, Concrete Sidewalks
- Lennar Homes of Indiana, Coventry 1A, Bond #SU1153396-M, \$3,918.80, Concrete Curb
- Lennar Homes of Indiana, Coventry 1A, Bond #SU1153391-M, \$14,817.90, Asphalt Local Street
- Lennar Homes of Indiana, Coventry 1A, Bond #SU1153390-M, \$12,343.30, Asphalt ROW Improvements – Grassy Branch Road
- Lennar Homes of Indiana, Coventry 1B, Bond #SU1153394-M, \$806.99, Asphalt Trail
- Lennar Homes of Indiana, Coventry 1B, Bond #72BSBHX2091-M, \$3,677.51, Erosion Control
- Lennar Homes of Indiana, Coventry 1B, Bond #SU1153393-M, \$171.02, Common Area Sidewalks
- Lennar Homes of Indiana, Coventry 1B, Bond #SU1153399-M, \$2,355.27 Concrete Curb
- Lennar Homes of Indiana, Coventry 1B, Bond #SU1153398-M, \$12,402.95, Asphalt Local Street
- Lennar Homes of Indiana, Coventry 1B, Bond #SU1154824-M, \$21,075.00, Storm Sewer System
- Lennar Homes of Indiana, Coventry 2, Bond #30072919-M, \$3,401.17, Erosion Control
- Lennar Homes of Indiana, Coventry 2, Bond #024246426, \$120.16, Common Area Sidewalks

- Lennar Homes of Indiana, Coventry 2, Bond #72BSBIE2514-M, \$2,150.19, Concrete Curb
- Lennar Homes of Indiana, Coventry 2, Bond #72BSBIE2521-M, \$11,744.25 Asphalt Street
- Lennar Homes of Indiana, Coventry 2, Bond #024246425, \$8,616.60, Storm Sewer & Subsurface Drain

Maintenance Bond Release

The Westfield Public Works Department is recommending that the Board of Public Works and Safety release the following Maintenance Bonds for the requested developments:

- NONE

Letter of Credit Acceptance

The Westfield Public Works Department is recommending that the Board of Public Works and Safety accept the following Letter of Credit for the requested developments:

- NONE

Cash In Lieu/Development Agreement

The Westfield Public Works Department is recommending that the Board of Public Works and Safety accept the following Development Agreement (Cash in Lieu) for the requested developments:

- NONE

PROFESSIONAL SERVICES AGREEMENT

Project Name ("Project")

Grand Junction Plaza CLOMR

This Agreement is by and between

City of Westfield ("Client")

2728 East 171st Street
Westfield, IN 46074

and

Clark Dietz, Inc. ("Clark Dietz")

8900 Keystone Crossing, Suite 475
Indianapolis, IN 46240

Who agree as follows:

Client hereby engages Clark Dietz to perform the services set forth in PART I - SERVICES BY CLARK DIETZ, and Clark Dietz agrees to perform the Services for the compensation set forth in PART III - COMPENSATION. Clark Dietz shall be authorized to commence the Services upon execution of this Agreement and written or verbal authorization to proceed from Client. Client and Clark Dietz agree that this signature page, together with Parts I - IV and attachments referred to therein, constitute the entire Agreement between them relating to the Project.

Agreed to by Client

By: _____

Title: _____

Date: _____

Agreed to by Clark Dietz

By: Hans J. Peterson

Hans J. Peterson, P.E.

Title: Sr. Vice President

Date: 07/16/2020

PART I

SERVICES BY CLARK DIETZ

A. Project Description

The City of Westfield, Indiana is planning to construct the Grand Junction Plaza. This project is located on the Anna Kendall Drain (also known as Grassy Branch) and requires a Conditional Letter of Map Revision (CLOMR) from the Federal Emergency Management Agency (FEMA). To obtain this CLOMR the hydraulic model for the Anna Kendall Drain will need to be updated with Grand Junction Plaza as well as 6 other construction projects which have occurred along the Anna Kendall Drain since 2016. The hydraulic model and CLOMR application will need to be reviewed and approved by both the Indiana Department of Natural Resources (IDNR) and FEMA.

The projects that will be added to the hydraulic model include:

- Grand Junction Plaza
- Mill Street Bridge
- Westfield Park Road Culvert
- The Trails
- Westfield Boulevard
- Wheeler Landing
- 175th Street Development

B. Scope

The scope of services is divided into two major work elements. The first element includes agency coordination, hydraulic modeling, and floodplain mapping updates. The second element includes the CLOMR submittal to IDNR and FEMA. The scope of services for each work element is detailed as follows:

1.0 Initial Coordination, Hydraulic Modeling, and Floodplain Mapping Updates

1.1 Project Coordination

- 1.1.1 Prepare Project Work Plan
- 1.1.2 Project coordination with Westfield, IDNR, Hamilton County, and FEMA
- 1.1.3 Monthly progress reports

1.2 Data Collection and Model Updates

- 1.2.1 Obtain hydraulic models for Wheeler Landing and 175th Street Development
- 1.2.2 Review existing models from IDNR model library
- 1.2.3 Establish base model for analysis
- 1.2.4 Obtain and review as-builts for new construction since 2016
- 1.2.5 Update Anna Kendall Drain model with (7) projects constructed since 2016
- 1.2.6 Conduct field visits to verify current conditions

1.3 Hydraulic Analysis

- 1.3.1 Run/debug hydraulic models with HEC-RAS
- 1.3.2 Run model for 100-year and 500-year storm events and determine Base Flood Elevations (BFEs)
- 1.3.3 Complete floodway model runs to establish floodway limits
- 1.3.4 Evaluate differences in published FIS with current updated model
- 1.3.5 Prepare floodplain/floodway maps
- 1.3.6 QA/QC of hydraulic model and mapping updates

2.0 Submit IDNR/FEMA CLOMR Applications

2.1 Submit CLOMR application to IDNR for approval

- 2.1.1 Assemble model for submittal
- 2.1.2 Complete IDNR submittal package

- 2.1.3 Submit to IDNR
- 2.2 Submit CLOMR application to FEMA for approval
 - 2.2.1 Complete form MT-2 and related electronic data tables and GIS shapefiles
 - 2.2.2 Assemble and submit package to FEMA
 - 2.2.3 Property Owner Notification

C. Schedule

Work Element 1.0 (Tasks 1.1 through 1.3) will take approximately 10 weeks to complete from Notice to Proceed. Work Element 2.0, Task 2.1 will take approximately 2 weeks to complete following Work Element 1.0. IDNR's review of the CLOMR could take 6 months to 1 year. Work Element 2.0, Task 2.2 will take approximately 2 weeks to complete following approval from IDNR.

D. Assumptions/Conditions (if applicable)

This agreement is subject to the following assumptions/conditions:

1. This Agreement and any legal actions concerning its validity, interpretation and performance shall be governed by the laws of the location of the project.
2. A FEMA CLOMR fee of \$6,500 is included in the project budget as a pass-through expense to reimbursed by Client. Any additional fees or increases in application fees will be paid for by Client.
3. The project budget includes up to two rounds of review comments and re-submittals to IDNR and FEMA. If additional submittals are required, an amendment to this Agreement will be prepared with a negotiated additional fee to cover this work.

PART II
CLIENT'S RESPONSIBILITIES

Client shall, at its expense, do the following in a timely manner so as not to delay the Services:

A. Information/Reports

Provide Clark Dietz with reports, studies, site characterizations, regulatory decisions and similar information relating to the Services that Clark Dietz may rely upon without independent verification unless specifically identified as requiring such verification.

B. Representative

Designate a representative for the project who shall have the authority to transmit instructions, receive information, interpret and define Client's requirements and make decisions with respect to the Services. **The Client representative for this Agreement will be Johnathon Nail, P.E., City Engineer.**

C. Decisions

Provide all criteria and full information as to Client's requirements for the Services and make timely decisions on matters relating to the Services.

D. Other

The Client will provide as-built drawings for each of the projects that will be added to the hydraulic model. The Client will coordinate with other consultant or contractors to obtain the as-builts.

PART III COMPENSATION

A. Compensation

Total compensation to Clark Dietz for services rendered on the Project in accordance with PART I, SERVICES of this Agreement will be a lump sum amount for each of the two major work elements:

Work Element	Lump Sum Amount
1.0 Initial Coordination, Preliminary Hydraulic Modeling, and Floodplain Mapping Updates	\$52,500
2.0 Submit IDNR/FEMA CLOMR Applications	\$27,000
TOTAL LUMP SUM AMOUNT	\$79,500

The lump sum compensation amounts include salaries, payroll taxes and insurance, employee fringe benefits, general overhead costs, profit, and project related expenses.

B. Billing and Payment

1. Timing/Format
 - a. Invoices shall be submitted monthly for Services completed at the time of billing. Invoices shall be considered past due if not paid within 45 calendar days of the date of the invoice. Such invoices shall be prepared in a form supported by documentation required by the Client.
 - b. If payment in full is not received by Clark Dietz within 45 calendar days of the date of invoice, invoices shall bear interest at one-and-one-half (1.5) percent of the past due amount per month, which shall be calculated from the date of the invoice.
 - c. If the Client fails to make payments within 45 calendar days of the date of invoice or otherwise is in breach of this Agreement, Clark Dietz may suspend performance of services upon seven (7) calendar days' notice to the Client. Clark Dietz shall have no liability to the Client for any costs or damages as a result of suspension caused by any breach of this Agreement by the Client. Upon payment in full by the Client, Clark Dietz shall resume services under this Agreement, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension plus any other reasonable time and expense necessary for Clark Dietz to resume performance.
2. Billing Records

Clark Dietz shall maintain accounting records of its costs in accordance with generally accepted accounting practices. Access to such records will be provided during normal business hours with reasonable notice during the term of this Agreement and for 3 years after completion.

PART IV STANDARD TERMS AND CONDITIONS

1. **STANDARD OF CARE.** Services shall be performed in accordance with the standard of professional practice ordinarily exercised by the applicable profession at the time and within the locality where the services are performed. No warranty or guarantee, express or implied is provided, including warranties or guarantees contained in any uniform commercial code.
2. **CHANGE OF SCOPE.** The Scope of Services set forth in this Agreement is based on facts known at the time of execution of this Agreement, including, if applicable, information supplied by Clark Dietz and Client. Clark Dietz will promptly notify Client of any perceived changes of scope in writing and the parties shall negotiate modifications to this Agreement.
3. **DELAYS.** If events beyond the control of Clark Dietz, including, but not limited to, fire, flood, explosion, riot, strike, war, process shutdown, act of God or the public enemy, and act or regulation of any government agency, result in delay to any schedule established in this Agreement, such schedule shall be extended for a period equal to the delay. In the event such delay increases the cost or time required for Clark Dietz to perform its services, Clark Dietz shall be entitled to an equitable adjustment in compensation and extension of time.
4. **TERMINATION/SUSPENSION.** Either party may terminate this Agreement upon 30 days written notice to the other party in the event of substantial failure by the other party to perform in accordance with its obligations under this Agreement through no fault of the terminating party. Client shall pay Clark Dietz for all Services, including profit relating thereto, rendered prior to termination, plus any expenses of termination.
5. **REUSE OF INSTRUMENTS OF SERVICE.** All reports, drawings, specifications, computer data, field data notes and other documents prepared by Clark Dietz as instruments of service shall remain the property of Clark Dietz. Clark Dietz shall retain all common law, statutory and other reserved rights, including the copyright thereto. Reuse of any instruments of service including electronic media, for any purpose other than that for which such documents or deliverables were originally prepared, or alteration of such documents or deliverables without written authorization or adaptation by Clark Dietz for the specific purpose intended, shall be at Client's sole risk.
6. **ELECTRONIC MEDIA.** In accepting and utilizing any drawings, reports and data on any form of electronic media generated and furnished by Clark Dietz, the Client agrees that all such electronic files are instruments of service of Clark Dietz, who shall be deemed the author, and shall retain all common law, statutory law and other rights, without limitation, including copyrights.

The Client agrees not to reuse these electronic files, in whole or in part, for any purpose other than for the Project. The Client agrees not to transfer these electronic files to others without the prior written consent of Clark Dietz. The Client further agrees that Clark Dietz shall have no responsibility or liability to Client or others for any changes made by anyone other than Clark Dietz or for any reuse of the electronic files without the prior written consent of Clark Dietz.

Any changes to the electronic specifications by either the Client or Clark Dietz are subject to review and acceptance by the other party. If Clark Dietz is required to expend additional effort to incorporate changes to the electronic file specifications made by the Client, these efforts shall be compensated for as Additional Services.

In addition, the Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless Clark Dietz, its officers, directors, employees and subconsultants (collectively, Clark Dietz) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from any changes made by anyone other than Clark Dietz or from any use or reuse of the electronic files without the prior written consent of Clark Dietz.

The Client is aware that differences may exist between the electronic files delivered and the printed hard-copy construction documents. In the event of a conflict between the signed construction documents prepared by Clark Dietz and electronic files, the signed or sealed hard-copy construction documents shall govern.
7. **OPINIONS OF CONSTRUCTION COST.** Any opinion of construction costs prepared by Clark Dietz is supplied for the general guidance of the Client only. Since Clark Dietz has no control over competitive bidding or market conditions, Clark Dietz cannot guarantee the accuracy of such opinions as compared to contract bids or actual costs to Client.
8. **SAFETY.** Clark Dietz specifically disclaims any authority or responsibility for general job site safety and safety of persons other than Clark Dietz employees.
9. **RELATIONSHIP WITH CONTRACTORS.** Clark Dietz shall serve as Client's professional representative for the services and may make recommendations to Client concerning actions relating to Client's contractors. Clark Dietz specifically disclaims any authority to direct or supervise the means, methods, techniques, sequences or procedures of construction selected by Client's contractors.
10. **THIRD PARTY CLAIMS.** Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Client or Clark Dietz. Clark Dietz's services under this Agreement are being performed solely for the Client's benefit, and no other party or entity shall have any claim against Clark Dietz because of this Agreement or the performance or nonperformance of services hereunder. The Client and Clark Dietz agree to require a similar provision in all contracts with contractors, subcontractors, subconsultants, vendors and other entities involved in this Project to carry out the intent of this provision.

11. **MODIFICATION.** This Agreement, upon execution by both parties hereto, can be modified only by a written instrument signed by both parties.
12. **PROPRIETARY INFORMATION.** Information relating to the Project, unless in the public domain, shall be kept confidential by Clark Dietz and shall not be made available to third parties without written consent of Client, unless so required by court order.
13. **INSURANCE.** Clark Dietz will maintain insurance coverage for Professional, Comprehensive General, Automobile, Worker's Compensation and Employer's Liability in amounts in accordance with legal, and Clark Dietz business requirements. Certificates evidencing such coverage will be provided to Client upon request. For projects involving construction, Client agrees to require its construction contractor, if any, to include Clark Dietz as an additional insured on its commercial general liability policy relating to the Project, and such coverages shall be primary.
14. **INDEMNITIES.** Clark Dietz agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Client, its officers, directors and employees against all damages, liabilities or costs, to the extent caused by Clark Dietz' negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom Clark Dietz is legally liable.
- The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless Clark Dietz, its officers, directors, employees and subconsultants against all damages, liabilities or costs, to the extent caused by the Client's negligent acts in connection with the Project and that of its contractors, subcontractors or consultants or anyone for whom the Client is legally liable.
- Neither the Client nor Clark Dietz shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.
15. **LIMITATIONS OF LIABILITY.** In recognition of the relative risks and benefits of the Project to both the Client and Clark Dietz, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit the liability of Clark Dietz and their officers, directors, partners, employees, shareholders, owners and subconsultants for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees and costs and expert-witness fees and costs, so that the total aggregate liability of Clark Dietz and their officers, directors, partners, employees, shareholders, owners and subconsultants shall not exceed Clark Dietz's total fee for services rendered on this Project, or \$250,000, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.
16. **CONSEQUENTIAL DAMAGES.** Notwithstanding any other provision of this agreement, and to the fullest extent permitted by law, neither the Client nor Clark Dietz, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation and any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the Client and Clark Dietz shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.
17. **ACCESS.** Client shall provide Clark Dietz safe access to the project site necessary for the performance of the services.
18. **ASSIGNMENT.** The rights and obligations of this Agreement cannot be assigned by either party without written permission of the other party. This Agreement shall be binding upon and insure to the benefit of any permitted assigns.
19. **HAZARDOUS MATERIALS.** Clark Dietz and Clark Dietz' consultants shall have no responsibility for discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances. If required by law, the client shall accomplish all necessary inspections and testing to determine the type and extent, if any, of hazardous materials at the project site. Prior to the start of services, or at the earliest time such information is learned, it shall be the duty of the Client to advise Clark Dietz (in writing) of any known or suspected hazardous materials. Removal and proper disposal of all hazardous materials shall be the responsibility of the Client.
20. **REMODELING AND RENOVATION.** For Clark Dietz' services provided to assist the Client in making changes to an existing facility, the Client shall furnish documentation and information upon which Clark Dietz may rely for its accuracy and completeness. Unless specifically authorized or confirmed in writing by the Client, Clark Dietz shall not be required to perform or have others perform destructive testing or to investigate concealed or unknown conditions. The Client shall indemnify and hold harmless Clark Dietz, Clark Dietz' consultants, and their employees from and against claims, damages, losses and expenses which arise as a result of documentation and information furnished by the Client.
21. **CLIENT'S CONSULTANTS.** Contracts between the Client and other consultants retained by Client for the Project shall require the consultants to coordinate their drawings and other instruments of service with those of Clark Dietz and to advise Clark Dietz of any potential conflict. Clark Dietz shall have no responsibility for the components of the project designed by the Client's consultants. The Client shall indemnify and hold harmless Clark Dietz, Clark Dietz' consultants and their employees from and against claims, damages, losses and expenses arising out of services performed for this project by other consultants of the Client.
22. **NO WAIVER.** No waiver by either party of any default by the other party in the performance of any particular section of this Agreement shall invalidate another section of this Agreement or operate as a waiver of any future default, whether like or different in character.

23. SEVERABILITY. The various terms, provisions and covenants herein contained shall be deemed to be separate and severable, and the invalidity or unenforceability of any of them shall not affect or impair the validity or enforceability of the remainder.
24. STATUTE OF LIMITATION. To the fullest extent permitted by law, parties agree that, except for claims for indemnification, the time period for bringing claims under this Agreement shall expire one year after Project Completion.
25. DISPUTE RESOLUTION. In the event of a dispute arising out of or relating to this Agreement or the services to be rendered hereunder, Clark Dietz and the Client agree to attempt to resolve such disputes in the following manner: First, the parties agree to attempt to resolve such disputes through direct negotiations between the appropriate representatives of each party. Second, if such negotiations are not fully successful, the parties agree to attempt to resolve any remaining dispute by formal nonbinding mediation conducted in accordance with rules and procedures to be agreed upon by the parties.

CLARK DIETZ FEE ESTIMATE
Grand Junction Plaza - Obtain CLOMR for Construction on the Anna Kendall Drain
Westfield, Indiana

6/24/2020

WORK ELEMENTS SCOPE TASKS	Project Director P-7	PM/Sr. Engineer P-6	Engineer P-5	Engineer P-4	Engr/ Sr. Tech P-3/T-4	Engr/ Tech P-2/T-3	Clerical	Expenses	Task Total
1.0 Initial Coordination, Hydraulic Modeling and Floodplain Mapping Updates									
1.1 Project Coordination									
1.1.1 Prepare Project Work Plan	2		4						\$1,110
1.1.2 Project Coordination with Westfield, IDNR, Hamilton Co., FEMA	2		60					\$50	\$10,960
1.1.6 Monthly progress reports			8					\$50	\$1,450
1.2 Data Collection and Model Updates									
1.2.1 Obtain hydraulic models for Wheeler Landing and 175th Street Dev.			4						\$700
1.2.2 Review existing models from IDNR model library	1		8						\$1,605
1.2.3 Establish base model for analysis			4						\$700
1.2.4 Obtain and review As-builts for new construction since 2016	2		16						\$3,210
1.2.5 Update Anna Kendall model with (7) projects constructed since 2016	4		60						\$11,320
1.2.6 Conduct field visits	4		12					\$200	\$3,120
1.3 Hydraulic Analysis									
1.3.1 Run/debug hydraulic models with HEC-RAS	1		16						\$3,005
1.3.2 Run model for 100-year and 500-year storm events and determine BFEs			4						\$700
1.3.3 Complete floodway model runs to establish floodway limits	1		12						\$2,305
1.3.4 Evaluate differences in published FIS with current updated model	2		4						\$1,110
1.3.5 Prepare floodplain/floodway maps	2		40						\$7,410
1.3.6 QA/QC of hydraulic model and mapping updates	2	4	8		8				\$3,710
2.0 Submit IDNR/FEMA CLOMR Applications									
2.1 Submit CLOMR Application to IDNR for Approval									
2.1.1 Assemble model for submittal	1		4						\$905
2.1.2 Complete IDNR submittal package	4		40				2		\$8,000
2.1.3 Submit to IDNR			4				2	\$100	\$980
2.2 Submit CLOMR Application to FEMA for Approval									
2.2.1 Complete form MT-2 and related electronic data tables and GIS shape files	1		40						\$7,205
2.2.2 Assemble and submit package to FEMA*	1		4				2	\$6,500	\$7,585
2.2.3 Property Owner Notification	1		12					\$100	\$2,405
TOTAL HOURS	31	4	364		8		6		
RATE/HR	\$205.00	\$195.00	\$175.00	\$145.00	\$140.00	\$115.00	\$90.00		
TOTAL COST	\$6,355	\$780	\$63,700		\$1,120		\$540	\$7,000	\$79,495

\$52,415

\$27,080

\$79,495

SAY \$79,500

* FEMA fee for CLOMR application based on Bridge, Culvert, Channel, or Hydrology is \$6,500. If FEMA considers application based solely on more detailed data the fee is \$0.



July 17, 2020

To: Board of Public Works and Safety

From: Chief Joel Rush

Reference: Equipment trades and disposal

The Westfield Police Department is seeking approval to dispose of the below firearms. The weapons will be turned into our vendor for a credit to offset future purchase.

(1) H&K USP .40 Serial Number 22-094690.

(1) Benelli 12-gauge shotgun bearing serial number M301582